



ACT
Government

Chief Minister, Treasury and
Economic Development

Freedom of Information Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI Reference: CMTEDDFOI 2023-046

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	Published
4. Additional information identified	No
5. Fees	Waived
6. Processing time (in working days)	34
7. Decision made by Ombudsman	N/A
8. Additional information identified by Ombudsman	N/A
9. Decision made by ACAT	N/A
10. Additional information identified by ACAT	N/A

From: no-reply@act.gov.au
To: [CMTEDD FOI](#)
Subject: Freedom of Information request
Date: Sunday, 19 February 2023 8:31:43 AM

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Please find online enquiry details below. Please ensure this enquiry is responded to within fourteen working days.

Your details

All fields are optional, however an email address OR full postal address must be provided for us to process your request. An email address and telephone contact number will assist us to contact you if we need to discuss your request.

Title:

First Name:

Last Name:

Business/Organisation:

Address:

Suburb:

Postcode:

State/Territory:

Phone/mobile:

Email address:

Request for information

(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)

I would like access to all information as it relates to the contracted mountain bike shuttles and training / coaching of people at Stromlo Forest Park for the past 10 years. Including the tender processes (RFI, RFT or panel contract arrangements), terms and conditions of the contracts, including the current arrangement for the extant provider of these services at SFP (which may or may not include a formal contract). If a RFT process was conducted, what were the dates of the tender process, how long was it open to the market to submit, in order to test the market in an open and transparent way. Who was on the panel to select the preferred tenderer and who was the delegate. If a formal tender process was not conducted what is the dollar value and terms of the services in which to avoid a merit based process.

Under the Freedom of Information Act 2016 I want to access the following document/s (*required field):

I do not want to access the following documents in relation to my request::

Thank you.
Freedom of Information Coordinator



ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDD 2023-046

FREEDOM OF INFORMATION REQUEST

I refer to your request submitted under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 19 February 2023, in which you sought access to the following:

All information as it relates to the contracted mountain bike shuttles and training / coaching of people at Stromlo Forest Park for the past 10 years. Including the tender processes (RFI, RFT or panel contract arrangements), terms and conditions of the contracts, including the current arrangement for the extant provider of these services at SFP (which may or may not include a formal contract). If a RFT process was conducted, what were the dates of the tender process, how long was it open to the market to submit, in order to test the market in an open and transparent way. Who was on the panel to select the preferred tenderer and who was the delegate. If a formal tender process was not conducted what is the dollar value and terms of the services in which to avoid a merit based process.

Authority

I am an Information Officer appointed by the Director-General under section 18 of the Act to deal with access applications made under Part 5 of the Act.

Timeframes

In accordance with section 40 of the Act, CMTEDD was required to provide a decision on your access application by 20 March 2023.

The Act requires a decision and response be given within 20 working days of the access application being received. However, following third-party consultation as required under section 38 of the Act, the due date for a decision was rescheduled to **12 April 2023**.

Decision on access

Searches were completed for relevant documents and 32 documents were identified that fall within the scope of your request.

I have included as **Attachment A** to this decision the schedule of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

I have decided to grant full access to seven documents and partial access to 25 documents as I consider these documents to contain information that is:

- contrary to the public interest information under schedule 1; or
- is information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act.

In accordance with section 54(2) of the Act my access decisions are detailed further in the following statement of reasons and the documents released to you are provided as **Attachment B** to this letter.

Statement of Reasons

In reaching my access decisions, I have taken the following into account:

- the Act
- the content of the documents that fall within the scope of your request
- the views of the relevant third parties consulted under section 38 of the Act
- the *Information Privacy Act 2014*

Exemption claimed

My reasons for deciding not to grant access to the identified documents and components of these documents are as follows:

Documents 5, and 11 (refer **Attachment A**) contain some information that is subject to legal professional privilege and the occurrence of this specific information in these documents has been redacted.

Under the Act schedule 1, section 1.2 *Information subject to legal professional privilege - Information that would be privileged from production or admission into evidence in a legal proceeding on the ground of legal professional privilege is exempt from release.*

Information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act

Public Interest

In *Hogan v Hinch* (2011) 243 CLR 506, [31] French CJ stated that when 'used in a statute, the term [public interest] derives its content from "the subject matter and the scope and purpose" of the enactment in which [public interest] appears'. Section 17(1) of the Act sets out the test, to be applied to determine whether disclosure of information would be contrary to the public interest. These factors are found in subsection 17(2) and Schedule 2 of the Act. Taking into consideration the information contained in the documents found to be within the scope of your request, I have identified that the following public interest factors are relevant to determine if release of the information contained within these documents is within the 'public interest'.

The Act has a presumption in favour of disclosure. As a decision maker I am required to decide where, on balance, public interest lies. As part of this process, I must consider factors favouring disclosure and nondisclosure.

Section 17(1) of the Act sets out the test, to be applied to determine whether disclosure of information would be contrary to the public interest. These factors are found in subsection 17(2) and Schedule 2 of the Act.

Taking into consideration the information contained in the documents found to be within the scope of your request, I have identified that the following public interest factors are relevant to determine if release of the information contained within these documents is within the 'public interest'.

Factors favouring disclosure in the public interest under Schedule 2 s2.1:

- (i) *disclosure of the information could reasonably be expected to do any of the following:*
 - (ii) *promote open discussion of public affairs and enhance the government's accountability.*
 - (iii) *contribute to positive and informed debate on important issues or matters of public interest.*
 - (iv) *ensure effective oversight of expenditure of public funds.*

This information concerns the procurement of services. I consider release of this information could reasonably be expected to promote discussion of public affairs and the government's accountability regarding the expenditure of public funds. Accordingly, I weight these factors for disclosure highly.

I note the Act has an express pro-disclosure bias which reflects the importance of public access to government information for the proper working of a representative democracy. This concept is promoted through the objects of the Act. I have considered this overarching concept in making my decision in relation to access.

Factors favouring nondisclosure in the public interest Schedule 2 s2.2:

- (a) *disclosure of the information could reasonably be expected to do any of the following:*
 - (ii) *prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004.*
 - (xi) *prejudice trade secrets, business affairs or research of an agency or person.*
 - (xii) *prejudice an agency's ability to obtain confidential information.*
 - (xiii) *prejudice the competitive commercial activities of an agency.*

I consider that the protection of an individual's right to privacy, especially during business with the ACT Government is a significant factor as the parties involved have provided their personal contact information for the purposes of working with the ACT Government. I have considered this information and in my opinion the protection of these individuals' personal details (such as names of consultants and personal details which may not be publicly available) outweighs the benefit which may be derived from releasing them. I consider that these individuals are entitled to expect that the personal information they

have supplied to the ACT Government will be dealt with in a manner that protects their privacy.

I have also considered the impact of disclosing information which relates to business affairs. In the case of *Re Mangan and The Treasury [2005] AATA 898* the term 'business affairs' was interpreted as meaning 'the totality of the money-making affairs of an organisation or undertaking as distinct from its private or internal affairs'. Schedule 2 section 2.2(a)(xi) allows for government information to be withheld from release if disclosure of the information could reasonably be expected to prejudice the trade secrets, business affairs or research of an agency or person.

I consider release of this information could unreasonably cause harm to the businesses involved by providing commercial information to competitors. I am satisfied that release of this information would, or could, have significant impact on the business affairs of an entity identified as this information is not publicly available.

The parties involved in this procurement have done so trusting that the ACT Government will not release their tender details. This trust, if broken, would, or could, reasonably be expected to prejudice an agency's ability to obtain confidential information from private sector suppliers of goods and services to the ACT Government.

Having applied the test outlined in section 17 of the Act and deciding that release of personal and business information contained in the documents is not in the public interest to release, I have chosen to redact this specific information in accordance with section 50(2). Noting the pro-disclosure intent of the Act, I am satisfied that redacting only the information that I believe is not in the public interest to release will ensure that the intent of the Act is met and will provide you with access to the majority of the information held by CMTEDD within the scope of your request.

Charges

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are applicable for this request because the total number of pages to be released to you exceeds the charging threshold of 50 pages. However, the charges have been waived in accordance with section 107(2)(b) of the Act.

Online publishing – Disclosure Log

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log. Your original access application and my decision in response to your access application will be published in the CMTEDD disclosure log. Your personal contact details will not be published.

You may view CMTEDD disclosure log at

<https://www.cmtedd.act.gov.au/functions/foi/disclosure-log-2023>.

Ombudsman Review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73

of the Act within 20 working days from the day that my decision is published in CMTEDD disclosure log, or a longer period allowed by the Ombudsman.

We recommend using this form [Applying for an Ombudsman Review](#) to ensure you provide all of the required information. Alternatively, you may write to the Ombudsman:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Via email: actfoi@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) Review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore St
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740

<http://www.acat.act.gov.au/>

Should you have any queries in relation to your request please contact me by telephone on 6207 7754 or email CMTEDDFOI@act.gov.au.

Yours sincerely,



Katharine Stuart
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate
11 April 2023



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST		Reference NO.
All information as it relates to the contracted mountain bike shuttles and training / coaching of people at Stromlo Forest Park for the past 10 years. Including the tender processes		2023-046

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1	20170322 WIRE - CM23-15217 Final -Blank Services Agreement - Stromlo Shuttles	22/03/2017	Partial	Sch 2 s2.2 (a)(ii) Sch 2 s2.2 (a)(xi) Sch 2 s2.2 (a)(xii)	Yes
2	32	20170327 CM23-15173 Final Signed Executed Page - Services Agreement -Stromlo Shuttle	22/03/2017	Partial	Sch 2 s2.2 (a)(ii)	Yes
3	34	20210917 Stromlo Shuttle Bus ACT Government Services Agreement	17/11/2021	Partial	Sch 2 s2.2 (a)(ii)	Yes
4	35	20220202 RE FOR YOUR REVIEW AND ACTION DRAFT Variation DEED Public Shuttle Services	02/02/2022	Full		Yes
5	40	20220204 RE Stromlo Shuttle Bus ACT Government Services Agreement	04/02/2022	Partial	Sch 2 s2.2 (a)(ii) Sch 2 s2.2 (a)(xi) Sch 1 1.2	Yes
6	45	20220209 Re Services Agreement extension - approval to proceed with execution of Deed of Variation	14/02/2022	Partial	Sch 2 s2.2 (a)(ii)	Yes
7	47	20220214 RE_ Services Agreement extension update	14/02/2022	Partial	Sch 2 s2.2 (a)(ii)	Yes
8	54	20220301 CM23-15177 Executed Deed of Variation - 1 March 2022	01/03/2022	Partial	Sch 2 s2.2 (a)(ii)	Yes
9	59	20220304 RE_ Executed Deed of Variation	04/03/2022	Full		Yes
10	62	20220524 Deed of Variation (ACTGS) 2nd	24/05/2022	Partial	Sch 2 s2.2 (a)(ii) Sch 2 s2.2 (a)(xi)	Yes
11	66	20220524 RE_ 641041 - ADVICE - ED - PUBLIC SHUTTLE SERVICE (STROMLO FOREST PARK)	24/05/2022	Partial	Sch 1 1.2	Yes
12	69	20220603 FW_ Early tender timeframes	03/06/2022	Full		Yes
13	71	20220605 Deed of Variation - Stromlo Shuttle Service	05/06/2022	Partial	Sch 2 s2.2 (a)(ii) Sch 2 s2.2 (a)(xi)	Yes

14	72	20220607 CM23-15178 Executed Deed of Variation	07/06/2022	Partial	Sch 2 s2.2 (a)(ii) Sch 2 s2.2 (a)(xi)	Yes
15	76	20220607 RE_ Early tender timeframes	07/06/2022	Partial	Sch 2 s2.2 (a)(xi)	Yes
16	79	20220701 CM23-15159 CM2222370 Procurement Plan Minute - OSQAR - Procurement Values	01/11/2022	Partial	Sch 2 s2.2 (a)(xi)	Yes
17	84	20220701 CM23-15160 CM2222370 RFQ Statement of Requirements	Undated	Ful		Yes
18	102	20220701 Deed of Variation - Blank Services (Contractor) Agreement	08/02/2022	Full		Yes
19	107	20220701 Deed of Variation - Signed June 2022	June 2022	Partial	Sch 2 s2.2 (a)(ii)	Yes
20	111	20220701 Deed of Variation - Stromlo Shuttle Service -DT signed	June 2022	Partial	Sch 2 s2.2 (a)(ii)	Yes
21	115	20220701 MTB Shuttle Operators	01/07/2022	Partial	Sch 2 s2.2 (a)(ii)	Yes
22	116	20220707 RE_ Deed of Variation - Stromlo Shuttle Service	07/06/2022	Partial	Sch 2 s2.2 (a)(ii) Sch 2 s2.2 (a)(xi)	Yes
23	120	20220720 Re_ Request of Expression of Interest	20/07/2022	Partial	Sch 2 s2.2 (a)(ii) Sch 2 s2.2 (a)(xi)	Yes
24	122	20220801 RE_ Services Agreement - early procurement process	01/08/2022	Partial	Sch 2 s2.2 (a)(ii) Sch 2 s2.2 (a)(xi)	Yes
25	127	20220816 - Shuttle bus procurement - tender panel	16/08/2022	Partial	Sch 2 s2.2 (a)(ii) Sch 2 s2.2 (a)(xiii)	Yes
26	128	20220905 WIRE - CM23-15212 Request for quote - SFP Shuttle Bus Services	undated	Full		Yes
27	130	20220916 CM23-15161 CM2222370 RFQ Supplier Response Form	16/08/2022	Partial	Sch 2 s2.2 (a)(ii) Sch 2 s2.2 (a)(xi)	Yes
28	145	20220916 CM23-15163 CM2222370 RFQ Supplier Response Form	16/08/2022	Partial	Sch 2 s2.2 (a)(ii) Sch 2 s2.2 (a)(xi)	Yes
29	169	20220916 WIRE - CM23-15162 CM2222370 Blank RFQ Supplier Response Form	undated	Full		Yes
30	178	20220916 WIRE - CM23-17302 Factsheet-Procurement-Framework-Thresholds	undated	Full		Yes
31	186	20220920 WIRE - CM23-15215 RFQ Matrix	undated	Partial	Sch 2 s2.2 (a)(xi)	Yes
32	187	20220926 RE_ Shuttlebus Procurement	26/08/2022	Partial	Sch 2 s2.2 (a)(ii) Sch 2 s2.2 (a)(xi) Sch 2 s2.2 (a)(xiii)	Yes

Total No
of Docs

32



SERVICES AGREEMENT

Date

Parties

AUSTRALIAN CAPITAL TERRITORY

DYNAMIC MOTIVATION PTY LTD
ABN: 37 153 358 484

PUBLIC SHUTTLE SERVICE –
STROMLO FOREST PARK

Prepared by

Venues Canberra
PO Box 666
JAMISON ACT 2614
Ph: 6256 6700
Ref: **[INITIALS]:[FILE NO]**

Version

Final 22/3/17

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PARTIES: **AUSTRALIAN CAPITAL TERRITORY**, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) (**Territory**) represented by the Venues Canberra, Chief Minister, Treasury and Economic Development Directorate.

DYNAMIC MOTIVATION Pty Ltd ABN: 37 153 358 484 of 23 Faithfull Circuit KAMBAH ACT 2902 (**Contractor**).

BACKGROUND

A. The Contractor has agreed to provide the Services in accordance with the provisions of this Agreement.

IT IS AGREED by the parties as follows.

1. Interpretation

1.1 Definitions

The following definitions apply in this Agreement, unless the context otherwise requires.

Confidential Text means any text of this Agreement that, for the purposes of the Procurement Act, either party proposes should not be published and which is specified in **Item 7 Schedule 1**.

Contract Material means all material created, written or otherwise brought into existence as part of, or for the purpose of performing the Services including all reports (whether in draft or final form), documents, information and data stored by any means.

Contract Officers means, in relation to each party, the representatives whose names and contact details are specified in **Item 1 Schedule 1**, or as notified from time to time by one party to the other.

Contract Price means the amounts specified in, or calculated in accordance with, **Item 3 Schedule 1**.

Contractor Material means all material owned by the Contractor and used for the purpose of providing the Services, including documents information and data stored by any means.

GST	has the same meaning as in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
Insurance Determination	means any relevant statutory instrument relating to public liability insurance made under the <i>Financial Management Act 1996</i> (ACT).
Invoice	means an invoice that: <ul style="list-style-type: none"> (1) if GST is payable in respect of the provision of the Services, is a valid tax invoice for the purposes of the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth); (2) clearly sets out details of the Services provided and of the amount that is due for payment, is correctly calculated and is in respect of Services that have been performed in accordance with this Agreement; (3) is accompanied by any other details or reports required under this Agreement; and (4) is rendered at the times specified in Item 3 Schedule 1 (if any) and addressed to the Territory's Contract Officer.
Personal Information	means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion.
Prescribed Insurer	means, in relation to: <ul style="list-style-type: none"> (1) public liability insurance, an insurer that is: <ul style="list-style-type: none"> (a) accepted by the Australian Capital Territory Insurance Authority (ACTIA) for the purposes of the Insurance Determination, (b) authorised by the Australian Prudential Regulation Authority (APRA) to conduct new and renewal insurance business in Australia, or (c) if not authorised by APRA to conduct new or renewal insurance business in

Australia, rated at A- or better by a ratings agency acceptable to ACTIA,

or any other insurer prescribed under the Insurance Determination from time to time; and

- (2) other insurance, an insurer having a Standard and Poor's or Best's Rating A- or better.

Procurement Act means the *Government Procurement Act 2001* (ACT).

Services means the services described in **Schedule 2**.

Special Condition means any provision set out in **Schedule 3**.

Specified Personnel means any person named in **Item 4 Schedule 1**, or any other employee or agent of the Contractor, who is approved by the Territory from time to time for the purpose of **clause 6**.

Term means the term specified in **Item 2 Schedule 1**, and if extended, the initial term and the extended term.

Territory means:

- (1) when used in a geographical sense, the Australian Capital Territory; and
- (2) when used in any other sense, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth).

Territory Information means the kind of information that:

- (1) is or relates to documents, submissions, consultations, policies, strategies, practices and procedures of the Territory which are by their nature confidential;
- (2) is notified (whether in writing or not) by the Territory to the Contractor as being confidential;
- (3) is specified in **Item 6 Schedule 1**; or
- (4) is Personal Information,

but does not include information that:

- (5) is or becomes public knowledge other than by breach of this Agreement;
- (6) has been independently developed or acquired by the Contractor; or
- (7) has been notified by the Territory to the Contractor as not being confidential.

Territory Material means any material provided by the Territory to the Contractor for the purposes of this Agreement including documents, equipment, information and data stored by any means.

1.2 General

In this Agreement, unless a contrary intention is expressed:

- (1) references to “Contractor” include any employees, agents or subcontractors of the Contractor; and
- (2) references to legislation or to provisions in legislation include references to amendments or re-enactments of them and to all regulations and instruments issued under the legislation.

2. Services

The Contractor must perform the Services in accordance with the provisions of this Agreement and to a standard of care, skill and diligence expected of a person who regularly acts in the capacity in which the Contractor is engaged.

3. Term

This Agreement is for the Term unless terminated under the provisions of this Agreement.

4. Contract Price

4.1 Invoice

The Contractor must pay the Territory the Contract Price following its receipt of an Invoice and otherwise in accordance with **Item 3 Schedule 1**.

4.2 Incorrect payments

If, after payment, an invoice is found to have been incorrectly rendered, any underpayment or overpayment will be recoverable by or from the Contractor, as the case may be, and, without limiting recourse to other available remedies, may be offset against any amount subsequently due to the Territory by the Contractor under this Agreement.

5. Ownership and use of material

5.1 Ownership of material

Ownership of:

- (1) NOT USED - all Contract Material, including any intellectual property rights, vests on its creation in the Territory;
- (2) all Territory Material, including any intellectual property rights, remains with the Territory; and
- (3) all Contractor Material, including any intellectual property rights, remains with the Contractor.

5.2 Licence of material

- (1) The Territory grants to the Contractor a royalty-free, limited licence to use the Contract Material and Territory Material for the Term.
- (2) NOT USED - The Contractor grants to the Territory a royalty-free, perpetual, limited licence to use the Contractor Material.
- (3) For the purpose of this clause, “use” includes:
 - (a) such uses as are reasonably necessary for the Territory to obtain the full benefit of the Services, including use of the Contract Material, and
 - (b) such uses as are reasonably necessary for the Contractor to undertake the Services or as otherwise agreed by the Territory,and may include supply, reproduce, publish, perform, communicate, broadcast, adapt and copy as the context requires.

5.3 Third party rights

The Contractor must ensure:

- (1) the use of any Contract Material will not infringe the intellectual property rights of any third party; and

- (2) no fees, royalties or other payments are payable in respect of any third party rights as a result of the Territory's (or its agents') use of any Contract Material.

5.4 Moral rights

The Contractor must, in relation to the authors of any work that comprises or forms part of the Contract Material:

- (1) use its best endeavours to include in the Contract Material an attribution of those authors; and
- (2) procure from those authors their genuine written consent for the Territory to:
 - (a) attribute the authorship of the work to the Territory or a third party where that attribution was inadvertent,
 - (b) not attribute the authorship of the author when using the work (including exhibiting or performing the work in or to the public), and
 - (c) materially alter the work in any way.

5.5 Safekeeping and preservation of material

The Contractor must ensure the safe-keeping and proper preservation of Contract Material and Territory Material in its possession or control and deliver to the Territory all Contract Material and Territory Material on the expiration or termination of this Agreement (other than copies of material that the Territory has authorised the Contractor to retain).

6. Contractor's personnel

The Contractor must:

- (1) in performing the Services, engage only persons who have the skills, training and expertise appropriate for the Services;
- (2) comply with all reasonable requirements notified by the Territory regarding the suitability and fitness of persons engaged by the Contractor for the performance of Services;
- (3) NOT USED - ensure the services are performed by Specified Personnel (if any) and provide replacement personnel acceptable to the Territory at no additional charge and at the earliest opportunity if the Specified Personnel are unable to perform any of the Services; and
- (4) NOT USED -if the Territory requires, ensure that each person engaged in the performance of the Services executes a deed of confidentiality in

a form acceptable to the Territory, and provide those executed deeds to the Territory in accordance with any requirements that the Territory notifies.

7. Non-disclosure of Territory Information

7.1 Contractor's use of Territory Information

The Contractor must:

- (1) use Territory Information held in connection with this Agreement only for the purposes of fulfilling its obligations under this Agreement;
- (2) comply with the "Information Privacy Principles" set out in the *Privacy Act 1988* (Cth) as if they were provisions of this Agreement and the Contractor was a collector and/or record-keeper of the Personal Information as defined in the Act;
- (3) not transfer Territory Information held in connection with this Agreement outside the Territory, or allow any person (other than its authorised personnel) outside the Territory to have access to it, without the prior approval of the Territory; and
- (4) notify the Territory immediately if the Contractor becomes aware that a disclosure of Territory Information is required by law, or an unauthorised disclosure of Territory Information has occurred.

7.2 Contractor to protect Territory Information

- (1) Except as provided in this Agreement, the Contractor must not disclose Territory Information to any person without the prior written consent of the Territory except to the extent that the Territory Information is:
 - (a) required or authorised to be disclosed by law,
 - (b) disclosed to the Contractor's solicitors, auditors, insurers or advisers,
 - (c) generally available to the public, or
 - (d) in the possession of the Contractor without restriction in relation to disclosure before the date of receipt from the Territory.
- (2) The Contractor must take all reasonable measures to ensure that Territory Information accessed or held by it in connection with this Agreement is protected against loss, unauthorised access, use, modification, disclosure or other misuse in accordance with reasonable procedures for that purpose and that only its authorised personnel have access to Territory Information.

- (3) The Contractor must do all things necessary to ensure that Territory Information accessible to the Contractor and the Contractor's personnel by virtue of the performance of this Agreement is not accessed, published or communicated in any way, including imposing upon the Contractor's personnel obligations of confidentiality with respect to Territory Information.

7.3 Acknowledgement of effect of Crimes Act

The Contractor acknowledges that the publication or communication of any fact or document by a person which has come to its knowledge or into its possession or custody by virtue of the performance of this Agreement (other than to a person to whom the Contractor is authorised to publish or disclose the fact or document) may be an offence under section 153 of the *Crimes Act 1900* (ACT), the maximum penalty for which is 2 years imprisonment.

8. Confidential Text under Procurement Act

8.1 Territory may make Agreement publicly available

In giving effect to the principles of open and accountable government, the Territory may disclose documents and information unless it has otherwise agreed, or is otherwise required under law, to keep the information confidential. In accordance with those principles, this Agreement may be a notifiable contract under the Procurement Act and, if so, the Territory will be required to make the text of this Agreement available to the public, including by publication on a public contracts register.

8.2 Confidential Text

If **Item 7 Schedule 1** states that this Agreement is a notifiable contract under the Procurement Act and specifies Confidential Text, the grounds on which the text is confidential are set out in **Item 8 Schedule 1**, and **clause 8.3** applies.

8.3 Territory must not disclose Confidential Text

Except as provided in this Agreement, the Territory must not disclose Confidential Text to any person without the prior written consent of the Contractor (which consent will not be unreasonably withheld) except to the extent that Confidential Text:

- (1) is required or authorised to be disclosed under law;
- (2) is reasonably necessary for the enforcement of the criminal law;
- (3) is disclosed to the Territory's solicitors, auditors, insurers or advisers;
- (4) is generally available to the public;

- (5) is in the possession of the Territory without restriction in relation to disclosure before the date of receipt from the Contractor;
- (6) is disclosed by the responsible Minister in reporting to the Legislative Assembly or its committees; or
- (7) is disclosed to the ombudsman or for a purpose in relation to the protection of public revenue.

9. Insurance and indemnity

9.1 Contractor's insurance

The Contractor must effect and maintain for the Term all insurance coverage required to be effected by it by law, public liability insurance and professional indemnity insurance in amounts not less than the amounts (if any) specified by **Item 5 Schedule 1**, and any other insurance specified in **Item 5 Schedule 1** with a Prescribed Insurer.

9.2 Indemnity

The Contractor indemnifies the Territory, its employees and agents against liability in respect of all claims, costs and expenses in relation to all loss, damage, injury or death to persons or property caused by the Contractor, in connection with the provision of the Services, except to the extent that the Territory caused the relevant loss, damage or injury.

9.3 Claims to be made good

The Contractor must, at its expense, make good the amount of all claims, loss, damage, costs and expenses the subject of the indemnity in **clause 9.2** and the Territory may deduct the amount, or any part of it, from any moneys due or becoming due to the Contractor under this Agreement.

10. Termination

10.1 Default

The Territory may terminate this Agreement, at any time by notice to the Contractor, if the Contractor:

- (1) is or becomes bankrupt or insolvent, enters into voluntary administration or makes any arrangement with its creditors or takes advantage of any statute for the relief of insolvent debtors;
- (2) fails to commence timely provision of the Services or to meet any timeframes specified in this Agreement; or
- (3) is in breach of a provision of this Agreement, where that breach:

- (a) if capable of being remedied, is not remedied within the period specified in a notice by the Territory, or
- (b) is not capable of being remedied.

10.2 Termination for any reason or reduction of Services

The Territory may, at any time by notice to the Contractor, terminate this Agreement or reduce the Services for any reason, and in that event:

- (1) the Territory will be liable only for:
 - (a) NOT USED - payments under this Agreement for Services rendered before the date of termination, and
 - (b) subject to **clauses 10.2(2)** and **10.2(3)**, any reasonable costs incurred by the Contractor and directly attributable to the termination or reduction of Services, but not in respect of loss of prospective profits;
- (2) on receipt of a notice of termination or reduction, the Contractor must:
 - (a) stop work as specified in the notice,
 - (b) take all available steps to minimise loss resulting from that termination or reduction of Services, and
 - (c) continue to perform any part of the Services not affected by the notice; and
- (3) NOT USED - in the event of a reduction of the Services, the Territory's liability to pay the Contract Price will, in the absence of agreement to the contrary, abate proportionately to the reduction in the Services.

10.3 No prejudice

Nothing in this **clause 10** prejudices any other rights or remedies of the Territory in respect of any breach of this Agreement.

11. Dispute resolution

- (1) If a difference or dispute (**Dispute**) arises in relation to this Agreement either party may give notice to the other that a Dispute exists, which specifies details of the Dispute, and the parties agree that they will endeavour to resolve the Dispute by negotiations, or, if the Dispute has not been resolved within 28 days of the issue of the notice, undertake mediation with an independent mediator, the cost to be shared by the parties unless otherwise agreed.
- (2) Nothing in this **clause 11** will prejudice the rights of either party to

institute proceedings to enforce the Agreement or to seek injunctive or urgent declaratory relief in respect of any Dispute.

12. General

12.1 General responsibilities of parties

Each party will:

- (1) fully cooperate with each other to ensure timely progress and fulfilment of the Agreement; and
- (2) act reasonably and in good faith with respect to matters that relate to the Agreement.

12.2 Conflict of interest

The Contractor warrants that no conflict of interest exists or is likely to arise in the performance of the Services and its other obligations under this Agreement and must, if a conflict or risk of conflict arises, notify the Territory and comply with any requirement of the Territory to eliminate or deal with that conflict or risk.

12.3 No employment, partnership or agency relationship

Nothing in this Agreement constitutes the Contractor, or its employees, agents or subcontractors as employees, partners or agents of the Territory or creates any employment, partnership or agency for any purpose and the Contractor must not represent itself, and must ensure its employees, agents and subcontractors do not represent themselves, as being employees, partners or agents of the Territory.

12.4 No assignment or subcontracting

- (1) The Contractor must not subcontract the performance of the Services or assign the whole or part of this Agreement without the prior written consent of the Territory. If the Territory gives its consent, the Territory may impose any conditions.
- (2) A change in the control of the Contractor or a company that controls the Contractor (except a company listed on an Australian stock exchange) is taken to be an assignment, the term “control” including the direct or indirect holding of more than 50% of the share capital of a corporation.
- (3) If the Contractor breaches **clause 12.4(1)**, the Territory reserves its rights, including requiring the Contractor to provide information regarding the proposed subcontractor’s or assignee’s capability to continue performing this Agreement or to provide security to ensure the proper performance of this Agreement.

12.5 Entire agreement

This Agreement comprises the entire agreement between the parties in relation to the Services and supersedes any prior representations, negotiations, writings, memoranda and agreements.

12.6 Severability

Any provision of this Agreement that is illegal, void or unenforceable will not form part of this Agreement to the extent of that illegality, voidness or unenforceability. The remaining provisions of this Agreement will not be invalidated by an illegal, void or unenforceable provision.

12.7 Variation

This Agreement may be varied or the Term extended only by the written agreement of the parties prior to the expiration of this Agreement.

12.8 No waiver

Failure or omission by the Territory at any time to enforce or require strict or timely compliance with any provision of this Agreement will not affect or impair that provision in any way or the rights and remedies that the Territory may have in respect of that provision.

12.9 Governing law and compliance with the law

This Agreement is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory. The Contractor must comply with the laws from time to time in force in the Territory in performing the Services.

12.10 Notices

Any notice, including any other communication, required to be given or sent to either party under this Agreement must be in writing and given to the relevant Contract Officer. A notice will be deemed to have been given:

- (1) if delivered by hand, on delivery;
- (2) if sent by prepaid mail, on the expiration of two business days after the date on which it was sent;
- (3) if sent by facsimile, on the sender's facsimile machine recording that the facsimile has been successfully and properly transmitted to the recipient's address; or
- (4) if sent by electronic mail, on the other party's acknowledgment of receipt by any means.

12.11 Special Conditions

In the event of any inconsistency between any Special Condition and any other provision of this Agreement then, to the extent of any inconsistency, the Special Condition will prevail.

12.12 Survival of clauses

Clauses 7, 9.2 and 9.3 will survive the expiration or earlier termination of this Agreement.

SCHEDULE 1

CONTRACT DETAILS

Item 1. Contract Officers

See clauses 1.1 and 12.10

For the Territory:

Rod Florence
Venues Canberra
PO Box 666
JAMISON ACT 2614
rod.florence@act.gov.au

For the Contractor:

Sch 2.2(a)(ii)

Sch 2.2(a)(xi)

Sch 2.2(a)(ii)

Item 2. Term

See clause 3

From the date of this Agreement for five (5) years with two additional, one (1) year extension options (Five plus One plus One).

Item 3. Contract Price

See clause 4

- (1) The Contract Price, Payment Terms and the Service Reporting Requirements are identified at **Schedule 7**.
- (3) Except if otherwise stated in this Agreement, the Contract Price is:
 - (a) payable within 14 days of the end of each calendar month; and
 - (b) inclusive of GST and all other taxes, duties and charges.

Item 4. Specified Personnel

See clause 6

Not applicable.

Item 5. Other amounts and insurance

See clause 9.1

- (1) Public liability insurance: \$20 million in respect of each claim.
- (2) Professional indemnity insurance: NOT USED.
- (3) Any insurance requirements determined through the *Road Transport (Public Passenger Service) Act 2001* or other insurance requirements mandated or advised by the ACT Road Transport Authority.

- | | |
|--|------------------|
| Item 6. Territory Information
<i>See clauses 1.1 and 7</i> | Item 6 NOT USED. |
| Item 7. Confidential Text
<i>See clauses 1.1 and 8</i> | Item 7 NOT USED. |
| Item 8. Grounds for confidentiality of Confidential Text
<i>See clause 8</i> | Item 8 NOT USED. |

SCHEDULE 2

THE SERVICES

For the purposes of the Insurance Determination, this **Schedule 2** constitutes the **Activity Schedule** (as defined in the Insurance Determination).

The Contractor must provide the Services as follows within any specified timeframes.

Sch 2.2(a)(xi)

SCHEDULE 3

SPECIAL CONDITIONS

See clause 12.11

Item 1. Privacy of Personal Information

1.1 Additional privacy obligations

The following obligations are in addition to those set out in **clause 7**, and do not limit those set out in **clause 6(4)**.

1.2 Employee awareness – NOT USED

The Contractor must ensure that each person engaged in performance of the Services by the Contractor requiring access to any Personal Information held in connection with this Agreement:

- (1) executes a deed of confidentiality in a form prescribed by the Territory to not access, use, disclose or retain Personal Information except in performing their duties of employment or contractual obligations; and
- (2) is informed that failure to comply with this undertaking may be a criminal offence and may also lead the Contractor to take disciplinary action against the person.

1.3 Reasonable requests, directions and guidelines

The Contractor must, in respect of any Personal Information held in connection with this Agreement, co-operate with any reasonable requests or directions of the Territory arising directly from, or in connection with the exercise of the functions of the Privacy Commissioner under the *Privacy Act 1988* (Cth) or otherwise, including the issuing of any guidelines concerning the handling of Personal Information.

1.4 Handling of complaints

A complaint alleging an interference with the privacy of an individual in respect of any Services performed by the Contractor (**Complaint**) will be handled by the Territory and in accordance with the following procedures:

- (1) if the Territory receives a Complaint it will immediately notify the Contractor of only those details of the Complaint necessary to minimise any breach or prevent further breaches of this Agreement;
- (2) if the Contractor receives a Complaint it must immediately notify the Territory of the nature of the Complaint but will only release Personal Information to the Territory concerning the complainant with that

person's consent; and

- (3) after the Territory has given or been given notice in accordance with **paragraphs (1) or (2)** above, it will keep the Contractor informed of all progress with the Complaint concerning the actions of the Contractor.

1.5 Survival of Item

This Item survives the expiry or earlier termination of this Agreement.

Item 2. Applicable Legislation

2.1 Road Transport (Public Passenger Services) Act 2001

In addition to applicable legislation described in this agreement, the Contractor shall conform to the requirements of the *Road Transport (Public Passenger Services) Act 2001* and any directions provided by the Road Transport Authority.

Item 3. Terms of Service

Sch 2.2(a)(xi)

3.2 Representation and Reputation

- 3.2.1 The Contractor must not represent the Service as a Service provided by Venues Canberra or the Territory.

- 3.2.2 Any logo or branding containing or representing Stromlo Forest Park or other Territory entities, either displayed on or in vehicles, in printed form or in electronic format is only permitted for use with written approval from Venues Canberra and in a manner that conforms with that approval.
- 3.2.3 The Contractor will provide a professional service and will not undertake actions that may negatively affect the reputation of Stromlo Forest Park or the Territory.

3.3 Approval to Access Land Controlled by Australian National University (ANU)

- 3.3.1 Access to the ‘drop-off’ point on the summit of Mount Stromlo is subject to the continued approval of the ANU including any conditions stipulated by the ANU. At time of commencement; these conditions included:
- (1) Initial induction by RSAA Site Officer, prior to introduction of service and to every change of driver.
 - (2) Speed limits- the Mt Stromlo Road is a 60k zone and it is 40K on the ANU RSAA campus, bordered by the boom gate. As you would be aware, the road is in generally poor condition and narrows with bends and turns.
 - (3) Driver(s) to comply to all signage, no overtaking at any point and use common sense in every regard to safety.
 - (4) Respect other road users, which include; cars, delivery trucks and service vehicles, cyclists, joggers, charter buses, pensioners etc.
 - (5) Wildlife awareness- RSAA MSO is a haven for many species including kangaroo, wombat, echidna, lizards and currently numerous snakes. Kangaroos are of particular hazards to vehicles.
 - (6) Serious incident/emergency- call 000 in the first instance and log with ANU Security as possible 6125 2249.
 - (7) Incident Reporting- all incidents to be reported to ANU Operations Manager or Site Officer in writing. Time/date/nature of incident/outcome/future preventative action.
 - (8) WH&S- Driver to have current First Aid training and first aid supplies within the vehicle.
 - (9) Bush Fire- Be alert to weather conditions and respect ANU site closures as they occur.
 - (10) Boom gate-Summer time is 6am-8pm; Winter 6am-6pm. There will be a CCTV camera at this point for visual security.

3.4 Audit and Inspection of Records and Financial Transactions

Access to Records or Premises

- 3.4.1 The Contractor will at the request of the Territory and within such time as is agreed by the parties or, if no agreement has been reached after 2 weeks of any request, within such period of time specified in a written notice (which provides reasons for access) from the Territory allow the Territory, its employees and agents to enter onto the Premises of the Organisation:

- (1) to inspect and copy all records and documentation, of a financial nature or otherwise, relating to the Services Agreement; and/or
- (2) to inspect the operation and progress of provision of the Services as appropriate having regard to the privacy of the Service Users.

3.5 Operating within Stromlo Forest Park

Speed Limit and Right of Way

- 3.5.1 The maximum speed limit within the Stromlo Forest Park section of the route is 40 kilometres per hour. All drivers must give way to all pedestrians, cyclist and horses. A high degree of caution must also be exercised when exiting Stromlo Forest Park onto the Mount Stromlo summit road.

Warning Signs

- 3.5.2 The Contractor shall place appropriate vehicle warning signs at locations agreed by Venues Canberra along the internal Stromlo Forest Park route including, but not limited to, both ends of the road and at crossing points along the route. Warning signs are to be removed at the end of each service day to avoid complacency by other park users.

Passenger Pick-up

- 3.5.3 The pick-up point for passengers is to be located at least two metres off the road and must provide safe access for passengers and the loading of bicycles.

Gates

- 3.5.4 All gates must be closed by the driver or staff member each time the vehicle accesses or exits the gates. Gates can be closed and 'dummy locked' (to provide the appearance of being locked) during the daily service but all gates must be fully locked before departure from the park at end of the daily service. Venues Canberra reserves the right to review this clause if security issues become apparent.

Risk Assessment

- 3.5.5 The Contractor shall prepare a Risk Management Plan for Venues Canberra review and acceptance prior to the commencement of the Service.

Site Induction

- 3.5.6 All Contractor staff or sub-contractors must complete the Stromlo Forest Park Site Induction process before working within the Park.

Working with Vulnerable People Registration.

3.5.7 All Contractor staff working within Stromlo Forest Park are required to be registered to work with vulnerable people. Registration can be made through Access Canberra.

[https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/1804/~/working-with-vulnerable-people-\(wwvp\)-registration](https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/1804/~/working-with-vulnerable-people-(wwvp)-registration)

SCHEDULE 4

THE SERVICE ROUTE

Item 1.

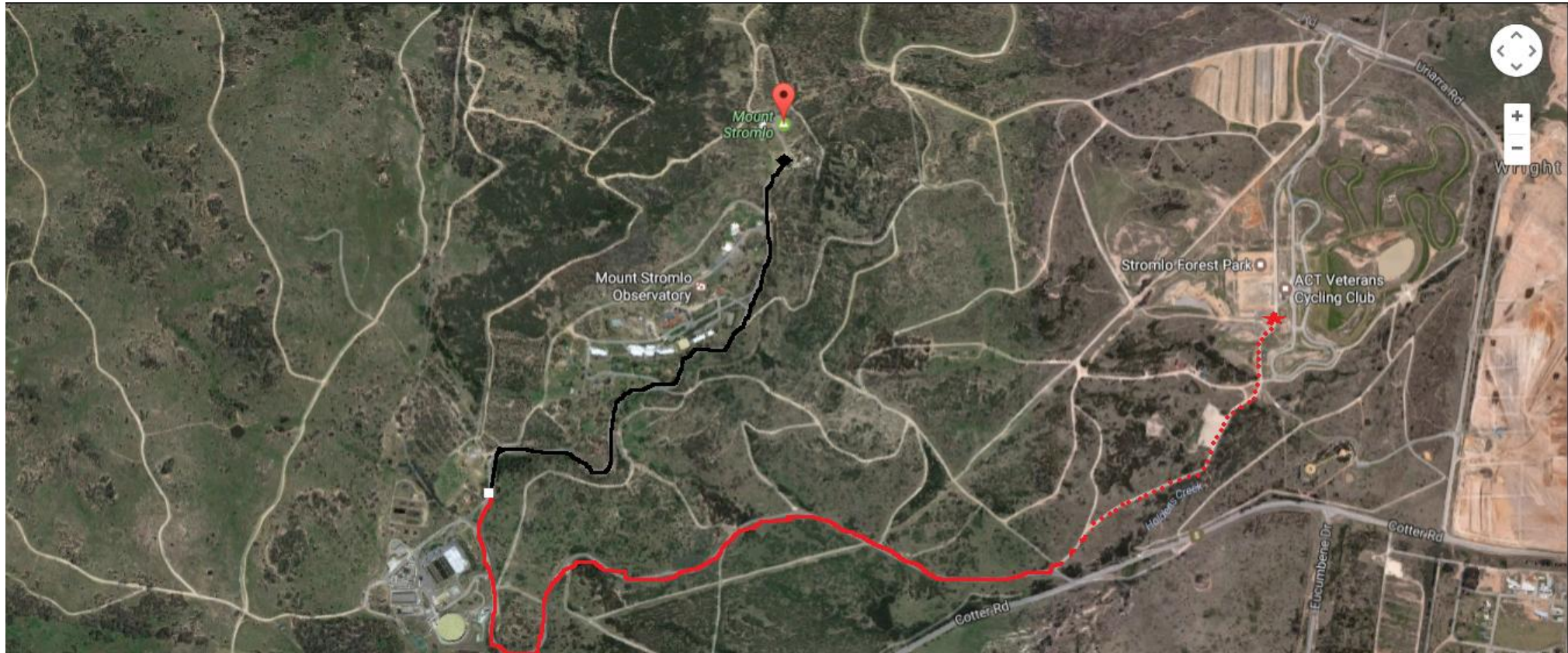
1.1 Route Modification

The Route may be altered on formal approval of Venues Canberra and/or the Road Transport Authority.

Route Map

The Service Route is identified at **Schedule 4 Item 1.2** on the following page.

1.2 The Service Route



SCHEDULE 5

THE SERVICE SCHEULE

Item 1.

1.1 Service Schedule Principles

The Contractor must provide a consistent and timely service that meets any advertised service schedule.

1.2 Schedule Advertising

The Contractor must provide Service Schedule information and timetables in a manner that are readily accessible and understood by members of the public.

1.3 Service Schedule Modification

The Service Schedule may be altered on formal approval of Venues Canberra. This is recognition that it is a new and untested service and will be subject to differing consumer demand at different time periods.

1.4 Service Schedule – Text Provided by Contractor

Sch 2.2(a)(xi), Sch 2.2(a)(xii)



Sch 2.2(a)(xi), Sch 2.2(a)(xii)



SCHEDULE 6

THE PUBLIC SERVICE TERMS, FARES AND FARE STRUCTURE

Item 1.

1.1 Terms and Conditions

The Contractor must publish, and clearly display all Terms and Conditions relating to the passenger services and the sale of tickets in a manner that the Terms and Conditions are readily available to passengers before or during the purchase of tickets.

1.2 Carrying Unaccompanied Minors

The Contractor shall prepare, publish and promote clear Terms and Conditions in respect to the sale of tickets to minors and the carrying of unaccompanied minors. This clause recognises risks involved with potentially inexperienced and or young riders becoming lost or accessing trails with difficulty levels greater than their skill levels.

1.3 Service Details – Text Provided by Contractor

We are not intending to take cash. Our preference to sell tickets online before the day, though do have capability for passengers to purchase tickets via card on the day.

This Service will operate on weekends and public holidays with trips every 30 minutes as per the schedule below. We will be releasing a limited number of passes when we start as we don't want to be overcrowded and want to make sure we provide the best service we can.

Ticket Options

\$50 for all day (non transferable) Priority queuing for the bus.

\$200 for 25 rides (transferable and can be used on multiple days)

\$35 for 3 rides (transferable and can be used on multiple days)

Purchasing tickets from us means the purchaser agrees to our Terms and Conditions. To keep ticketing simple, there is a flat fee structure. There are no concession fees.

Day Pass

Our day pass is \$50 and allows unlimited rides throughout the day. To purchase you can buy online. When you turn up with ID on the day you will be given a wristband and can ride all day. The pass is for the use of one person only and must be purchased and picked up by someone over the age of 16.

25 Ride Pass

Our 25 ride pass is \$200 and allows 25 rides any time the bus is operating for public use. These passes cannot be used on days when the service is operating only for events. These passes are valid for 12 months and can be shared between riders. In peak times only 2 riders can share a pass per trip. To purchase simply go to the link below and buy a pass. You can pick the pass up upon presenting your ID the next time

you visit the bus. The pass must be purchased and picked up by someone over the age of 16.

3 Ride Pass

\$35 for 3 rides, (transferable and can be used on multiple days)

Terms and Conditions

To purchase and pick up a ticket you need to be over 16 years old. If you choose to give this ticket to someone younger, it is at yours, and the younger persons parents risk. We do not assess a riders age or capability and are providing a transport service only.

You are purchasing tickets to a shuttle bus service. We are only responsible for transporting you and any equipment you have up the hill. You are responsible for your own wellbeing riding back down the hill.

We can provide Instruction and Guiding as well, but they are completely separate services to the shuttle bus transport. Contact us, or browse our website if you'd like details.

We will take all due care with handling and loading and unloading of bikes. There is however a risk of scratches, minor damage etc being transported in this manner and we will be as careful as possible but take no responsibility for this damage.

The trailer we are currently using holds the bike by its crank (non chainring side), we are looking at alternative options in the future. It is highly likely your crank will become scratched in this process. We suggest taping the crank or covering in some bike tube or getting used to it getting scratched. You have been warned and we take no responsibility for crank damage due to how it is stored during transport.

We reserve the right to remove and/or ban anybody behaving in what we consider an inappropriate or threatening manner, or damaging ours or other participants equipment.

Refund policy

If you have purchased a shuttle day pass for a day that is cancelled by us, we will refund you the cost of the day pass within 14 days.

If you have purchased a shuttle day pass for a day that you cancel, we request that you give us minimum of 24 hrs notice. Cancellations on the day will not receive a refund; however, ticket may be assigned to another person or another day by you. On cancellations with greater than 24hrs notice, the ticket may be assigned to another person or another day by you, or you may elect to have a refund of your day ticket, less a \$5 admin fee.

We do not provide refunds for unused rides on 25 or 3 ride passes.

SCHEDULE 7

THE CONTRACT PRICE, PAYMENT TERMS AND SERVICE REPORTING REQUIREMENTS

Item 1.

1.1 Contract Price

Sch 2.2(a)(xii), Sch 2.2(a)(xiii)



DATE OF THIS AGREEMENT

SIGNED for and on behalf of the)
AUSTRALIAN CAPITAL TERRITORY)
in the presence of:) Signature of Territory delegate

.....
Signature of witness Print name

.....
Print name

SIGNED by or for and on behalf of)
Dynamic Motivation Pty Ltd)
ABN: 37 153 358 484) Signature of director/ authorised
in the presence of:) officer/ individual*
*DELETE whichever is not applicable (see note below)

.....
Signature of director/ secretary/ witness*
*DELETE whichever is not applicable (see note below) Print name

.....
Signature of second authorised officer*
*only use if Incorporated Association (see note below)
.....
Print name

.....
Print name



- Note:**
- Date: Must be dated on the date the last party signs the Agreement or, if signed counterparts of the Agreement are exchanged, the date of exchange. Also date the cover page.
 - Company: Must be signed in accordance with section 127 of the *Corporations Act 2001* (Cth), for example, by 2 directors or a director and a secretary. Common seal may be affixed if required under the Contractor’s constitution.
 - Individual: Must be signed by the individual Contractor and witnessed.
 - Incorporated Association: Must be signed in accordance with the Contractor’s constitution, which may or may not require the common seal to be affixed. As a minimum, 2 authorised officers must sign.



SERVICES AGREEMENT

Date	<u>22nd March 2007</u>
Parties	AUSTRALIAN CAPITAL TERRITORY DYNAMIC MOTIVATION PTY LTD ABN: 37 153 358 484 PUBLIC SHUTTLE SERVICE – STROMLO FOREST PARK
Prepared by	Venues Canberra PO Box 666 JAMISON ACT 2614 Ph: 6256 6700 Ref: [INITIALS]:[FILE NO]
Version	Final 22/3/17

DATE OF THIS AGREEMENT 22nd March 2017

SIGNED for and on behalf of the AUSTRALIAN CAPITAL TERRITORY in the presence of:

Sch 2.2(a)(ii)
Signature of Territory delegate

Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

Signature of witness

Print name

Sch 2.2(a)(ii)

Print name

SIGNED by or for and on behalf of Dynamic Motivation Pty Ltd ABN: 37 153 358 484 in the presence of:

Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

Signature of ~~director/secretary/~~ witness*
*DELETE whichever is not applicable (see note below)

Print name

Sch 2.2(a)(ii)

Print name

.....
Signature of second authorised officer*
*only use if Incorporated Association (see note below)

.....
Print name



- Note:
Date: Must be dated on the date the last party signs the Agreement or, if signed counterparts of the Agreement are exchanged, the date of exchange. Also date the cover page.
Company: Must be signed in accordance with section 127 of the Corporations Act 2001 (Cth), for example, by 2 directors or a director and a secretary. Common seal may be affixed if required under the Contractor's constitution.
Individual: Must be signed by the individual Contractor and witnessed.
Incorporated Association: Must be signed in accordance with the Contractor's constitution, which may or may not require the common seal to be affixed. As a minimum, 2 authorised officers must sign.

From: Sch 2.2(a)(ii)
To: [Cunningham, Catherine](#)
Cc: Sch 2.2(a)(ii)
Subject: Dynamic Motivation Stromlo Shuttle Bus ACT Government Services Agreement
Date: Wednesday, 17 November 2021 12:44:03 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.jpg](#)
[image004.png](#)
[image005.png](#)

CAUTION: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi Catherine,

As you might know, Sch 2.2(a)(xi)

Our services agreement is for an initial 5 year term with 1 plus 1 extension option. Our initial 5 year services agreement is until April 2022.

In light of the above, we are writing this email requesting if you would consider extending the original 5 years to 7 years plus 1+1 Sch 2.2(a)(xi)

We look forward to your consideration of this request, and will provide you with any information that you require to enable a decision.

Kind regards,

Sch 2.2(a)(ii)

From: Blundell, Lauren
Sent: Wednesday, 2 February 2022 7:58 AM
To: Cunningham, Catherine
Subject: RE: FOR YOUR REVIEW AND ACTION: DRAFT Variation DEED Public Shuttle Services [DLM=For-Official-Use-Only]

OFFICIAL

Good morning Catherine,

Apologies I somehow missed your initial email query.

I may have to give you a quick call later this morning but I am a little confused with the selected new Term? I thought you wished to take up extension option 1 of the Agreement due to expire in March 2022? But extend the variation term from 1 year to 4 (new end date 5 years from now?).

It becomes rather grey if you simply want to add another 5 year term onto a 5 year term Agreement and still include the 1+1 options taking the Term of the Agreement to 12 years.

Regardless, prior to issuing the draft Variation to the Vendor you must seek Financial Delegate approval to be able to extend the Agreement (this is required whether you were utilising the 1 year option as referenced in the Agreement or wish to extend the extension option from 1 year to 5).

As advised - Without reviewing the initial Procurement Approval I would assume this term would be out of the initial approval therefore, you would need obtain prior Delegate Approval to extend the term out further than originally approved and your justification for doing so prior to issuing the Deed of Variation to Dynamic.

Once internal Delegate approval has been obtained to extend the Agreement, the next steps would be to issue the Deed of Variation to the Vendor for review and once they were happy with the proposed Deed, the Vendor would organise to have this signed (but not dated) and a scanned copy returned back to yourself to then organise Territory Delegate signature. IE Vendor to sign first Territory to sign second and date the Deed. You would subsequently forward a copy of the fully executed Deed back to the Vendor for their record.

The Deed of Variation would then need to be published on the Territory's Contract Register.

Cheers,

Kind regards,

Lauren Blundell | Assistant Director
Sourcing, Advice and Supply | Procurement ACT | **Commercial Services and Infrastructure**
Phone: +61 2 6205 4824

Chief Minister, Treasury and Economic Development Directorate | **ACT Government**
Level 10, 5 Constitution Avenue, Canberra City, ACT 2602 | www.tenders.act.gov.au
Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.

If you are unable to contact me, please call Goods & Services Procurement on +61 2 6205 9797 or send an email to goodsandservices@act.gov.au

From: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>
Sent: Wednesday, 2 February 2022 7:00 AM
To: Blundell, Lauren <Lauren.Blundell@act.gov.au>

Subject: FW: FOR YOUR REVIEW AND ACTION: DRAFT Variation DEED Public Shuttle Services [DLM=For-Official-Use-Only]

OFFICIAL

Hi Lauren,

I hope this email finds you well.

Just following up on the below. Look forward to your advice.

Cheers
Catherine

From: Cunningham, Catherine
Sent: Thursday, 27 January 2022 2:47 PM
To: Blundell, Lauren <Lauren.Blundell@act.gov.au>
Subject: RE: FOR YOUR REVIEW AND ACTION: DRAFT Variation DEED Public Shuttle Services [DLM=For-Official-Use-Only]

OFFICIAL

Hi Lauren,

I hope you've had a good week.

I've updated the term from 22 March 2017 until 22 March 2024. This does not impact the one + one extension options does it? Am I meant to put my details in the "prepared by" section?

What are the next steps from here? Do we have to arrange a formal signing for the delegates, or can each party sign independently?

Look forward to your advice.

Cheers

CC

Catherine Cunningham

Business Development Officer | National Arboretum Canberra and Stromlo Forest Park Branch

E catherine.cunningham@act.gov.au | T 02 6205 9687

Economic Development – Chief Minister, Treasury and Economic Development Directorate
ACT Government



From: Blundell, Lauren <Lauren.Blundell@act.gov.au>
Sent: Monday, 24 January 2022 11:49 AM
To: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>
Subject: FOR YOUR REVIEW AND ACTION: DRAFT Variation DEED Public Shuttle Services [DLM=For-Official-Use-Only]

OFFICIAL

Good morning Catherine,

As previously discussed please find attached the draft Deed of Variation for the Public Shuttle Services for your review and finalisation please. I have also included amendment details for the Contract Manager as the Agreement is no longer looked after by Events ACT.

As mentioned the only request to the Services Agreement is to extend the variation term from 1 year for a further 5 years with no amendment to the dollar value or the scope of Services. Without reviewing the initial Procurement Approval I would assume this term would be out of the initial approval therefore, you would need obtain prior Delegate Approval to extend the term out further than originally approved and your justification for doing so prior to issuing the Deed of Variation to Dynamic.

Any questions please let me know,

Kind regards,

Lauren Blundell | Assistant Director
Sourcing, Advice and Supply | Procurement ACT | Commercial Services and Infrastructure
Phone: +61 2 6205 2761

Chief Minister, Treasury and Economic Development Directorate | **ACT Government**
Level 10, 5 Constitution Avenue, Canberra City, ACT 2602 | www.tenders.act.gov.au
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If you are unable to contact me, please call Goods & Services Procurement on +61 2 6205 9797 or send an email to goodsandservices@act.gov.au

From: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>
Sent: Wednesday, 15 December 2021 8:54 AM
To: Blundell, Lauren <Lauren.Blundell@act.gov.au>
Subject: RE: Request to Review the Services Agreement Public Shuttle Services

OFFICIAL

Hi Lauren,

I hope you're have a good week so far.

As I may have mentioned over the phone, this Services Agreement was previously executed by Venues Canberra – the signed page was scanned in separately as per attached, and these are the files they provided us.

I hope this suffices.

Kind regards,

Catherine

Catherine Cunningham

Business Development Officer | National Arboretum Canberra and Stromlo Forest Park Branch

E catherine.cunningham@act.gov.au | T 02 6205 9687

Economic Development – Chief Minister, Treasury and Economic Development Directorate
ACT Government



From: Blundell, Lauren <Lauren.Blundell@act.gov.au>
Sent: Tuesday, 14 December 2021 3:24 PM
To: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>
Subject: Request to Review the Services Agreement Public Shuttle Services

OFFICIAL

Hi Catherine,

Re:

RITM/GS Number	GS3051485
Project Title	N/A Services Agreement Variation
Requesting Directorate	Directorate: CMTEDD Business Area: NAC - Management
Requestor	Catherine Cunningham
Summary	Please note this Services Agreement is for five years with two additional, one year extension options. We wish to extend the five years to seven years, while also retaining the two year extension options.

Thanks again for your time again last Friday, in order to discuss with my upline whether this would be considered a BAU/ Contract Manager activity would you mind please sending me a copy of the executed Services Agreement?

Thanks,
Lauren

Kind regards,

Lauren Blundell | Assistant Director

Sourcing, Advice and Supply | Procurement ACT | **Commercial Services and Infrastructure**
Phone: +61 2 6205 2761

Chief Minister, Treasury and Economic Development Directorate | **ACT Government**
Level 10, 5 Constitution Avenue, Canberra City, ACT 2602 | www.tenders.act.gov.au

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If you are unable to contact me, please call Goods & Services Procurement on +61 2 6205 9797 or send an email to goodsandservices@act.gov.au

From: [Cunningham, Catherine](#)
To: [Shawcross, Amalie](#); [Khan, Ahmed](#); [Rope, Darren](#)
Subject: RE: Dynamic Motivation Stromlo Shuttle Bus ACT Government Services Agreement
Date: Friday, 4 February 2022 2:18:00 PM
Attachments: [image001.png](#)
[image002.jpg](#)
Importance: High

UNOFFICIAL

Hi Team,

Further to my email below, I spoke with Procurement ACT today having received the Deed of Variation. Unfortunately, they misunderstood my initial request, and we're unable to extend the Services Agreement (SA) without undertaking a new tender process.

As it stands, the current SA has a 1+1 extension option. The current SA is due to imminently expire in March 2022, so we'll need to exercise a one year extension ASAP. At the end of their first extension (March 2023), there's an option to extend for one more year (March 2024), which has to be a separate Deed of Variation. We then go out to tender to allow other service providers the opportunity.

I have the Draft Deed of Variation already, but we need to get internal financial delegate approval before we can proceed to execution. Ahmed, she mentioned an internal minute may be required depending on who is our financial delegate? Can you please advise who this is? I thought it would just be Scott.

In the meantime, I'll let DM know the bad news, but our hands are tied by procurement law. Let me know if you have any queries.

Cheers

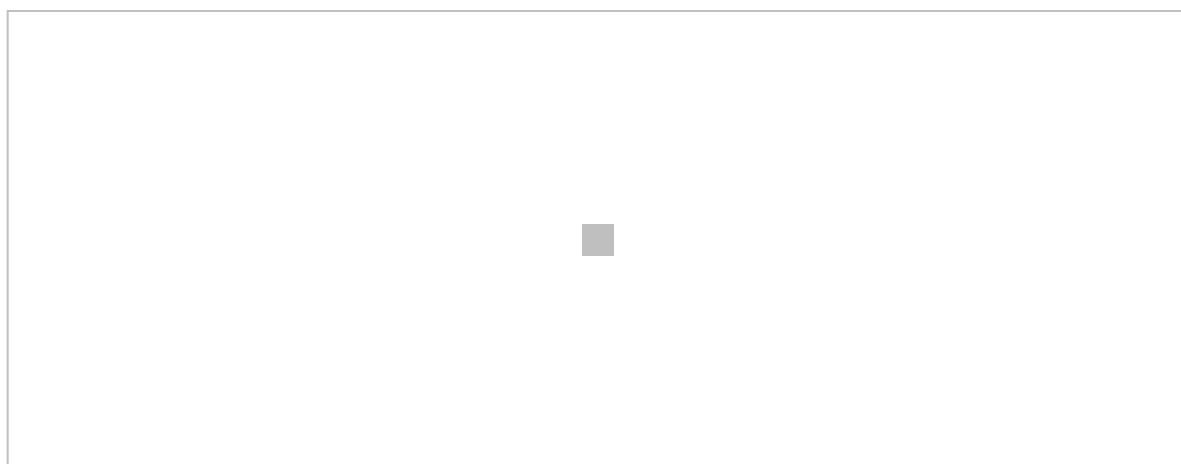
Catherine

Catherine Cunningham

Business Development Officer | National Arboretum Canberra and Stromlo Forest Park Branch

E catherine.cunningham@act.gov.au | T 02 6205 9687

Economic Development – Chief Minister, Treasury and Economic Development Directorate
ACT Government



From: Cunningham, Catherine

Sent: Monday, 29 November 2021 1:24 PM

To: Shawcross, Amalie <Amalie.Shawcross@act.gov.au>

Cc: Khan, Ahmed <Ahmed.Khan@act.gov.au>; Rope, Darren <Darren.Rope@act.gov.au>

Subject: RE: Dynamic Motivation Stromlo Shuttle Bus ACT Government Services Agreement

UNOFFICIAL

Hi Amalie,

I spoke with Procurement ACT today and they advised there really shouldn't be too much trouble extending the DM Services Agreement for an additional two years – while also retaining the 1+1 extension options. Although he couldn't provide complete confirmation and advised I had to fill out a Goods and Services Procurement Request form for a more thorough assessment. I've completed this form, but I'm conscious it may take some time to be actioned and this matter is quite time-sensitive.

Knowing indicatively an extension is now most likely possible without a tender process, I suppose we're better placed to assess the options previously flagged and to give DM some sort of direction. I'm guessing we'll ultimately need to get Scott's approval to go down any of these paths, but I'd recommend we go back to DM to see if they're willing to stay the course with the container office if their SA is extended for the additional two years? If they're still not keen, let me know if;

Sch 2.2(a)(xi)

- We will still intend to provide them a premature two-year extension regardless.

Cheers

Catherine

Catherine Cunningham

Business Development Officer | National Arboretum Canberra and Stromlo Forest Park Branch

E catherine.cunningham@act.gov.au | T 02 6205 9687

Economic Development – Chief Minister, Treasury and Economic Development Directorate
ACT Government

From: Wolski, Glenn <Glenn.Wolski@act.gov.au>

Sent: Monday, 29 November 2021 11:14 AM

To: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>

Subject: RE: Dynamic Motivation Stromlo Shuttle Bus ACT Government Services Agreement

UNOFFICIAL

Hi Catherine

As discussed on the phone just now, if your business unit intends to change the term of the contract from 5 years with 2 options to extend to another initial term with 2 options to extend then this may be a change that will require a Delegate's approval.

Please complete a [Goods and Services Procurement Request form](#), so that a Procurement Officer can be allocated to you to provide some advice in relation to this.

Regards

Glenn Wolski

Procurement Officer

Goods & Services Procurement

Phone +61 2 6205 3065

Procurement ACT | Chief Minister, Treasury and Economic Development Directorate | ACT Government

220 Northbourne Avenue, Braddon ACT 2612 | GPO Box 158 Canberra City ACT 2601

If you are unable to contact me using the above details, please call Goods & Services Procurement on +61 2 6205 9797 or send us an email at goodsandservices@act.gov.au

Please consider the environment before printing this email, if printing is necessary, print double-sided and black and white

From: Wolski, Glenn

Sent: Monday, 29 November 2021 10:53 AM

To: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>

Subject: RE: Dynamic Motivation Stromlo Shuttle Bus ACT Government Services Agreement

UNOFFICIAL

Good morning Catherine

Apologies for the delay in responding to your email below. Last week ended up being a bit of a busy week.

Tried to call you this morning to discuss your enquiry.

There are a few things I need to get a better understanding of in order to provide you with some initial advice, could you give me a call at your convenience to discuss?

I will be available today between 11 am and 12 pm and then again from 2:30 pm till 5 pm.

Regards

Glenn Wolski

Procurement Officer

Goods & Services Procurement

Phone +61 2 6205 3065

Procurement ACT | Chief Minister, Treasury and Economic Development Directorate | **ACT Government**

220 Northbourne Avenue, Braddon ACT 2612 | GPO Box 158 Canberra City ACT 2601

If you are unable to contact me using the above details, please call Goods & Services Procurement on +61 2 6205 9797 or send us an email at goodsandservices@act.gov.au

Please consider the environment before printing this email, if printing is necessary, print double-sided and black and white

From: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>

Sent: Thursday, 25 November 2021 12:53 PM

To: tendersACT <tendersACT@act.gov.au>; Palmer, Saraya <Saraya.Palmer@act.gov.au>

Subject: RE: Dynamic Motivation Stromlo Shuttle Bus ACT Government Services Agreement

UNOFFICIAL

Hi Glenn,

Further to my previous email, GSO have advised that Procurement ACT are best placed to provide guidance as to what (if any) procurement process/considerations are necessary to extend the Services Agreement.

Further investigations with Venues Canberra have unearthed that this initial agreement was seen as more of a "trial run" to see if there would be take-up for shuttle bus services, hence Procurement ACT were not engaged. Given the long 'trial' period is coming to an end, does this trigger the need for a new process?

DM's current Services Agreement (SA) is an initial 5 year term with a 1 plus 1 extension option, with the initial 5 years complete in April 2022. DM have expressed a desire to extend their initial term to 7 years, while also retaining the 1 plus 1 option.

If NAC/SFP management are in favour of extending their initial term to 7 years, we'd prefer to just extend the current arrangement, but want to ensure everything is above board.

Look forward to your advice.

Cheers

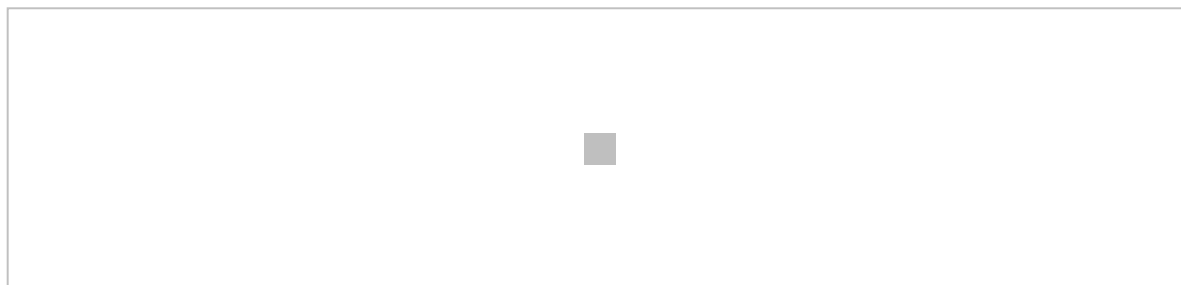
Catherine

Catherine Cunningham

Business Development Officer | National Arboretum Canberra and Stromlo Forest Park Branch

E catherine.cunningham@act.gov.au | **T 02 6205 9687**

Economic Development – Chief Minister, Treasury and Economic Development Directorate
ACT Government



From: tendersACT <tendersACT@act.gov.au>

Sent: Wednesday, 24 November 2021 5:27 PM

To: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>; Palmer, Saraya <Saraya.Palmer@act.gov.au>

Cc: tendersACT <tendersACT@act.gov.au>

Subject: RE: Dynamic Motivation Stromlo Shuttle Bus ACT Government Services Agreement

UNOFFICIAL

Good afternoon Catherine

Saraya is away for the rest of the week, so I have looked into your enquiry.

Unfortunately the attached contract is not on the ACT Contracts Register, nor can I find any procurement opportunities released through Tenders ACT relating to Public Shuttle Services.

As there are no identifying reference numbers detailed within the Contract, this leads me to believe that Procurement ACT was not involved in the procurement activity that established this contract.

Which means that the procurement process was conducted solely by Venues Canberra, we are therefore unable to provide any responses to your questions.

You will need to contact Venues Canberra directly, you could start with the Executive Assistant to the Executive Branch Manager, this being Samantha Sant – 6205 9917.

Regards

Glenn Wolski

Procurement Officer

Goods & Services Procurement

Phone +61 2 6205 3065

Procurement ACT | Chief Minister, Treasury and Economic Development Directorate | **ACT Government**

220 Northbourne Avenue, Braddon ACT 2612 | GPO Box 158 Canberra City ACT 2601

If you are unable to contact me using the above details, please call Goods & Services Procurement on +61 2 6205 9797 or send us an email at goodsandservices@act.gov.au

Please consider the environment before printing this email, if printing is necessary, print double-sided and black and white

From: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>

Sent: Wednesday, 24 November 2021 1:35 PM

To: Palmer, Saraya <Saraya.Palmer@act.gov.au>

Cc: tendersACT <tendersACT@act.gov.au>

Subject: RE: Dynamic Motivation Stromlo Shuttle Bus ACT Government Services Agreement

Importance: High

UNOFFICIAL

Hi Saraya,

I hope this email finds you well.

I'm not sure if you're aware, but the National Arboretum Canberra took over management of Stromlo Forest Park from Venues Canberra in March 2020, and as a part of this, the management of the onsite commercial contracts – one of them being Dynamic Motivation (DM).

DM operate under a Services Agreement (SA) with the Territory, under an initial 5 year term with a 1 plus 1 extension option. The initial 5 years is complete in April 2022 and they have expressed a desire to extend their initial term to 7 years, while also retaining the 1 plus 1 option.

Sch 1 1.2

Against this background, I'm wondering if Procurement ACT have anything on record that may be able to answer the following questions:

1. How was DM selected to provide the shuttle bus service?
2. Was there a procurement? EOI, Tender or exemption?
3. If so, can you advise what was the scope of the approval/selection? Was it limited to what was recorded in the Services Agreement?

This matter is quite time sensitive, so I would appreciate any insights you can provide at your earliest convenience.

Please don't hesitate to contact me should you have any queries.

Cheers

Catherine

Catherine Cunningham

Business Development Officer | National Arboretum Canberra and Stromlo Forest Park Branch

E catherine.cunningham@act.gov.au | T 02 6205 9687

Economic Development – Chief Minister, Treasury and Economic Development Directorate
ACT Government



From: [Saddler, Scott](#)
To: [Cunningham, Catherine](#)
Cc: [Shawcross, Amalie](#); [Khan, Ahmed](#)
Subject: Re: Dynamic Motivation Services Agreement extension - approval to proceed with execution of Deed of Variation
Date: Wednesday, 9 February 2022 8:47:44 AM

Please proceed

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From: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>
Sent: Wednesday, February 9, 2022 8:43:20 AM
To: Saddler, Scott <Scott.Saddler@act.gov.au>
Cc: Shawcross, Amalie <Amalie.Shawcross@act.gov.au>; Khan, Ahmed <Ahmed.Khan@act.gov.au>
Subject: Dynamic Motivation Services Agreement extension - approval to proceed with execution of Deed of Variation

UNOFFICIAL

Hi Scott,

As previously discussed over the phone, this is a formal email to seek your permission to proceed with the execution of the Deed of Variation to extend Dynamic Motivation's Service Agreement (SA) with the Territory, exercising the provision of their +1 extension option under the current SA. The SA is due to expire on 22 March 2022, and the proposed extension would be until 22 March 2023.

The justification is founded in the quality services Dynamic Motivation have provided patrons of SFP over the course of their term, and the strong working relationship we have developed. We believe them to be professional, hard-working operators, and an asset to the park.

As financial delegate for National Arboretum Canberra and Stromlo Forest Park, you will be required to sign the Deed of Variation following execution by Dynamic Motivation. Upon receiving your approval to proceed, I hope to retain a signed version from Dynamic Motivation within the next week or so.

If you have any queries, please don't hesitate to let me know.

Kind regards,

Catherine

Catherine Cunningham

Business Development Officer | National Arboretum Canberra and Stromlo Forest Park Branch

E catherine.cunningham@act.gov.au | T 02 6205 9687

Economic Development – Chief Minister, Treasury and Economic Development Directorate

ACT Government

From: [Cunningham, Catherine](#)
To: Sch 2.2(a)(ii) "
Bcc: [Khan, Ahmed](#)
Subject: RE: Services Agreement extension update
Date: Monday, 14 February 2022 3:10:00 PM
Attachments: [Deed of Variation - Services \(Contractor\) Agreement.pdf](#)

UNOFFICIAL

Hi Sch 2.2(a)(ii)

Hope you had a good weekend.

Just following up on the below as I'm conscious of time, and the imminent expiration of your current Services Agreement Term.

Please let me know if you have any queries.

Cheers

Catherine

Catherine Cunningham

Business Development Officer | National Arboretum Canberra and Stromlo Forest Park Branch

E catherine.cunningham@act.gov.au | **T 02 6205 9687**

Economic Development – Chief Minister, Treasury and Economic Development Directorate
ACT Government

From: Cunningham, Catherine

Sent: Wednesday, 9 February 2022 12:36 PM

To: Sch 2.2(a)(ii)

Cc: Rope, Darren <Darren.Rope@act.gov.au>; Shawcross, Amalie <Amalie.Shawcross@act.gov.au>

Subject: RE: Services Agreement extension update

UNOFFICIAL

Hi Sch 2.2(a)(ii)

I hope your day is going well so far.

Procurement ACT got back to me with the following, which as suspected leaves no wiggle room: *Unfortunately, a variation to extend any Contract beyond the terms of the original Contract (rather than exercising an extension option within the terms of a Contract (i.e. the 1+1 extension options)), is considered to be a new procurement and must be conducted in accordance with the ACT Government Procurement ACT 2001 and the Government Procurement Regulations, and is therefore not allowed.*

The executed Services Agreement (SA) in which Dynamic signed sets out the Term of this arrangement. As the front page advises, this Contract was fully executed on the 22 March 2017.

Services Agreement extract:

3. Term – “This Agreement is for the Term unless terminated under the provisions of this Agreement.”

Item 2. Term – clause 3

“From the date of this Agreement for five (5) years with two additional, one (1) year extension options (initial Five years + One plus One extension options).”

In referencing the above terms, the SA must be allowed to expire after this date March 2024. In this context, any proposal for additional Services/years as a variation must be treated as a new procurement.

As it stands, we need to exercise your first +1 extension option under the current SA. I've attached a Deed of Variation for review. If you're happy with the proposed Deed, please organise to have this signed (**but not dated**) and a scanned copy returned back to me.

From here, I will organise the Territory Delegate signature who will also date the Deed. I will then forward a copy of the fully executed Deed to Dynamic Motivation for your records.

Any queries, please let me know.

Kind regards,

Catherine

Catherine Cunningham

Business Development Officer | National Arboretum Canberra and Stromlo Forest Park Branch

E catherine.cunningham@act.gov.au | T 02 6205 9687

Economic Development – Chief Minister, Treasury and Economic Development Directorate
ACT Government

From: Sch 2.2(a)(ii) Sch 2.2(a)(ii)

Sent: Tuesday, 8 February 2022 12:09 PM

To: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>; Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

Cc: Rope, Darren <Darren.Rope@act.gov.au>; Shawcross, Amalie

<Amalie.Shawcross@act.gov.au>

Subject: RE: Services Agreement extension update

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Thank you Catherine, very appreciated.

Kind regards,

Sch 2.2(a)(ii)

Sent from my Galaxy

----- Original message -----

From: "Cunningham, Catherine" <Catherine.Cunningham@act.gov.au>

Date: 8/2/22 11:56 am (GMT+10:00)

To: Sch 2.2(a)(ii)

Cc: "Rope, Darren" <Darren.Rope@act.gov.au>, "Shawcross, Amalie"

<Amalie.Shawcross@act.gov.au>

Subject: RE: Services Agreement extension update

UNOFFICIAL

Hi Sch 2.2(a)(ii)

Thank you for your email.

As previously advised, Procurement ACT have advised this is the process that must be followed, however I'll endeavour to seek further clarity on the question you've raised if possible.

Cheers

Catherine

-----Original Message-----

From: Sch 2.2(a)(ii)

Sent: Monday, 7 February 2022 1:52 PM

To: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>; Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

Cc: Rope, Darren <Darren.Rope@act.gov.au>; Shawcross, Amalie

<Amalie.Shawcross@act.gov.au>

Subject: RE: Services Agreement extension update

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Hi Catherine,

Thank you for your email. A very unfortunate outcome indeed.

I am quite confused with the procurement law. I have read the ACT Government Procurement ACT 2001 and the Government Procurement Regulation 2007 this morning. I am assuming that our services agreement is outside of those laws as it talks of how much the ACT government pays in terms of the value of the contract, not what the ACT Government is being paid under the contract. Can this please be clarified ?

Kind Regards,

Sch 2.2(a)(ii)

[Redacted]

[Redacted]

Sch 2.2(a)(ii)

[Redacted]

-----Original Message-----

From: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>

Sent: Friday, 4 February 2022 2:31 PM

To: Sch 2.2(a)(ii)

Cc: Rope, Darren <Darren.Rope@act.gov.au>; Shawcross, Amalie <Amalie.Shawcross@act.gov.au>

Subject: RE: Services Agreement extension update

UNOFFICIAL

Hi Sch 2.2(a)(ii)

I hope you've had a good week.

Further to my email below, our request with Procurement ACT for the Services Agreement (SA) extension has now been assessed, and unfortunately upon their further investigation, we're unable to extend the SA to March 2024 retaining the 1+1 extension options. I appreciate this is a disappointing outcome, but there are simply no loopholes and we're bound by procurement law.

As it stands, we'll need to exercise your first one year extension under the current agreement ASAP given its due to imminently expire in March. I've received a Draft Deed of Variation and I'm in the process of seeking internal financial delegate approval. From there, we can commence the execution process, and I'll provide further details early next week where this is concerned.

Please let me know if you have any queries.

Kind regards,

Catherine Cunningham

Business Development Officer | National Arboretum Canberra and Stromlo Forest Park Branch E
catherine.cunningham@act.gov.au | T 02 6205 9687 Economic Development - Chief Minister,
Treasury and Economic Development Directorate ACT Government

-----Original Message-----

From: Cunningham, Catherine

Sent: Wednesday, 1 December 2021 1:41 PM

To: Sch 2.2(a)(ii)

Cc: Rope, Darren <Darren.Rope@act.gov.au>; Shawcross, Amalie <Amalie.Shawcross@act.gov.au>

Subject: RE: Container Office

UNOFFICIAL

Sch 2.2(a)(ii)

Thank you for your patience on the recent matters raised regarding an early Services Agreement

(SA) extension, Sch 2.2(a)(xi)

and further information to support your work with the building surveyor.

In-principle, we're happy to accommodate an early SA extension for an additional two years (retaining the 1+1 extension options) given Dynamic Motivation add great value to the park, and we find you both professional and good, well-meaning people to work with. We've been in initial discussions with Procurement ACT to better understand the process of extension and any implications arising as a result. Based on our indicative verbal conversations, this should be able to go ahead. However, we've had to submit a formal request and they won't provide certainty until this has been formally assessed.

Sch 2.2(a)(xi)

If you have any queries in relation to the above-mentioned, please let me know.

Cheers

Catherine

Catherine Cunningham

Business Development Officer | National Arboretum Canberra and Stromlo Forest Park Branch

E catherine.cunningham@act.gov.au | T 02 6205 9687 Economic Development - Chief Minister, Treasury and Economic Development Directorate ACT Government

-----Original Message-----

From: Cunningham, Catherine

Sent: Tuesday, 30 November 2021 3:55 PM

To: Sch 2.2(a)(ii)

Cc: Rope, Darren <Darren.Rope@act.gov.au>; Shawcross, Amalie <Amalie.Shawcross@act.gov.au>

Subject: RE: Container Office

UNOFFICIAL

Hello Sch 2.2(a)(ii)

Thank you for the email.

We'll consider your request internally and get back to you as soon as we can.

I appreciate your patience on the other matters as well - we haven't forgotten them!

I'll be in contact soon.

Kind regards,

Catherine

Catherine Cunningham
Business Development Officer | National Arboretum Canberra and Stromlo Forest Park Branch

E catherine.cunningham@act.gov.au | T 02 6205 9687 Economic Development - Chief Minister,
Treasury and Economic Development Directorate ACT Government

-----Original Message-----

From: Sch 2.2(a)(ii)

Sent: Tuesday, 30 November 2021 9:02 AM

To: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>; Rope, Darren
<Darren.Rope@act.gov.au>; Shawcross, Amalie <Amalie.Shawcross@act.gov.au>

Cc: Sch 2.2(a)(ii) Callen, Christine
<Christine.Callen@act.gov.au>

Subject: Container Office

CAUTION: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hey Catherine

Sch 2.2(a)(xi)

Sch 2.2(a)(xi)

If you could let us know if this is possible it would be much appreciated.

Thanks

Sch 2.2(a)(ii)

[Redacted content]

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ACT
Government

DEED OF VARIATION

Dated	<u>1 March 2022</u>
Parties	AUSTRALIAN CAPITAL TERRITORY DYNAMIC MOTIVATION PTY LTD ABN: 37 153 358 484 VARIATION OF PUBLIC SHUTTLE SERVICE- STROMLO FOREST PARK
Prepared by	Chief Minister Treasury and Economic Development Directorate National Arboretum Canberra and Stromlo Forest Park Branch 1-3 Constitution Ave CITY ACT 2601 AUSTRALIA Ph: 02 6207 8484 Ref: [INITIALS]:[FILE NO]
Version	9 February 2022

PARTIES: **AUSTRALIAN CAPITAL TERRITORY**, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) (**Territory**) represented by the **Chief Minister, Treasury and Economic Development Directorate**.

DYNAMIC MOTIVATION Pty Ltd ABN: 37 153 358 484 of 23 Faithfull Circuit KAMBAH ACT 2902 (**Contractor**).

BACKGROUND

- A. The Territory and the Contractor executed an agreement (**Agreement**) on or about 22 March 2022 in relation to the Public Shuttle Service- Stromlo Forest Agreement.
- B. The parties have agreed to vary the Agreement in accordance with the terms of this Deed.

IT IS AGREED by the parties as follows.

1. Interpretation and Governing Law

- (1) Unless the context requires or it is otherwise specified in this Deed, any words used in this Deed that are defined in the Agreement have the same meaning for the purpose of this Deed.
- (2) This Deed is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory.

2. Effective Date

The variations to the Agreement described in this Deed take effect on 21 March 2022.

3. Variation

- (1) **Schedule 1, Item 1. Contract Officers:** The Contract Officer for the Territory is deleted and replaced with the following:

Catherine Cunningham

Contract Manager

Catherine.cunningham@act.gov.au

(02) 6205 9687

National Arboretum Canberra and Stromlo Forest Park

Chief Minister, Treasury and Economic Development Directorate

- (2) **Schedule 1, Item 2. Term:** From 22 March 2017 until 22 March 2023.

SIGNED AS A DEED ON

SIGNED for and on behalf of
AUSTRALIAN CAPITAL TERRITORY

Sch 2.2(a)(ii)

Signature or witness

Sch 2.2(a)(ii)

Print name

SIGNED by or for and on behalf of
Dynamic Motivation Pty Ltd
ABN 47 559 308 484
In the presence of:

Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

Signature of director/ ~~authorised~~
~~officer/division*~~

*DELETE whichever is not applicable (see note below)

Sch 2.2(a)(ii)

PRINT NAME

Sch 2.2(a)(ii)

Print name

Signature of second authorised officer*

*only use if Incorporated Association (see note below)

Print name



Date:

Date:

Must be dated on the date the last party signs the Deed or, if signed counterparts of the Deed are exchanged, the date of exchange. Also date the cover page.

Company:

Must be signed in accordance with section 227 of the Corporations Act 2006 (2006), for example, by 2 directors or a director and a secretary. Common seal may be affixed if required under the Contractor's constitution.

Individual: Must be signed by the individual Contractor and witnessed.

Incorporated Association: Must be signed in accordance with the Contractor's constitution, which may or may not require the common seal to be affixed. As a minimum, 2 authorised officers must sign.

From: [Blundell, Lauren](#)
To: [Cunningham, Catherine](#)
Subject: RE: Executed Deed of Variation
Date: Friday, 4 March 2022 1:45:12 PM

UNOFFICIAL

Your welcome- good luck with the rest of the Contract.

As mentioned, if your Area are requiring the same/ similar Services after the current variation period is nearing please get back in contact with Procurement ACT at least 8 months out from the expiry date to review and advise on next steps etc.

Have a good weekend,
Lauren

From: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>
Sent: Friday, 4 March 2022 9:56 AM
To: Blundell, Lauren <Lauren.Blundell@act.gov.au>
Subject: RE: Executed Deed of Variation

UNOFFICIAL

No worries at all! I'll send off the final version to Dynamic Motivation now.

Thanks for all your help through this process

Cheers
CC

Catherine Cunningham

Business Development Officer | National Arboretum Canberra and Stromlo Forest Park Branch

E catherine.cunningham@act.gov.au | **T 02 6205 9687**

Economic Development – Chief Minister, Treasury and Economic Development Directorate
ACT Government

From: Blundell, Lauren <Lauren.Blundell@act.gov.au>
Sent: Thursday, 3 March 2022 5:24 PM
To: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>
Subject: RE: Executed Deed of Variation

UNOFFICIAL

Yes you did - my apologies, I read your last email wrong

From: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>
Sent: Wednesday, 2 March 2022 3:40 PM
To: Blundell, Lauren <Lauren.Blundell@act.gov.au>
Subject: RE: Executed Deed of Variation

UNOFFICIAL

Thanks Lauren – I did attached the executed version didn't I?

Cheers
CC

From: Blundell, Lauren <Lauren.Blundell@act.gov.au>
Sent: Wednesday, 2 March 2022 3:32 PM
To: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>
Subject: RE: Executed Deed of Variation

UNOFFICIAL

Hi Catherine,

Having a good but busy week so far thank you.
Thank you for the update and I'll file the approval docs accordingly. You've just jogged my memory for me to follow up re publishing the Deed of Variation...

Once you have an executed version please provide me with a copy and I will be able to close off the project.

Cheers,
Lauren

From: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>
Sent: Tuesday, 1 March 2022 9:46 AM
To: Blundell, Lauren <Lauren.Blundell@act.gov.au>
Subject: RE: Executed Deed of Variation

UNOFFICIAL

Hi Lauren,

I hope you're having a great week so far.

Please find attached the executed Deed of Variation, and the "approval to proceed" email sought from our Financial Delegate before proceeding with the Deed execution – for your records.

I'm yet to provide an executed copy of Dynamic Motivation, as I just wanted to ensure all is well.

Let me know if you have any queries.

Kind regards,

Catherine

Catherine Cunningham

**Business Development Officer | National Arboretum Canberra and Stromlo Forest Park
Branch**

E catherine.cunningham@act.gov.au | T 02 6205 9687

Economic Development – Chief Minister, Treasury and Economic Development Directorate
ACT Government



DEED OF VARIATION

Dated

Parties

AUSTRALIAN CAPITAL TERRITORY

DYNAMIC MOTIVATION PTY LTD

ABN 37 153 358 484

**PUBLIC SHUTTLE SERVICE – STROMLO FOREST
PARK**

Prepared by

ACT Government Solicitor
PO Box 260
Civic Square ACT 2608
Phone: 02 6207 0666
Ref: GCL 641041

Version

ACTGS 24 May 2022

PARTIES: **Australian Capital Territory**, the body politic established by section 7 of the Australian Capital Territory (Self-Government) Act 1988 (Cth) represented by the Chief Minister, Treasury and Economic Development Directorate (**Territory**).

Dynamic Motivations Pty Ltd ABN: 37 153 358 484 of 23 Faithfull Circuit KAMBAH ACT 2902 (**Contractor**).

BACKGROUND

- A. The parties executed an agreement on or about 22 March 2017 in relation to the Public Shuttle Service for Stromlo Forest Park (**Agreement**).
- B. The Agreement provided in **Item 2 Schedule 1** that the term of the Agreement was five years with two additional one-year extension options (described as Five plus One plus One).
- C. On 1 March 2022, the parties executed a Deed of Variation (**First Deed of Variation**) with the intention to exercise the first option to extend the Agreement for 1 year as per **Item 2 Schedule 1** of the Agreement. The first option period expires on 22 March 2023.
- D. However, the First Deed of Variation did not reflect the intention of the parties to the extent that it inadvertently eliminated the parties' second option to extend the Agreement for a further 1 year as permitted in **Item 2 Schedule 1** of the Agreement.
- E. It is the intention of the parties that the Agreement may be able to be extended for one additional year following the first option period and in accordance with the original terms of the Agreement.
- F. **Clause 12.7** of the Agreement provides that that Agreement may only be varied by the written agreement of the parties prior to its expiration.
- G. The parties have agreed to vary **Item 2 Schedule 1** to re-instate the parties' second option to extend, as originally intended, in accordance with this (Second) Deed of Variation (**Deed**).

IT IS AGREED by the parties as follows.

1. Interpretation and Governing Law

- (1) Unless the context requires or it is otherwise specified in this Deed, any words used in this Deed that are defined in the Agreement have the same meaning for the purpose of this Deed.
- (2) This Deed is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory.

2. Effective Date

This Deed takes effect on the date this Deed is executed by the second party.

3. Variation

- (1) The Deed of Grant is varied as follows:
 - a. **Item 2 Schedule 1** – is deleted and replaced with:
'From the date of this Agreement for five (5) years with two additional, one (1) year extension options (Five plus One plus One).'
- (2) For the avoidance of doubt, the parties acknowledge that:
 - a. the original five-year term expired on 21 March 2022;
 - b. the parties have agreed to exercise the first one-year option period which expires on 22 March 2023; and

- c. the second one-year option period, if exercised, will commence on 23 March 2023.

4. Counterparts

This Deed may be executed in any number of counterparts and by the parties in separate counterparts. Each counterpart constitutes the agreement of each party who has executed and delivered that counterpart to the other party either physically or electronically. All such counterparts taken together will be deemed to constitute one and the same Deed.

EXECUTED AS A DEED

SIGNED for and on behalf of the **AUSTRALIAN**)
CAPITAL TERRITORY in the presence of:)

)
Signature of Territory delegate

.....
Signature of witness

.....
Print name

.....
Print name

SIGNED by or for and on behalf of)
DNYAMIC MOTIVATION PTY LTD)
ABN 37 153 358 484 in accordance with)
s127 of the *Corporations Act 2001* (Cth)
in the presence of:

)
Signature of director

.....
Signature of director/secretary

.....
Print name and position

.....
Print name

Note:

Date: Must be dated on the date the last party signs the Deed or, if signed counterparts of the Deed are exchanged, the date of exchange. Also date the cover page.

Company: Must be signed in accordance with section 127 of the *Corporations Act 2001* (Cth), for example, by the Sole Director if the company has only one Director, or by two Directors or a Director and a Secretary.

From: [Cocheril-Lopez, Glen](#)
To: [Cunningham, Catherine](#)
Cc: [Arthur, Sarah](#); [Thompson, Daniel](#)
Subject: RE: 641041 - ADVICE - ED - DYNAMIC MOTIVATION - PUBLIC SHUTTLE SERVICE (STROMLO FOREST PARK) - MUTUAL AGREEMENT FOR EARLY TENDER PROCESS FROM NOV 2022
Date: Tuesday, 24 May 2022 10:13:04 AM
Attachments: [2022.05.24 - 2nd Deed of Variation \(ACTGS\).docx](#)

OFFICIAL: Sensitive - Legal Privilege

Dear Catherine

Sch 1 1.2

We would be happy to assist with the drafting of the new Services Agreement, and Procurement ACT will assist with the other tender documents.

If you have any further questions, please do not hesitate to ask.

Kind regards

Glen Cocheril-Lopez | Solicitor
Commercial and Major Projects | ACT Government Solicitor
02 6207 5104 | DX 5602 Canberra | + PO Box 260 Civic Square ACT 2608

REF: 641041

Sensitive: Legal

This email, and any attachments, are confidential and also privileged. If you are not the intended recipient please notify the sender and delete all copies of this transmission along with any attachments immediately. You should not copy or use it for any purpose, nor disclose its contents to any other person.

Sch 1 1.2

Sch 1 1.2

From: [Thompson, Daniel](#)
To: [Blundell, Lauren](#)
Cc: [Cunningham, Catherine](#)
Subject: FW: Early tender timeframes
Date: Friday, 3 June 2022 1:25:11 PM

UNOFFICIAL

Hi Lauren,

You have advised below to kick off our procurement, just so I'm doing the right thing, do I fill out the OSQAR form online or there something else I need to go to?

Thanks

Dan

From: Blundell, Lauren <Lauren.Blundell@act.gov.au>
Sent: Tuesday, 24 May 2022 7:43 PM
To: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>
Subject: RE: Early tender timeframes

UNOFFICIAL

Hi Catherine,

Depending on the complexity of the project it's probably best to register the procurement project request now, if its to be an open Request for Tender process that can take time! It wouldn't hurt to discuss the requirements at least and assess/ see where you/ we land from there.

Cheers,

Lauren

From: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>
Sent: Friday, 20 May 2022 12:16 PM
To: Blundell, Lauren <Lauren.Blundell@act.gov.au>
Subject: Early tender timeframes

UNOFFICIAL

Hello Lauren,

I hope you're having a nice week so far.

Quick one, if our current Deed of Variation with Dynamic Motivation ends on 23 March 2023 and by mutual agreement we don't want to do a further +1 extension (as per the provision of their current Services Agreement), when is the earliest we can start the tender process?

Apologies if I've asked this already, I'm dealing with a number of difference Licence and contract

matters presently. I did run this by GSO, and they said to ask Procurement ACT.

Cheers

CC

Catherine Cunningham

**Business Development Officer | National Arboretum Canberra and Stromlo Forest Park
Branch**

E catherine.cunningham@act.gov.au | T 02 6205 9687

Economic Development – Chief Minister, Treasury and Economic Development Directorate
ACT Government

Please note I do not work Wednesdays.

From: Sch 2.2(a)(ii)
To: [Cunningham, Catherine](#)
Cc: [Rope, Darren](#)
Subject: Deed of Variation - Stromlo Shuttle Service
Date: Sunday, 5 June 2022 6:28:10 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[DM Signed Deed of Variation - June 2022.pdf](#)

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Hi Catherine,

Hope you had a great weekend and the weather didn't impact it too much.

Please find the signed deed of variation for the Stromlo Shuttle Service attached.

Also, I may have missed it, [Sch 2.2\(a\)\(xi\)](#)
have missed ?

Kind Regards,

Sch 2.2(a)(ii)



ACT
Government

DEED OF VARIATION

Dated	<u>07/06/2022</u>
Parties	AUSTRALIAN CAPITAL TERRITORY DYNAMIC MOTIVATION PTY LTD ABN 37 153 358 484 PUBLIC SHUTTLE SERVICE – STROMLO FOREST PARK
Prepared by	ACT Government Solicitor PO Box 260 Civic Square ACT 2608 Phone: 02 6207 0666 Ref. GCL 641041
Version	ACTGS 24 May 2022

PARTIES: **Australian Capital Territory**, the body politic established by section 7 of the Australian Capital Territory (Self-Government) Act 1988 (Cth) represented by the Chief Minister, Treasury and Economic Development Directorate (**Territory**).

Dynamic Motivations Pty Ltd ABN: 37 153 358 484 of 23 Faithfull Circuit KAMBAH ACT 2902 (**Contractor**).

BACKGROUND

- A. The parties executed an agreement on or about 22 March 2017 in relation to the Public Shuttle Service for Stromlo Forest Park (**Agreement**).
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IT IS AGREED by the parties as follows.

1. Interpretation and Governing Law

- (1) Unless the context requires or it is otherwise specified in this Deed, any words used in this Deed that are defined in the Agreement have the same meaning for the purpose of this Deed.
- (2) This Deed is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory.

2. Effective Date

This Deed takes effect on the date this Deed is executed by the second party.

3. Variation

- (1) The Deed of Grant is varied as follows:
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- c. the second one-year option period, if exercised, will commence on 23 March 2023.
-

4. Counterparts

This Deed may be executed in any number of counterparts and by the parties in separate counterparts. Each counterpart constitutes the agreement of each party who has executed and delivered that counterpart to the other party either physically or electronically. All such counterparts taken together will be deemed to constitute one and the same Deed.

SIGNATURE AS A DEED

Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

Signature of witness

Sch 2.2(a)(ii)

Scott Seddley

Print name

SIGNED by or for and on behalf of
DNYAMIC MOTIVATION PTY LTD
ABN 57 153 358 484 in accordance with
s127 of the *Corporations Act 2001* (Cth)
in the presence of:

Sch 2.2(a)(ii)

Print name and position

Signature of director/secretary

Print name

Date

Date

Company

Must be dated on the date the last party signs the Deed or, if signed counterparts of the Deed are exchanged, the date of exchange. Also date the cover page.

Must be signed in accordance with section 127 of the *Corporations Act 2001* (Cth) for example, by the Sole Director if the company has only one Director, or by two Directors or a Director and a Secretary.

From: [Thompson, Daniel](#)
To: [Cunningham, Catherine](#)
Subject: RE: Early tender timeframes
Date: Tuesday, 7 June 2022 5:16:08 PM

UNOFFICIAL

Ok, the next step then is the OSQAR form, the online procurement kick off basically.
Talk Thursday, enjoy your Wednesday
Dt

From: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>
Sent: Tuesday, 7 June 2022 9:48 AM
To: Thompson, Daniel <Daniel.Thompson@act.gov.au>
Subject: RE: Early tender timeframes

UNOFFICIAL

Hi Dan,

Sch 2.2(a)(xi)

Cheers
CC

From: Thompson, Daniel <Daniel.Thompson@act.gov.au>
Sent: Monday, 6 June 2022 4:51 PM
To: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>
Subject: RE: Early tender timeframes

UNOFFICIAL

Sch 2.2(a)(xi)

It's late, I'll have another look tomorrow
Talk then

From: Blundell, Lauren <Lauren.Blundell@act.gov.au>
Sent: Monday, 6 June 2022 4:39 PM
To: Thompson, Daniel <Daniel.Thompson@act.gov.au>
Cc: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>
Subject: RE: Early tender timeframes

UNOFFICIAL

Good afternoon Daniel,

The OSQAR tool is used when the dollar value of your procurement is less than \$200k.

If the \$ value for your project is over \$200k (for the whole of life costs) please raise a [G&S Procurement Request form](#) as this will be considered as a new procurement project, in which Goods & Services Managers will review the procurement project request and assign a procurement officer accordingly.

This can be done by please filling out the online form which can be found here: [Online Goods and Services Procurement Request Form](#).

Any issues please let me know,

Kind regards,

Lauren Blundell | Assistant Director

Sourcing, Advice and Supply | Procurement ACT | **Budget, Procurement, Infrastructure and Finance**

Phone: +61 2 6205 2761

Chief Minister, Treasury and Economic Development Directorate | **ACT Government**

Level 10, 5 Constitution Avenue, Canberra City, ACT 2602 | www.tenders.act.gov.au

Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.

If you are unable to contact me, please call Goods & Services Procurement on +61 2 6205 9797 or send an email to goodsandservices@act.gov.au

From: Thompson, Daniel <Daniel.Thompson@act.gov.au>
Sent: Friday, 3 June 2022 1:25 PM
To: Blundell, Lauren <Lauren.Blundell@act.gov.au>
Cc: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>
Subject: FW: Early tender timeframes

UNOFFICIAL

Hi Lauren,

You have advised below to kick off our procurement, just so I'm doing the right thing, do I fill out the OSQAR form online or there something else I need to go to?

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Dan

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Subject: RE: Early tender timeframes

UNOFFICIAL

Hi Catherine,

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Lauren

From: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>

Sent: Friday, 20 May 2022 12:16 PM

To: Blundell, Lauren <Lauren.Blundell@act.gov.au>

Subject: Early tender timeframes

UNOFFICIAL

Hello Lauren,

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Quick one, if our current Deed of Variation with Dynamic Motivation ends on 23 March 2023 and by mutual agreement we don't want to do a further +1 extension (as per the provision of their current Services Agreement), when is the earliest we can start the tender process?

Apologies if I've asked this already, I'm dealing with a number of difference Licence and contract matters presently. I did run this by GSO, and they said to ask Procurement ACT.

Cheers
CC

Catherine Cunningham

Business Development Officer | National Arboretum Canberra and Stromlo Forest Park Branch

E catherine.cunningham@act.gov.au | T 02 6205 9687

Economic Development – Chief Minister, Treasury and Economic Development Directorate
ACT Government

Please note I do not work Wednesdays.

Procurement Plan Minute – OSQAR

Date	01-11-2022
Section/ Business Unit	National Arboretum Canberra and Stromlo Forest Park (SFP) Branch
Contact Officer	Daniel Thompson (daniel.thompson@act.gov.au)
Procurement Number	CM2222370
Procurement Title	Services Agreement SFP Shuttle Bus Services
Description of Procurement	Services Agreement SFP Shuttle Bus Services
Procurement Method	3 or more Suppliers
<p>Existing Panel Arrangements</p> <p>The ACT Government has contract arrangements in place for directorates to use. Directorates are encouraged to use Whole of Government arrangements where they are in place. Visit the Buying Goods and Services Intranet site - Whole of Government Existing Arrangements for more information.</p> <p>Note: If you are using an existing arrangement, you do not need to use OSQAR. Please refer to the arrangement eg, panel, for the relevant process.</p>	<p>Is there a Whole of Government, or other standing offer arrangement such as a panel available for this procurement?</p> <p>NIL</p> <p>If Yes, provide reason why you are not using that arrangement</p>
<p>Estimated Total Contract Term and Value (inc GST)</p> <p>This form is only for purchases between \$25,000 and \$200,000 including GST. If your purchase is under \$25,000 go to Basic Purchasing on the Buying Goods and Services site. If your purchase is over \$200,000 you will need to contact Procurement ACT to start a procurement process.</p>	<p>Initial Term</p> <p>Optional Extensions</p> <p>Total Estimated Contract Value: Sch 2.2(a)(xi) (GST inclusive)</p>
Funding	<p>Has funding been approved?</p> <p>No. The nature of this agreement means it will bring in revenue.</p> <p>Is part or all the funding from the Commonwealth?</p> <p>No</p>
<p>Risk Assessment</p> <p>This form is only for low risk procurements. If your procurement is medium or high risk, OSQAR is not suitable for your procurement. Please contact the Procurement Help Desk.</p>	<p>The Risk Rating associated with this procurement is LOW.</p> <p>The key risks are:</p> <p>Reputation - a poor provider will negatively affect the SFP public image</p>

	<p>The current provider has strong bonds with the local community.</p> <p>Complete and attach the Risk Assessment Questionnaire.</p>
<p>Exemption from the quotation and Tender Thresholds in the Government Procurement Regulation 2007</p>	<p>Will this procurement use an exemption from the quotation and tender thresholds?</p> <p>No</p> <p>If Yes, complete and attach the Delegate approved Exemption Minute.</p>
<p>Evaluation Plan</p> <p>Creating and complying with an evaluation plan will help to demonstrate probity and ethics.</p>	<p>The evaluation of responses will be conducted in accordance with Clause A.B.5 (Evaluation) of the Territory Standard Terms of Quotation contained in the RFQ Statement of Requirements document.</p> <p>Responses will firstly be evaluated against the Threshold Criteria, if any, outlined at clause A.A.2 of the Statement of Requirements document. Any response that does not meet the Threshold Criteria will not be evaluated further.</p> <p>Responses will then be assessed for value for money, taking into consideration:</p> <ul style="list-style-type: none"> • Capability; • Capacity; • Whole of Life Costs; • Risk; and • Any additional evaluation considerations specified in the RFQ Supplier Response Form document. <p>The Evaluation Team may, as part of the evaluation process, undertake a financial viability and referee check of Respondents.</p>
<p>Charter of Procurement Values</p> <p>Consideration of the Procurement Values is mandatory to determine which Procurement Value or Values can be achieved through your procurement. You have to incorporate at least one Procurement Values. Indicate which Procurement Value(s) will be achieved, by completing at least one of the following procurement values.</p>	
<p>Aboriginal and Torres Strait Islander Peoples' Economic Participation</p> <p>The Aboriginal and Torres Strait Islander Procurement Policy (ATSIPP) encourages engagement with Aboriginal and Torres Strait Islander Enterprises. The ATSIPP also includes a target of contract spend with Aboriginal and Torres Strait Islander Enterprises. Every contract is an opportunity to contribute to achieving that target.</p> <p>Search Supply Nation (https://supplynation.org.au/) or the Canberra Region Enterprise List (https://www.procurement.act.gov.au/policy-and-resources/procurement-from-aboriginal-and-torres-strait-islander-organisations/atsi-enterprise-search)</p>	<p>Is there an Aboriginal and Torres Strait Islander Enterprise(s) that will be included in this procurement approach?</p> <p>No</p> <p>If Yes:</p> <p>N/A</p> <p>If No, provide reasons why and market research undertaken:</p> <p>Niche service offering</p> <hr/> <p>Do you intend to implement other measures to achieve this Procurement Value?</p> <p>No</p> <p>If Yes, N/A</p>

<p>Business Development and Innovation For procurements with a total estimated value of \$25,000 to \$200,000, the Canberra Region Local Industry Participation Policy encourages quotes to be sought from (1) businesses located in the Canberra Region and (2) Small to Medium Enterprises. Note: One supplier can satisfy both these criteria. A Canberra Region/small and medium Aboriginal and Torres Strait Islander Enterprise can also satisfy this procurement value as well as the Aboriginal and Torres Strait Islander Peoples' Economic Participation value.</p>	<p>Is this procurement seeking quotes from a:</p> <p>Business located in the Canberra Region, and Small to Medium Enterprise</p> <p>Yes to both</p> <p>If neither, provide reasons why:</p> <p>N/A</p>
<p>Diversity, Equality and Inclusion The Territory must not enter into an agreement with a Supplier not complying with the Workplace Gender Equality Act 2012 (Cth) and named by the Workplace Gender Equality Agency non-compliant list (https://www.wgea.gov.au/non-compliant-list)</p> <p>The Social Enterprise Multi-Use List has a list of Suppliers prequalified as Social Enterprises (https://www.procurement.act.gov.au/supplying-to-act-government/whole-of-government-arrangements/Social-Enterprises-Panel)</p>	<p>Are there other measures to achieve this Procurement Value? (e.g. procurement supports an innovative solution)</p> <p>No</p> <p>If Yes, N/A</p> <hr/> <p>None of the supplier(s) intended to be approached in this procurement are on the Workplace Gender Equality Agency non-compliant list?</p> <p>Not on the list</p> <hr/> <p>Do you intend to approach a Social Enterprise(s) in this procurement approach?</p> <p>No</p> <p>If Yes, N/A</p> <p>If No, provide reasons why</p> <p>Niche service offering</p> <hr/> <p>Do you intend to implement other measures to achieve this Procurement Value?</p> <p>No</p> <p>If Yes, N/A</p>
<p>Environmentally Responsible The Sustainable Procurement Policy requires buyers to identify the key sustainability risks and opportunities that can be addressed through their procurement (https://www.procurement.act.gov.au/_data/assets/pdf_file/0009/1345887/Sustainable-Procurement-Policy.pdf)</p>	<p>If this procurement is for goods, will it include goods or services that are environmentally conscious, or encourage, reuse, recyclable content, waste reduction or lower greenhouse gas emissions?</p> <p>No</p> <p>If Yes, N/A</p> <p>If No, provide reasons why</p> <p>The nature of the service offering is fossil fuel powered vehicles.</p>
<p>Fair and Safe Conditions for Workers Secure Local Jobs applies to procurements <u>construction, cleaning, security or traffic management</u> work over \$25,000 and most services over \$200,000 (https://www.legislation.act.gov.au/di/2019-47/).</p>	<p>Does Secure Local Jobs (SLJ) apply to this procurement?</p> <p>Yes, however two suppliers are from NSW</p> <hr/> <p>Do you intend to implement other measures to achieve this Procurement Value? (e.g. specific WHS or safety considerations in the contract)</p>

	No If Yes, N/A
Transparent and Ethical Engagement	<p>Do you intend to implement any measures to achieve this Procurement Value? (e.g. procurement includes requirements that support elimination of modern slavery or business practices that are objectionable, dishonest, unethical or unsafe.)</p> <p>Yes</p> <p>If Yes, the contract will stipulate fair and equitable working conditions for their operation</p>

Key Roles	
Contract Manager	Catherine Cunningham
Quotation Evaluation Team <i>(insert more lines if necessary)</i>	
Quotation Evaluation Team Chair	Daniel Thompson
Quotation Evaluation Team Member 1	Catherine Cunningham
Quotation Evaluation Team Member 2	
Probity Advisor	<i>If required</i>
Directorate Procurement Unit Consultation / Endorsement	<i>If required</i> <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No

DELEGATE APPROVAL <i>(add additional delegate fields if necessary)</i>	
Name	Scott Saddler
Title/Position	Executive Branch Manager – National Arboretum and Stromlo Forest Park
Directorate	CMTEDD – Economic Development
Signature	
Date	
Statement	The PPM and attachments are approved/not approved
Comments	

ATTACHMENTS:

Attachment 1 – Statement of Requirements

Attachment 2 – Risk Assessment Questionnaire

Attachment 3 – Exemption Minute (if applicable)



Request for Quotation - CM2222370



Territory Request for Quotation

Reference ID: CM2222370

This *Territory Request for Quotation* (RFQ) is seeking responses for the provision of: Services Agreement Stromlo Forest Park Shuttle Bus (**the Requirement**).

The ACT Government as represented by Chief Minister, Treasury and Economic Development - Economic Development, National Arboretum and Stromlo Forest Park (**the Customer**) is seeking responses for the provision of Services as described in this RFQ.

In submitting a response, Potential Suppliers are required to comply with all requirements set out in this RFQ, and if successful, agree to enter into a contract which incorporates the enclosed *Territory Contract Terms*.

This RFQ must be read with the *Territory Standard Terms of Quotation*, which apply.

THRESHOLD ASSESSMENT CRITERIA

This RFQ has not specified any **Threshold Criteria**.

Statement of Requirement
A.A.1 KEY DETAILS
RFQ Dates and Times

Event	Date	Time
Issue date:	01-Nov-2022	
Closing time:	23-Nov-2022	2:00PM Local Canberra Time
Question closing time:	21-Nov-2022	

Contract Dates

Expected Contract Start date:	23-Mar-2023
The Services are required to commence on or before:	24-Mar-2023
Contract Extension Option:	

A.A.2 THRESHOLD ASSESSMENT CRITERIA
Threshold criteria

The Customer will exclude from consideration any Response that does not meet the Threshold Criteria (if any) specified in this RFQ cover page.

A.A.3 THE REQUIREMENT
Required Services

As per the existing contract - Attached

Attached Specifications

The specification of the Services is included in separate 'Attachment A – Detailed Specification'.

A.A.3 (a) Standards

Suppliers should demonstrate certification or compliance with the following standards:

Title	Description
Licences	Drivers
Insurance	Public Liability
First Aid	Training

Key Performance Indicators

As per existing agreement.

A.A.3 (b) Security

As per existing agreement

A.A.3 (c) Workplace Health and Safety

See the Territory's Standard Contract Terms clause C.C.22.1 [Work Health and Safety].

A.A.3 (d) Delivery and Acceptance

See the *Territory's Standard Contract Terms* clause C.C.11 [*Delivery and Acceptance*].

Reporting Requirements

Report Type	Detailed Description	Due
	Revenue reporting, WHS	

A.A.3 (e) Meetings

The Supplier will be required to attend to the following meetings:

Type	Positions Required	Frequency	Method
QTRly Meetings	Representatives of service	Quarterly	Face to Face

A.A.3 (f) Customer Material

As requested

A.A.3 (g) Facilities and Assistance provided by the Customer

On site amenities

A.A.4 REQUEST FOR QUOTATION (RFQ) DISTRIBUTION

This RFQ and any updates will be distributed by via eMail.

Any questions relating to this RFQ must be directed to the Customer's Contact Officer at A.A.6 [CONTACT OFFICER].

A.A.5 LODGEMENT METHOD
eMail:

Responses should be lodged via Email:

- to arboretum@act.gov.au,
- identifying the Reference Number CM2222370 in the subject line,

by the Closing Time specified in A.A.1 [CLOSING TIME].

A.A.6 CUSTOMER'S CONTACT OFFICER

For all matters relating to this RFQ, the Customer's Contact Officer will be the person occupying the position of:

Position: Catherine Cunningham
 Email: Catherine.cunningham@act.gov.au

COMPLAINTS HANDLING

A Tenderer who wishes to make a complaint about a procurement activity must follow the process outlined in the ACT Government Supplier Complaints Management Procedure. This procedure can be accessed from the ACT Procurement website at www.procurement.gov.au.

Any complaints relating to this procurement should, in the first instance, be referred to the Customer's Contact Officer.

A.A.7 WARRANTY PERIOD (for Supplies that include Goods)

None specified.

A.A.8 INSURANCE

The Supplier should effect and maintain for the Term, all insurances required to be effected by it by law and the following insurances in the amounts stated:

- (a) Public Liability insurance with coverage in the amount of no less than \$10 million in respect of each occurrence.
- (b) For Supplies that include services, professional indemnity insurance with coverage in the amount of no less than \$10 million in the annual aggregate.
- (c) For Supplies that include goods, product liability insurance to a value of \$10 million in the annual aggregate.

The Supplier must provide evidence of the insurance if required by the Customer.



ACT
Government

Request for Quotation - CM2222370

DRAFT ADDITIONAL CONTRACT TERMS

TERRITORY STANDARD TERMS OF QUOTATION

A.B.1 Background

Some terms used in this document have been given a special meaning. Their meanings are set out in the Territory Glossary of Terms.

Discrepancies, Misdescriptions, Error and Omissions

The Request for Quotation (RFQ) may contain information that may be described as data, documents, and images, prepared by Territory agencies. While that information has been formulated with care, the Customer does not warrant or represent that it is free from misdescription, error or omission.

A Potential Supplier who utilises an automatic language translation service in connection with this RFQ does so at its own risk.

Amendments to RFQ

The Customer may amend, or clarify any aspect of this RFQ, prior to the Closing Time by issuing a formal amendment to this RFQ in the same manner as the original RFQ was distributed. Such amendments or clarifications will be issued simultaneously to all Potential Suppliers, as far as practicable.

Queries and clarifications

Any queries regarding this RFQ should be addressed to the contact officer as set out in clause A.A.6 [*Customer's Contact Officer*].

Costs of Submitting a Response

No contract will be formed until executed by the Customer. The Customer, acting in good faith, may discontinue this RFQ, decline to accept any Response; decline to issue any contract; or satisfy its requirement separately from this RFQ process.

Participation in any stage of an RFQ is at the Potential Supplier's sole risk and cost.

A.B.2 Precedence of Documents

If there is inconsistency between any of the parts of this RFQ, the following order of precedence shall apply:

- (a) Request for Quotation (RFQ);
- (b) Territory Standard Terms of Quotation; and
- (c) Territory Glossary of Terms,

so that the provision in the higher ranked document will prevail to the extent of the inconsistency.

A.B.3 Customer and Reference Material

The Customer will make available the Customer's material (if any) specified in clause A.A.3(f) [*Customer Material*].

If this RFQ references any other materials, including but not limited to, reports, plans, drawings, samples or other reference material which are publicly available (including at a cost), the Potential Supplier is responsible for obtaining the referenced material and considering it in framing their Response.

A.B.4 Lodging a Response

Acknowledgement

By lodging a Response, Potential Suppliers agree that the Response will remain open for acceptance for ninety (90) calendar days from the date set out in clause A.A.1 [*Closing Time*] and to sign a Contract which incorporates the *Territory Contract Terms*.

The Customer will not be liable to the Potential Supplier on the basis of any promissory estoppel, contractual, quasi contractual

or restitutionary grounds whatsoever arising as a consequence of any matter relating or incidental to a Potential Supplier's participation in this RFQ process.

This includes instances where the Potential Supplier is not invited to participate in any subsequent process following completion of this RFQ process; the Customer varies or terminates this RFQ process; or the Customer decides not to contract for all or any of the requirements.

Price Basis, English Language and Metric Units

Potential Suppliers should submit Responses using the Response Form provided.

The Response must be in English.

Prices must be quoted in Australian currency and must show the GST exclusive price, the GST component, if any, the GST inclusive price, all other taxes, duties (including any customs duties) and any government charges imposed or levied in Australia or overseas.

All dimensions and units on plans and drawings and all references to measurements must be in metric units.

Non-Conforming Responses

A Response that:

- (a) is at variance with or does not respond to or does not fully comply with any requirement of the RFT; or
 - (b) is incomplete, cannot be read or decrypted; or
 - (c) potentially contains any virus, malicious code or anything else that might compromise the integrity or security of Tenders ACT and/or the Territory's ICT environment
- may be deemed to be non conforming.

The Territory may at its absolute discretion, in respect of a Tender that is non conforming or which has been deemed by the Territory to be non-conforming having regard to any Conditions of Tender:

- (a) reject and not further consider the Tender;
- (b) ignore any non-conformance in the Tender and assess the Tenders against the Assessment Criteria; or
- (c) if it is possible to correct the non-conformance without affecting the probity of the Tender process, permit the Tenderer to do so.

Alternative Responses

Potential Suppliers may submit Responses for alternative methods of addressing the Customer's Statement of Requirement described in this RFQ, where the option to do so was stated in this RFQ or agreed in writing with the Customer prior to the Closing Time.

Potential Suppliers are responsible for providing a sufficient level of detail about the alternative solution to enable its evaluation.

Lodgement and Closing Time

The Response must be lodged as set out in clause A.A.5 [*Lodgement Method*] prior to the A.A.1 [*Closing Time*].

Extensions and Late Response

The Customer will only agree to extensions to the Closing Time in exceptional circumstances and, if approved, the extension will apply equally to all Potential Suppliers. The Customer will not consider any Responses received after the Closing Time specified in this RFQ unless the Response is late as a consequence of the Customer's mishandling.

TERRITORY STANDARD TERMS OF QUOTATION

Further Information, Clarification and Enquiries

The Customer may, at any time prior to execution of a contract, seek clarification or additional information from, and enter into discussions and negotiations with, any or all Potential Suppliers in relation to their Responses. In doing so, the Customer will not allow any Potential Supplier to substantially tailor or amend their Response.

Improper Conduct

Potential Suppliers and their officers, employees, agents and advisors must not engage in any collusive, anti-competitive or any other similar conduct with any other Potential Supplier or person, or offer any unlawful inducements in relation to their Response or this RFQ process.

Conflict of Interest

Potential Suppliers must notify the Customer immediately if any actual, potential or perceived conflict of interest arises. A perceived conflict of interest is one in which a reasonable person would think that the person's judgement and/or actions may be compromised.

A.B.5 Evaluation

The Customer will evaluate Responses in accordance with the *Government Procurement Act 2001* (ACT), *Government Procurement Regulation 2007* (ACT) and related Territory procurement policies, to determine the best value for money outcome for the Customer.

Threshold Assessment Criteria

The Customer will exclude from consideration any Response that does not meet clause A.A.2 [*Threshold Assessment Criteria*], if any, and the Response will not be considered for further assessment against the Comparative Assessment Criteria.

Assessment Criteria

Unless otherwise stated in an RFQ, the Customer will assess value for money, in consideration of:

- (a) the extent to which the Potential Supplier's Response meets the Customer's requirement set out in this RFQ;
- (b) the extent to which the Potential Supplier's Response demonstrates the Potential Supplier's capacity to provide the requirement;
- (c) the whole of life costs to be incurred by the Customer (noting this criterion may consider both the quoted price and any costs which the Customer would incur as a result of accepting any Potential Supplier's Response);
- (d) the risk (which may include, without limitation, financial risk and risk arising as a result of the Response being assessed as an unacceptably high risk against any Assessment Criteria); and
- (e) any other matters specified as assessment criteria in this RFQ.

Viability

If requested by the Customer, the Potential Supplier must be able to demonstrate its ability to remain viable over the Contract Term and must promptly provide the Customer with such information or documentation as the Customer reasonably requires.

Reference Checks

The Customer reserves the right to contact the Potential Supplier's referees, or any other person, directly and without notifying the Potential Supplier.

Selection of Supplier and Debrief

The Customer is under no obligation to select any Response and may vary or discontinue this RFQ process upon giving written notice to Potential Suppliers.

Upon conclusion of this RFQ assessment process the Customer may commence contract negotiations with Potential Supplier(s), however is not obliged to execute a contract with any Potential Supplier.

The Customer will notify unsuccessful Potential Suppliers of the final decision and, if requested, will debrief Potential Suppliers following the award of a contract.

A.B.6 Disclosure

Potential Suppliers acknowledge that the Territory may be required to disclose information, either under the *Freedom of Information Act 2016* (ACT) or by the responsible Minister in the Legislative Assembly.

A.B.7 Confidentiality of Potential Supplier's Information

Potential Suppliers should note that if successful, parts of their Response may be included in a subsequent Contract. Potential Suppliers must identify any aspects of their Response or the proposed Contract that they consider should be kept confidential, including reasons.

Potential Suppliers should note that the Customer will only agree to treat information as confidential in cases that it considers appropriate.

In the absence of such an agreement, Potential Suppliers acknowledge that the Customer has the right to publicly disclose the information, in accordance with A.B.A [*Notifiable Contracts*].

A.B.8 Criminal Code

Potential Suppliers should be aware that the giving of false or misleading information to the Territory is a serious offence under section 137.1 of the schedule to the *Criminal Code Act 1995* (Cth).

The Potential Supplier must ensure that any intended subcontractors participating in the Potential Supplier's Response are aware of the information in this clause.

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A.B.A Notifiable Contracts

Potential Suppliers must specify in writing if they believe any information in relation to this ATM is confidential and wishes that information to be treated as confidential in any potential contract.

Potential Suppliers are advised that under the *Government Procurement Act 2001* (ACT) the Territory must publish prescribed information about invoices with a value of \$25,000 (inclusive of GST) or more ("notifiable invoices") on the "Notifiable Invoices Register". Refer www.procurement.act.gov.au.

Potential Suppliers should seek their own legal advice as to the implications for them of the notifiable contracts and notifiable invoices provisions of the *Government Procurement Act 2001* (ACT).

A.B.B. Affirmative Action

The Customer will not enter into a contract with a Potential Supplier named by the Workplace Gender Equality Agency as an employer currently not complying with the *Workplace Gender Equality Act 2012* (Cth).

A.B.C Ownership of Responses

All Responses lodged in accordance with this RFQ become the property of the Territory, which may use each Response for assessment purposes.

A Potential Supplier:

- (a) retains intellectual property rights in their Response; and
- (b) authorises the Territory, subject to any other person's rights, to communicate, reproduce, use or supply the content of their Response for any purpose in respect of the assessment of their Response; and
- (c) must specify in their Response if any intellectual property or moral rights vest in an entity or a person other than the Potential Supplier, naming the entity or person, and indicating to what extent this authorisation in paragraph (b) may be limited.

A.B.D. Complaints Handling

The Potential Supplier should notify the contact officer, as set out in clause A.A.6 [*Customer's Contact Officer*], of the nature of any complaint in regard to the procurement activity.

If the Customer's Contact Officer cannot resolve the matter, the Potential Supplier will then submit a completed Supplier Complaint Form.

The contact officer will provide a written acknowledgement of the receipt of the Supplier Complaint Form within 2 business days.

A Complaint received and managed under the Territory Supplier Complaints Management Procedure will not generally stop or reverse any decision made by a Territory Entity.

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C.C.1 Background

- a) The Customer requires the provision of certain Goods and/or Services. The Supplier has fully informed itself on all aspects of the Customer's requirements and has responded representing that it is able to meet the Statement of Requirement.
- b) Some terms used in these *Territory Contract Terms* have been given a special meaning. Their meanings are set out either in the *Territory Glossary of Terms* or in the relevant Contract.
- c) In the Contract, unless a contrary intention is expressed:
 - i) references to "Supplier" include any employees, agents or subcontractors of the Supplier;
 - ii) references to legislation or to provisions in legislation include references to amendments or re-enactments of them and to all regulations and instruments issued under the legislation;
 - iii) words in the singular include the plural and vice versa;
 - iv) headings are for convenience only and do not affect the construction or interpretation of this Contract;
 - v) an obligation imposed on more than one person binds them jointly and severally; and
 - vi) the word "include" and any derivation is not to be construed as a word of limitation.

C.C.2 Relationship of the Parties:

- a) Neither party is the employee, agent, officer or partner of the other party nor, by virtue of the Contract, authorised to bind or represent the other party.
- b) The Supplier must ensure that its officers, employees, agents or subcontractors do not represent themselves as being an officer, employee, partner or agent of the Customer.
- c) In all dealings related to the Contract, the parties agree to:
 - i) communicate openly with each other and cooperate in achieving the contractual objectives; and
 - ii) act honestly and ethically; and
 - iii) comply with reasonable commercial standards of fair conduct; and
 - iv) consult, cooperate and coordinate activities to identify and address any overlapping work health and safety responsibilities aimed at ensuring the health and safety of workers and workplaces; and
 - v) comply with all reasonable directions and procedures relating to work health and safety, record keeping and security in operation at each other's premises or facilities whether specifically informed or as might reasonably be inferred from the circumstances.

C.C.3 Conflict of Interest:

- a) The Supplier has either declared any real or perceived conflicts of interest that might arise; or states that no conflicts of interest exist, or are anticipated, relevant to the performance of its obligations under the Contract.
- b) If any conflict or potential conflict arises during the Contract Term, the Supplier will immediately notify the Customer and comply with any reasonable Notice given to the Supplier by the Customer in relation to the conflict. As soon as practicable, any verbal advice must be followed by written confirmation.

C.C.4 Precedence of Documents:

- a) The Contract is comprised of:
 - i) *Additional Contract Terms* (if any);
 - ii) *Territory Glossary of Terms*;
 - iii) *Territory Contract Terms*; and
 - iv) *Statement of Work*; and
 - v) *Contract Annex 1 – Supplementary information* (if any),
unless otherwise agreed in writing between the parties.
- b) If there is ambiguity or inconsistency between documents comprising the Contract, the document appearing higher in the list will have precedence.
- c) The Contract may be signed and dated by the parties on separate, but identical, copies. All signed copies constitute one (1) Contract.

C.C.5 Governing Law:

The laws of the Australian Capital Territory apply to the Contract.

C.C.6 Entire Agreement:

- a) The Contract represents the parties' entire agreement in relation to the subject matter, at the time the Contract was entered.
- b) Anything that occurred before the making of the Contract shall be disregarded (unless incorporated into the Contract in writing). However, the Supplier represents that the claims made in its Response to the Request for Quotation were correct when made and remain correct.
- c) The parties agree that no agreement or understanding varying or extending the Contract will be legally binding upon either party unless in writing and agreed by both parties.
- d) If either party does not exercise (or delays in exercising) any of its contractual rights, that failure or delay will not prejudice those rights.

C.C.7 Survival:

Clauses C.C.14 (a), (b) and (c) [*Liability of the Supplier*], C.C.17 (d) and (f) [*Supplier Payments*], C.C.20 [*Transition Out*], C.C.22 [*Compliance with Territory Laws and Policies*], C.C.23 [*Access to Supplier's Premises and Records*], C.C.25 [*Non-disclosure of Customer Information*], C.C.28 [*Fraud*] and any other provisions stated as surviving termination of this Contract will survive termination or expiry of the Contract.

C.C.8 Notices:

- a) A Notice is deemed to be effected:
 - i) if delivered by hand - upon delivery to the relevant address;
 - ii) if sent by registered post - upon delivery to the relevant address; or
 - iii) if transmitted electronically - upon actual delivery as evidenced by a delivery receipt by the addressee.
- b) A Notice received after 5.00 pm, or on a day that is not a Business Day in the place of receipt, is deemed to be effected on the next Business Day in that place.

C.C.9 Assignment:

- a) The Supplier may not assign any rights under the Contract without the Customer's written consent. To seek consent, the Supplier must provide the Customer with a



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Notice, which includes full details of the proposed assignee and the rights the Supplier proposes to assign.

- b) To decline consent, the Customer must provide a Notice to the Supplier, setting out its reasons, within twenty-eight (28) calendar days of receiving the Notice seeking consent. Otherwise, the Customer is taken to have consented.

C.C.10 Subcontracting:

- a) Subcontracting any part of, or the entire Supplier's obligations under the Contract, will not relieve the Supplier from any of its obligations under the Contract.
- b) The Supplier must ensure that Subcontractors specified in Item C.A.6 [Subcontractors] (if any) perform that part of the Services Specified in that item. Unless otherwise agreed by the Customer (in writing) the Supplier must not subcontract any part of its obligations under the Contract other than to Subcontractors named in Item C.A.6.
- c) The Supplier must ensure that specified Subcontractors in Item C.A.6 [Subcontractors] (if any) are not replaced without the prior written consent of the Customer. The Customer's written consent will not be unreasonably withheld.
- d) The Supplier must make available to the Customer the details of all Subcontractors engaged to provide the Goods and/or Services under the Contract. The Supplier acknowledges that the Customer may be required to publicly disclose such information.
- e) The Supplier must ensure that any subcontract entered into by the Supplier, for the purpose of fulfilling the Supplier's obligations under the Contract, imposes on the Subcontractor the same obligations that the Supplier has under the Contract (including this requirement in relation to subcontracts).
- f) At the Customer's request, the Supplier, at no additional cost to the Customer, must promptly remove from involvement in the Contract any Subcontractor that the Customer reasonably considers should be removed.

C.C.11 Delivery and Acceptance:

- a) The Supplier must provide the Goods and/or Services as specified in the *Statement of Work* and meet any requirements and standard specified in the *Statement of Work*.
- b) The Supplier must promptly notify the Customer if the Supplier becomes aware that it will be unable to provide all or part of the Goods and/or Services specified in Item C.A.2(d) [Delivery and Acceptance] and advise the Customer when it will be able to so.
- c) Any Goods must be delivered at the times and to the places detailed in Item C.A.2(d) [Delivery and Acceptance], free from any security interest. Unless otherwise stated in the Contract, Goods must be new and unused. Any Services must be provided to the higher of the standard that would be expected of an experienced, professional supplier of similar services and any standard specified in the *Statement of Work*.
- d) The Customer may reject the Goods and/or Services within fourteen (14) calendar days after delivery or such longer period specified in the *Statement of Work* at Item C.A.2(d) [Delivery and Acceptance], if the Goods and/or Services do not comply with the requirements of the Contract ("Acceptance Period").

- e) If during the Acceptance Period circumstances outside the Customer's reasonable control cause a delay in the Customer's evaluation of the compliance of the Goods and/or Services with the Contract, the Customer may give the Supplier a Notice before the end of the original Acceptance Period, setting out the reason for the delay and the revised Acceptance Period date (which must be reasonable having regard to the circumstances causing the delay).
- f) If the Customer does not notify the Supplier of rejection within the Acceptance Period (as extended if applicable) the Customer will be taken to have accepted the Goods and/or Services, though the Customer may accept the Goods and/or Services sooner. Title to Goods transfers to the Customer only on acceptance.
- g) If the Customer rejects the Goods and/or Services, the Customer must issue a Notice clearly stating the reason for rejection and the remedy the Customer requires. No payment will be due for rejected Goods and/or Services until their acceptance.
- h) If requested by the Customer, the Supplier must provide the Customer with evidence to the Customer's satisfaction that the Goods are free of any encumbrance including any security interest.
- i) The Supplier bears all risks for and associated with the Goods and their delivery to the Customer until the Goods have been delivered to and accepted by the Customer and (if required in the *Statement of Work*) installed and/or commissioned, including but not limited to insurance for the full replacement value of the Goods.

C.C.12 Licences Approvals and Warranties:

- a) During the Warranty Period for the Goods the Supplier must without delay and at no cost to the Customer correct all defects in the Goods by way of repair, replacement or such other means acceptable to the Customer. The Supplier is liable for all costs incidental to the discharge of the warranty in this clause C.C.12(a) and any other warranty given in respect of the Goods, including any packaging, freight, disassembly and reassembly costs.
- b) The Supplier warrants that no virus, worm, or other malicious code will be introduced into the Customer's systems as a result of the provision of any Goods and Services by the Supplier.
- c) At no cost to the Customer, the Supplier must obtain and maintain all Intellectual Property Rights, licences or other approvals required for the lawful provision of the Goods and/or Services and arrange any necessary customs entry for any Goods.
- d) The Supplier must provide the Customer with all relevant third party warranties in respect of Goods. If the Supplier is a manufacturer, the Supplier must provide the Customer with all standard manufacturer's warranties in respect of the Goods it has manufactured and supplied.
- e) To the extent permitted by law and for the benefit of the Customer, the Supplier consents, and must use its best endeavours to ensure that each author of Material consents in writing, to the use by the Customer of the Material, even if the use may otherwise be an infringement of their Intellectual Property Rights and/or Moral Rights.



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- f) The Customer owns the Intellectual Property Rights in the Customer Material and the Material.
- g) To the extent the Supplier or a third party holds any Intellectual Property Rights in any Pre-Existing Material, the Supplier grants to the Customer a royalty free, irrevocable, non-exclusive licence to enable the Customer to exercise full rights and interest in the Intellectual Property Rights in the Pre-Existing Material, including a right to sublicense. The Supplier agrees to create, execute or sign any documents and perform all acts which may be necessary to allow the use of those rights by the Customer for any purpose.
- h) The Customer grants to the Supplier a non-exclusive, royalty free licence for the term of the Contract to exercise the Intellectual Property Rights in the Material and the Customer Material for the sole purpose of fulfilling its obligations under the Contract. The licence in this clause is subject to any conditions or limitations of third parties that the Customer notifies to the Supplier.
- i) Intellectual Property Rights in Goods provided under the Contract, and pre-existing Intellectual Property Rights of the Supplier will not change as a result of the Contract.
- C.C.13 Specified Personnel:**
- a) The Supplier must ensure that the Specified Personnel set out in Item C.A.5 [*Specified Personnel*] (if any) perform the part of the Services specified in that item. The Supplier must ensure that Specified Personnel (if any) are not replaced without the prior written consent of the Customer. The Customer's written consent will not be unreasonably withheld.
- b) At the Customer's reasonable request, the Supplier, at no additional cost to the Customer, must as soon as reasonably practicable replace any Specified Personnel that the Customer reasonably considers:
- i) is not performing the Supplier's obligations under the Contract to the standard or within the timeframe reasonably required by the Customer;
 - ii) is not a fit and proper person; or
 - iii) is not suitably qualified to perform the Services.
- c) Any Specified Personnel must be replaced with personnel that are acceptable to the Customer.
- C.C.14 Liability of the Supplier:**
- a) The Supplier indemnifies the Customer, its employees and agents against liability in respect of any claims, costs and expenses and for all loss, damage, injury or death to persons or property caused by the Supplier, its employees, agents or subcontractors in connection with its obligations or representations under the Contract.
- b) The Supplier's obligation to indemnify the Customer, its employees and agents will reduce proportionally to the extent that any act or omission, on the part of the Customer, its employees or agents contributed to the claim, loss or damage.
- c) The parties acknowledge the Supplier's liability under this clause may be limited under a scheme operating under Schedule 4 of the *Civil Law (Wrongs) Act 2002* (ACT), or any corresponding State, Territory or Commonwealth legislation, that limits the civil liability of members of particular professions arising from the performance of their professional services, where the Supplier is a member of that scheme, and where that scheme applies to the Goods and/or Services delivered under the Contract.
- d) The Supplier must effect and maintain during the Contract Term all insurances required by law, and insurances in amounts not less than the amounts (if any) specified in Item C.A.8 [*Insurances*] with a Prescribed Insurer and provide the Customer with proof when reasonably requested
- C.C.15 Termination or Reduction for Convenience:**
- a) In addition to any other rights either party has under the Contract, the Customer acting in good faith, may at any time terminate the Contract or reduce the scope or quantity of the Goods and/or Services, by providing a Notice to the other party.
- b) If the Customer issues a Notice under this clause, the Supplier must stop or reduce work in accordance with the Notice and comply with any reasonable directions given by the Customer.
- c) The Supplier must mitigate all loss and expenses in connection with the termination or reduction in scope (including the costs of its compliance with any directions).
- d) The Customer will pay the Supplier for Goods and/or Services accepted in accordance with clause C.C.11 [*Delivery and Acceptance*] and Item C.A.2(d) [*Delivery and Acceptance*] before the effective date of termination or reduction.
- e) If the Customer issues a Notice under this clause, the Customer will also pay the Supplier for any reasonable costs the Supplier incurs that are directly attributable to the termination or reduction, provided the Supplier substantiates these costs to the satisfaction of the Customer.
- f) Under no circumstances will the total of all payments to the Supplier exceed the Contract Price. The Supplier will not be entitled to loss of anticipated profit for any part of the Contract not performed.
- C.C.16 Termination for Cause:**
- a) The Customer may terminate the Contract in whole or in part if:
- i) the Supplier does not deliver the Goods and/or Services as specified in the Contract, or notifies the Customer that the Supplier will be unable to deliver the Goods and/or Services as specified in the Contract;
 - ii) the Customer rejects the Goods and/or Services in accordance with clause C.C.11 [*Delivery and Acceptance*] and the Goods and/or Services are not remedied as required by the Notice of rejection;
 - iii) the Supplier breaches a material term of the Contract and the breach is not capable of remedy;
 - iv) the Supplier does not remediate a material breach of the Contract which is capable of remediation within the period specified by the Customer in a Notice of default issued to the Supplier; or
- b) Subject to complying with any requirements in the *Corporations Act 2001* (Cth), the Customer may issue a Notice to terminate this Contract, in whole or in part, if the Supplier:
- i) is unable to pay all its debts when they become due;

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- ii) if incorporated – has a liquidator, receiver, administrator or other controller appointed or an equivalent appointment is made under legislation other than the *Corporations Act 2001* (Cth); or
 - iii) if an individual – becomes bankrupt or enters into an arrangement under Part IX or Part X of the *Bankruptcy Act 1966* (Cth).
- c) Termination of the Contract under this clause does not change the Customer's obligation to pay any Correctly Rendered Invoice.
- C.C.17 Supplier Payments:**
- a) The Customer must pay the Supplier the Contract Price following its receipt of a Correctly Rendered Invoice and otherwise in accordance with Item C.A.3 [Contract Price and Payment] of the *Statement of Work*.
 - b) The Supplier must promptly provide to the Customer such supporting documentation and other evidence reasonably required by the Customer to substantiate performance of the Contract by the Supplier.
 - c) Payment of any invoice is payment on account only, and does not substantiate performance of the Contract.
 - d) If the Supplier owes any amount to the Customer in connection with the Contract or any other contract between the parties or between the Supplier and any other Territory entity as defined in section 3(1) of the Procurement Act, the Customer may offset that amount, or part of it, against its obligation to pay any Correctly Rendered Invoice.
 - e) Except if otherwise stated in this Contract, the Contract Price is:
 - i) payable within 30 days of receipt by the Customer of a Correctly Rendered Invoice;
 - ii) inclusive of GST and all other taxes, duties and charges; and
 - iii) inclusive of all disbursements, including out of pocket expenses incurred by the Supplier.
 - f) If, after payment, any invoice is found to have been incorrectly rendered, any underpayment or overpayment will be recoverable by or from the Supplier as the case may be and, without limiting recourse to other available remedies, may be offset against any amount subsequently due by the Customer to the Supplier under the Contract.
- C.C.18 Dispute Resolution:**
- a) For any dispute arising under the Contract both the Supplier and the Customer agree to comply with (i) to (iv) of this clause sequentially:
 - i) both Contract Managers will try to settle the dispute by direct negotiation;
 - ii) if unresolved, the Contract Manager claiming that there is a dispute will give the other Contract Manager a Notice setting out details of the dispute and proposing a solution;
 - iii) if the proposed solution is not accepted by the other Contract Manager within five (5) Business Days, each Contract Manager will nominate a more senior representative, who has not had prior direct involvement in the dispute. These representatives will try to settle the dispute by direct negotiation;
 - iv) failing settlement within a further ten (10) Business Days, the Customer will, without delay, refer the dispute to an appropriately qualified mediator selected by the Customer or, at the Customer's discretion, to the chairperson of an accredited mediation organisation to appoint a mediator, for mediation to commence within fifteen (15) Business Days of the request.
 - b) Representatives for the Supplier and the Customer must attend the mediation. The nominated representatives must have the authority to bind the relevant party and act in good faith to genuinely attempt to resolve the dispute.
 - c) The Customer and the Supplier will each bear their own costs for dispute resolution. The Customer will bear the costs of a mediator.
 - d) If the dispute is not resolved within thirty (30) Business Days after mediation commences, either the Supplier or the Customer may commence legal proceedings.
 - e) Despite the existence of a dispute, the Supplier will (unless requested in writing by the Customer not to do so) continue their performance under the Contract.
 - f) This procedure for dispute resolution does not apply to action relating to clause C.C.16 [Termination for Cause] or to legal proceedings for urgent interlocutory relief.
- C.C.19 Transition In:**
- The Supplier must perform all tasks reasonably required to facilitate the smooth transition of the provision of the Goods and/or Services from any outgoing supplier to the Supplier.
- C.C.20 Transition Out:**
- If the Contract expires or is terminated under clause C.C.16 [Termination for Cause] the Supplier must comply with any reasonable directions given by the Customer in order to facilitate the smooth transition of the provision of the Goods and/or Services to the Customer or to another supplier nominated by the Customer.
- C.C.21 Compliance with Laws:**
- The Supplier must comply with the laws from time to time in force in any jurisdiction in which any part of the Contract is performed.
- C.C.22 Compliance with Territory Laws and Policies:**
- a) The Supplier must comply with, and ensure its officers, employees, agents and subcontractors comply with all laws and Territory policies relevant to the Goods and/or Services.
 - b) Without limiting clause C.C.22(a), if the Supplier becomes aware of any actual or suspected breach of the requirements set out in clauses A to H below, it must:
 - i) immediately report it to the Customer and provide a written report on the matter within five (5) Business Days; and
 - ii) comply with any reasonable directions by the Customer in relation to any investigation or further reporting of the actual or suspected breach.
- C.C.23 Access to Supplier's Premises and Records:**
- a) The Supplier must maintain proper business and accounting records relating to the supply of the Goods and/or Services and performance of the Contract.



TERRITORY CONTRACT TERMS

- b) Without limiting the powers of the Territory's Auditor-General under the *Auditor-General Act 1996* (ACT), the Supplier agrees to provide to the Customer, or its nominee, access to the Supplier's, or its Subcontractor's premises, personnel, documents and other records, and all assistance reasonably requested, for any purpose associated with the Contract or any audit or review of the Supplier's or the Customer's performance under the Contract, including (but not limited to) in connection with a request made under the *Freedom of Information Act 1982* (Cth) or *Freedom of Information Act 2016* (ACT).
- c) The Supplier must act reasonably to cooperate with persons authorised to conduct an audit or checks and allow the Customer (at the Customer's expense) to take copies of all relevant records.
- d) The Supplier must not transfer, or permit the transfer of, custody or ownership, or allow the destruction, of any Territory record (as defined in the *Territory Records Act 2002* (ACT)) without the prior written consent of the Customer. All Territory records, including any held by subcontractors, must be returned to the Customer at the conclusion of the Contract.
- iv) in the possession of the Supplier without restriction in relation to disclosure before the date of receipt from the Customer.
- c) The Customer may at any time require the Supplier to arrange for its employees, agents or subcontractors to give a written undertaking relating to nondisclosure of the Customer's confidential information in a form acceptable to the Customer.

C.C.26 Security and Safety:

- a) When accessing any Territory place, area or facility, the Supplier must comply with any security and safety requirements notified to the Supplier by the Customer or of which the Supplier is, or should reasonably be aware. The Supplier must ensure that its officers, employees, agents and subcontractors are aware of, and comply with, such security and safety requirements.
- b) The Supplier must ensure that all information, material and property provided by the Customer for the purposes of the Contract is protected at all times from unauthorised access, use by a third party, misuse, damage and destruction and is returned as directed by the Customer.

C.C.27 Criminal Code:

- a) The Supplier acknowledges that the publication or communication of any fact or document by a person which has come to its knowledge or into its possession or custody by virtue of the performance of the Contract (other than to a person to whom the Supplier is authorised to publish or disclose the fact or document) may be an offence under section 153 of the *Crimes Act 1900* (ACT). The Supplier must ensure that any subcontractor engaged in connection with the Contract is aware of the information contained in this clause.

C.C.28 Fraud:

- a) For the purposes of this clause, Fraud means dishonestly obtaining a benefit from the Territory or causing a loss to the Territory by deception or other means.
- b) The Supplier must take all reasonable steps to prevent and detect Fraud in relation to the performance of the Contract. The Supplier acknowledges the occurrence of Fraud will constitute a breach of the Contract.
- c) If an investigation finds that the Supplier or its employees have committed Fraud, or the Supplier has failed to take reasonable steps to prevent Fraud by an employee or subcontractor, the Supplier must reimburse or compensate the Customer in full.

C.C.29 Taxation:

- a) The Supplier agrees to comply, and to require its subcontractors to comply, with all applicable laws relating to taxation.

C.C.30 Confidential Text under the Procurement Act:

- a) In giving effect to the principles of open and accountable government, the Customer may disclose documents and information unless it has otherwise agreed, or is otherwise required under law, to keep the information confidential. In accordance with those principles, this Contract may be a notifiable contract under the Procurement Act and, if so, the Customer will be required to make the text of this Contract available to the public, including by publication on a contracts register.

C.C.24 Information Privacy Act Requirements:

- a) In respect of any Personal Information held in connection with the Contract, the Supplier must:
- comply with the *Territory Privacy Principles* (TPPs) and any applicable TPP Code and must not (and procure that any subcontractor engaged by the Supplier does not) act or engage in a practice that breaches a TPP or a TPP Code; and
 - co-operate with any reasonable requests or directions of the Customer arising directly from, or in connection with, the exercise of the functions of the Information Privacy Commissioner under the Information Privacy Act.

C.C.25 Non-Disclosure of Customer Information:

- a) The Supplier must:
- use Customer Information held in connection with this Contract only for the purposes of fulfilling its obligations under this Contract;
 - not transfer Customer Information held in connection with this Contract outside the Territory, or allow any person (other than its authorised personnel) outside the Territory to have access to it, without prior written approval of the Customer; and
 - notify the Customer immediately if the Supplier becomes aware that a disclosure of Customer Information may be required by law or any unauthorised disclosure of Customer Information has occurred.
- b) Other than as provided in the Contract, the Supplier must not disclose to any person, other than the Customer, any Customer Information, without prior written approval from the Customer. This obligation will not be breached where the Customer Information is:
- required or authorised to be disclosed by law or a stock exchange;
 - disclosed to the Supplier's solicitors, auditors, insurers or advisers;
 - publicly available (other than through breach of a confidentiality or non-disclosure obligation); or



TERRITORY CONTRACT TERMS

- b) If Item C.A.9 [CONFIDENTIAL TEXT UNDER THE GOVERNMENT PROCUREMENT ACT 2001 (ACT)] states that this Contract is a notifiable contract under the Procurement Act, the grounds on which the text is confidential are set out in Item C.A.9 and clause C.C.30 (c) applies.
- c) Except as provided in this Contract, the Customer must not disclose confidential text specified in the Contract to any person without the prior written consent of the Supplier (which consent will not be unreasonably withheld) except to the extent that the confidential text:
- v) is required or authorised to be disclosed under law;
 - vi) is reasonably necessary for the enforcement of the criminal law;
 - vii) is disclosed to the Territory's solicitors, auditors, insurers or advisers;
 - viii) is generally available to the public;
 - ix) is in the possession of the Territory without restriction in relation to disclosure before the date of receipt from the Supplier;
 - x) is disclosed by the responsible Minister in reporting to the Legislative Assembly or its committees; or
- xi) is disclosed to the ombudsman or for a purpose in relation to the protection of public revenue.
- C.C.31 Work Health and Safety**
- a) The Supplier must comply with the WHS Legislation and ensure all work is carried out safely and in a manner that does not put the health and safety of persons at risk.
 - b) The Supplier must comply with its duty under the WHS Legislation to consult, cooperate and coordinate activities with all persons who have a work health and safety duty in relation to the same matter.
 - c) The Supplier must exercise a duty of utmost good faith to the Customer in carrying out the work under this Contract to enable the Customer to discharge the Customer's duties under the WHS Legislation .
 - d) The Supplier must provide the Customer with a written report on all work health and safety matters referable to the conduct of the Services or provision of the Goods if requested.
 - e) Without limiting the above, the Supplier must comply with any additional obligations set out in Item C.A.2(c) (if any).



TERRITORY GLOSSARY OF TERMS

The following definitions apply unless the context otherwise requires, a reference to:

- (a) an Item in the form A.A.[x] – is a reference to an item in the **Territory Request for Quotation**;
- (b) an Item in the form A.B.[x] – is a reference to an item in the **Territory Standard Terms of Quotation**;
- (c) an Item in the form A.C.[x] – is a reference to an item in the **Draft Additional Contract Terms**;
- (d) an Item in the form C.A.[x] – is a reference to an item in the **Statement of Work**;
- (e) a clause in the form C.B.[x] – is a reference to a clause in the **Additional Contract Terms**; and
- (f) a clause in the form C.C.[x] – is a reference to a clause in the **Territory Contract Terms**.

A reference to legislation or to provisions in legislation, include references to amendments or re-enactments of them and to all regulations and instruments issued under the legislation.

“Acceptable Quality” means quality of goods that is:

- (a) fit for all the purposes for which goods of that kind are commonly supplied;
- (b) acceptable in appearance and finish;
- (c) free from defects;
- (d) delivered at the times to the places detailed in the *Statement of Work*;
- (e) safe; and
- (f) durable,

as the Customer, acting reasonably and being fully acquainted with the state and conditions of the goods (including any hidden defects of the goods), would regard as being acceptable having regard to the following matters:

- (g) the nature of the goods;
- (h) the price of the goods (if relevant);
- (i) any statements made about the goods on any packaging or label on the goods;
- (j) any representation made about the goods by the Supplier; and
- (k) any other relevant circumstances relating to the supply of the goods.

“Acceptance Period” has the meaning given in clause C.A.2(d) [*Delivery and Acceptance*], if specified.

“Acceptance Tests” has the meaning given in clause C.A.2(d) [*Delivery and Acceptance*].

“Additional Contract Terms” means the terms and conditions set out in the section of the Contract with the heading “Additional Contract Terms”.

“Business Day” means any day between Monday to Friday and not including any official public holidays in the Australian Capital Territory.

“Canberra Region” means the area comprising the Australian Capital Territory and the NSW Member Councils including Bega Valley, Eurobodalla, Goulbourn-Mulwaree, Hilltops, Queanbeyan-Palerang, Snowy Monaro, Upper Lachlan, Wingecarribee and Yass Valley.

“Confidential Text” means any text of this Contract that, for the purposes of the Procurement Act, either party proposes should not be published and which is specified in clause C.A.9 [*Confidential Text under the Government Procurement Act 2001 (ACT)*] as being Confidential Text.

“Contract” means an agreement for the provision of Goods and/or Services comprising the documentation specified in clause C.C.4 [*Precedence of Documents*].

“Contract Manager” means the contract manager for the Customer and/or Supplier (as relevant) specified in the Contract.

“Contract Price” means the total price specified in the Contract, including any GST component payable, but does not include any simple interest payable on late payments.

“Contract Term” has the meaning given in Item C.A.1 [*Key Events and Dates*].

“Correctly Rendered Invoice” means an invoice that:

- (a) is correctly addressed and calculated in accordance with the Contract;
- (b) relates only to Goods and/or Services that have been accepted by the Customer in accordance with the Contract;
- (c) includes any purchase order number, and the name and phone number of the Customer’s Contract Manager;
- (d) is for an amount which, together with all previously Correctly Rendered Invoices, does not exceed the Contract Price; and
- (e) is a valid tax invoice in accordance with the GST Act.

“Customer” means the party specified in a Contract as a Customer and, unless a contrary intention is expressed, references to “Customer” include any employees, agents or subcontractors of the Customer.

“Customer Information” the kind of information that:

- (a) is or relates to documents, submissions, consultations, policies, strategies, practices and procedures of the Customer which are by their nature confidential;
 - (b) is notified (whether in writing or not) by the Customer to the Supplier as being confidential; or
 - (c) is Personal Information,
- but does not include information that:
- (d) is or becomes public knowledge other than by breach of a Contract;
 - (e) has been independently developed or acquired by the Supplier; or
 - (f) has been notified by the Customer to the Supplier as not being confidential.

“Customer Material” means any material provided by the Customer to the Supplier for the purposes of this Contract including documents, equipment, information and data stored by any means, including, without limitation, any specified in Item C.A.2(g) in the *Statement of Work*.

“Delivery and Acceptance” means the process by which Goods and/or Services are delivered to a Customer and accepted by the Customer as meeting the terms specified in the Contract.

TERRITORY GLOSSARY OF TERMS

"Draft Additional Contract Terms" means the terms and conditions set out in the section of the Request for Quotation with the heading "Draft Additional Contract Terms".

"Goods and Services" means:

- (a) the Goods, Services or Goods and Services and any Material specified in the Contract; and
- (b) all such incidental Goods and Services that are reasonably required to achieve the purpose of the Customer specified in the Contract.

"GST Act" means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

"GST" means a Commonwealth goods and services tax imposed by the GST Act.

"Information Privacy Act" means the *Information Privacy Act 2014* (ACT).

"LIPP" means the Territory's Local Industry Participation Policy.

"Local" means located within the Canberra Region, recognising constraints on application arising from the Territory's participation in inter-jurisdictional procurement and trade agreements.

"Intellectual Property Rights" means all intellectual property rights which may subsist in Australia or elsewhere, whether or not they are registered or capable of being registered.

"Material" means any material brought into existence as part of, or for the purpose of producing the Goods and/or Services, and includes but is not limited to documents, equipment, information or data stored by any means.

"Moral Rights" means the rights in *Part IX* of the *Copyright Act 1968* (Cth) including the right of attribution, the right against false attribution and the right of integrity.

"Notice" means an official notice or communication under the contract in writing, from one Contract Manager and delivered to the other Contract Manager, at the postal address, or email address, or facsimile number set out in the Contract or as notified from time to time.

"Personal Information" has the meaning set out in the Information Privacy Act.

"Potential Supplier" means a Respondent.

"Pre-Existing Material" means all material in existence at the date of this Contract and used by the Supplier for the purpose of providing the Goods and/or Services, including documents, information and data stored by any means.

"Prescribed Insurer" means an insurer that is authorised by the Australian Prudential Regulation Authority to conduct new or renewal insurance business in Australia and rated at AA or better by Standard and Poor's.

"Procurement Act" means the *Government Procurement Act 2001* (ACT).

"Requirement" means:

- (a) when used in the Request for Quotation, the Goods and Services described in A.A.2 [*The Requirement*]; and
- (b) when used in the Territory Contract Terms, the Goods and Services described in the section of the *Statement of Work* with the heading "The Supplies".

"Respondent" means the legal entity that submits a response to a Request for Quotation.

"Response" means a quotation lodged by a respondent in response to a Request for Quotation.

"RFQ" means a Request for Quotation.

"SME" means Small to Medium Enterprise as defined by the Australian Bureau of Statistics (ABS) as businesses employing less than 200 people, or in accordance with the ABS Estimated Value of Agricultural Operations.

"Specified Personnel" means the personnel specified in the Contract or such other personnel who are accepted by the Customer in accordance with clause C.C.13 [*Specified Personnel*].

"Statement of Requirement" means the statement of the Customer's requirement issued in the approach to the market for the Goods and/or Services (howsoever named).

"Statement of Work" means the section of the Contract, as the case may be, with the heading "Statement of Work".

"Supplier" means a party specified in a Contract as a Supplier and, unless a contrary intention is expressed, references to "Supplier" include any employees, agents or subcontractors of the Supplier.

"Supplies" has the same meaning as Goods and Services.

"Support Material" is Pre-Existing Material specified as support material in the *Statement of Work* (if any).

"Territory" means, when used in a geographical sense the Australian Capital Territory, when used in any other sense the body politic established under the *Australian Capital Territory (Self-Government) Act 1988* (Cth).

"TPPs" means the Territory Privacy Principles provided for in section 13, and set out in Schedule 1, of the Information Privacy Act.

"TPP Code" means a code of practice about information privacy which, having regard to section 21(1) and (3) of the Information Privacy Act, binds an agency that engages the Supplier in the provision of the Goods and/or Services.

"Warranty Period" means the period of warranty for the Goods specified in Item C.A.7 in the *Statement of Work* or, if no warranty period is specified, 90 days from the date of acceptance of the Goods by the Customer in accordance with clause C.C.11 [*Delivery and Acceptance*].

"WHS Legislation" means:

- (a) the *Work Health and Safety Act 2011* (ACT);
- (b) the *Work Health and Safety Regulation 2011* (ACT);
- (c) all instruments issued under the *Work Health and Safety Act 2011*(ACT) or the *Work Health and Safety Regulation 2011* (ACT);
- (d) all laws that replace the above laws; and
- (e) all other laws applicable in the Australian Capital Territory dealing with work health and safety matters.



Supplier Complaint Form CM2222370

SUPPLIER COMPLAINT FORM

GENERAL INFORMATION

- The purpose of this form is to provide a mechanism for Potential Suppliers to notify the Territory of any complaints in relation to procurement activity undertaken by the Territory.
- This form is to be submitted to the Customer's Contact Officer, as set out in clause A.A.6 [*Customer's Contact Officer*] of the RFQ.
- The Territory will only investigate those claims where there is sufficient evidence provided to support the claim, and where it has the relevant authority to do so.

SECTION 1 CONTACT DETAILS

Supplier name	
Organisation	
Name of person acting on behalf of supplier (if applicable)	
Address	
Telephone	
email Address	
Procurement name and number (if applicable)	

SECTION 2 DESCRIPTION OF COMPLAINT

Provide all details of claim, including names, dates, sufficient evidence and any other relevant information. Provide attachment/s if necessary:



Supplier Complaint Form CM2222370

SECTION 3 ACKNOWLEDGMENT

I confirm that all of the information provided above is true and correct to the best of my knowledge.

Signature of person/s
completing this form

Signature:

Date:

Full name:

Position:

NEXT STEPS

We will contact you within two business days of receiving your complaint to let you know what we will do to investigate your complaint. Your complaint will be treated seriously and we will contact you to keep you up to date.

GIVING FALSE OR MISLEADING INFORMATION IS A SERIOUS OFFENCE

The *Criminal Code 2002* (ACT) provides for significant penalties, including fines and imprisonment, for making a false or misleading statement to the Territory.

CONFIDENTIALITY

Any information the Territory gathers through this complaint management process will be treated as confidential and will be used by the Territory only for the purpose of resolving the complaint. The Territory may need to share the information you provide to relevant third parties to help resolve your complaint. You can request that your personal details be withheld. The Territory will respect your request. In the case where withholding your personal details makes it difficult to resolve your complaint we will contact you before taking further action.



DEED OF VARIATION

Dated

Parties

AUSTRALIAN CAPITAL TERRITORY

DYNAMIC MOTIVATION PTY LTD
ABN: 37 153 358 484

**VARIATION OF PUBLIC SHUTTLE SERVICE-
STROMLO FOREST PARK**

Prepared by

Chief Minister Treasury and Economic Development Directorate
National Arboretum Canberra and Stromlo Forest Park Branch
1-3 Constitution Ave
CITY ACT 2601
AUSTRALIA
Ph: 02 6207 8484
Ref: [INITIALS]:[FILE NO]

Version

9 February 2022

PARTIES: **AUSTRALIAN CAPITAL TERRITORY**, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) (**Territory**) represented by the **Chief Minister, Treasury and Economic Development Directorate**.

DYNAMIC MOTIVATION Pty Ltd ABN: 37 153 358 484 of 23 Faithfull Circuit KAMBAH ACT 2902 (**Contractor**).

BACKGROUND

- A. The Territory and the Contractor executed an agreement (**Agreement**) on or about 22 March 2022 in relation to the Public Shuttle Service- Stromlo Forest Agreement.
 - B. The parties have agreed to vary the Agreement in accordance with the terms of this Deed.
-

IT IS AGREED by the parties as follows.

1. Interpretation and Governing Law

- (1) Unless the context requires or it is otherwise specified in this Deed, any words used in this Deed that are defined in the Agreement have the same meaning for the purpose of this Deed.
- (2) This Deed is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory.

2. Effective Date

The variations to the Agreement described in this Deed take effect on 21 March 2022.

3. Variation

- (1) **Schedule 1, Item 1. Contract Officers:** The Contract Officer for the Territory is deleted and replaced with the following:

Catherine Cunningham

Contract Manager

Catherine.cunningham@act.gov.au

(02) 6205 9687

National Arboretum Canberra and Stromlo Forest Park

Chief Minister, Treasury and Economic Development Directorate

- (2) **Schedule 1, Item 2. Term:** From 22 March 2017 until 22 March 2023.

SIGNED AS A DEED ON

SIGNED for and on behalf of the)
AUSTRALIAN CAPITAL TERRITORY)
in the presence of:) Signature of Territory delegate

.....
Signature of witness

.....
Print name

.....
Print name

SIGNED by or for and on behalf of)
Dynamic Motivation Pty Ltd)
ABN: 37 153 358 484) Signature of director/ authorised
in the presence of:) officer/ individual*

*DELETE whichever is not applicable (see note below)

.....
Signature of director/ secretary/ witness*
*DELETE whichever is not applicable (see note below)

.....
Print name

.....
Print name

.....
Signature of second authorised officer*
*only use if Incorporated Association (see note below)

.....
Print name



Note:

Date: Must be dated on the date the last party signs the Deed or, if signed counterparts of the Deed are exchanged, the date of exchange. Also date the cover page.

Company: Must be signed in accordance with section 127 of the *Corporations Act 2001* (Cth), for example, by 2 directors or a director and a secretary. Common seal may be affixed if required under the Contractor's constitution.

Individual: Must be signed by the individual Contractor and witnessed.

Incorporated Association: Must be signed in accordance with the Contractor's constitution, which may or may not require the common seal to be affixed. As a minimum, 2 authorised officers must sign.



ACT
Government

DEED OF VARIATION

Dated

Parties

AUSTRALIAN CAPITAL TERRITORY

DYNAMIC MOTIVATION PTY LTD

ABN 37 153 358 484

**PUBLIC SHUTTLE SERVICE – STROMLO FOREST
PARK**

Prepared by

ACT Government Solicitor
PO Box 260
Civic Square ACT 2608
Phone: 02 6207 0666
Ref: GCL 641041

Version

ACTGS 24 May 2022

PARTIES: **Australian Capital Territory**, the body politic established by section 7 of the Australian Capital Territory (Self-Government) Act 1988 (Cth) represented by the Chief Minister, Treasury and Economic Development Directorate (**Territory**).

Dynamic Motivations Pty Ltd ABN: 37 153 358 484 of 23 Faithfull Circuit KAMBAH ACT 2902 (**Contractor**).

BACKGROUND

- A. The parties executed an agreement on or about 22 March 2017 in relation to the Public Shuttle Service for Stromlo Forest Park (**Agreement**).
- B. The Agreement provided in **Item 2 Schedule 1** that the term of the Agreement was five years with two additional one-year extension options (described as Five plus One plus One).
- C. On 1 March 2022, the parties executed a Deed of Variation (**First Deed of Variation**) with the intention to exercise the first option to extend the Agreement for 1 year as per **Item 2 Schedule 1** of the Agreement. The first option period expires on 22 March 2023.
- D. However, the First Deed of Variation did not reflect the intention of the parties to the extent that it inadvertently eliminated the parties' second option to extend the Agreement for a further 1 year as permitted in **Item 2 Schedule 1** of the Agreement.
- E. It is the intention of the parties that the Agreement may be able to be extended for one additional year following the first option period and in accordance with the original terms of the Agreement.
- F. **Clause 12.7** of the Agreement provides that that Agreement may only be varied by the written agreement of the parties prior to its expiration.
- G. The parties have agreed to vary **Item 2 Schedule 1** to re-instate the parties' second option to extend, as originally intended, in accordance with this (Second) Deed of Variation (**Deed**).

IT IS AGREED by the parties as follows.

1. Interpretation and Governing Law

- (1) Unless the context requires or it is otherwise specified in this Deed, any words used in this Deed that are defined in the Agreement have the same meaning for the purpose of this Deed.
- (2) This Deed is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory.

2. Effective Date

This Deed takes effect on the date this Deed is executed by the second party.

3. Variation

- (1) The Deed of Grant is varied as follows:
 - a. **Item 2 Schedule 1** – is deleted and replaced with:
'From the date of this Agreement for five (5) years with two additional, one (1) year extension options (Five plus One plus One).'
- (2) For the avoidance of doubt, the parties acknowledge that:
 - a. the original five-year term expired on 21 March 2022;
 - b. the parties have agreed to exercise the first one-year option period which expires on 22 March 2023; and

- c. the second one-year option period, if exercised, will commence on 23 March 2023.

4. Counterparts

This Deed may be executed in any number of counterparts and by the parties in separate counterparts. Each counterpart constitutes the agreement of each party who has executed and delivered that counterpart to the other party either physically or electronically. All such counterparts taken together will be deemed to constitute one and the same Deed.

EXECUTED AS A DEED

SIGNED for and on behalf of the **AUSTRALIAN CAPITAL TERRITORY** in the presence of:

)
)
)
Signature of Territory delegate

.....
Signature of witness

.....
Print name

.....
Print name

SIGNED by or for and on behalf of
DNYAMIC MOTIVATION PTY LTD
ABN 37 153 358 484 in accordance with
s127 of the *Corporations Act 2001* (Cth)
in the presence of:

)
) **Sch 2.2(a)(ii)**
)
.....
Print name and position

.....
Signature of director/secretary

.....
Print name

Note:
Date: Must be dated on the date the last party signs the Deed or, if signed counterparts of the Deed are exchanged, the date of exchange. Also date the cover page.
Company: Must be signed in accordance with section 127 of the *Corporations Act 2001* (Cth), for example, by the Sole Director if the company has only one Director, or by two Directors or a Director and a Secretary.



ACT
Government

DEED OF VARIATION

Dated

Parties

AUSTRALIAN CAPITAL TERRITORY

DYNAMIC MOTIVATION PTY LTD

ABN 37 153 358 484

**PUBLIC SHUTTLE SERVICE – STROMLO FOREST
PARK**

Prepared by

ACT Government Solicitor
PO Box 260
Civic Square ACT 2608
Phone: 02 6207 0666
Ref: GCL 641041

Version

ACTGS 24 May 2022

PARTIES: **Australian Capital Territory**, the body politic established by section 7 of the Australian Capital Territory (Self-Government) Act 1988 (Cth) represented by the Chief Minister, Treasury and Economic Development Directorate (**Territory**).

Dynamic Motivations Pty Ltd ABN: 37 153 358 484 of 23 Faithfull Circuit KAMBAH ACT 2902 (**Contractor**).

BACKGROUND

- A. The parties executed an agreement on or about 22 March 2017 in relation to the Public Shuttle Service for Stromlo Forest Park (**Agreement**).
- B. The Agreement provided in **Item 2 Schedule 1** that the term of the Agreement was five years with two additional one-year extension options (described as Five plus One plus One).
- C. On 1 March 2022, the parties executed a Deed of Variation (**First Deed of Variation**) with the intention to exercise the first option to extend the Agreement for 1 year as per **Item 2 Schedule 1** of the Agreement. The first option period expires on 22 March 2023.
- D. However, the First Deed of Variation did not reflect the intention of the parties to the extent that it inadvertently eliminated the parties' second option to extend the Agreement for a further 1 year as permitted in **Item 2 Schedule 1** of the Agreement.
- E. It is the intention of the parties that the Agreement may be able to be extended for one additional year following the first option period and in accordance with the original terms of the Agreement.
- F. **Clause 12.7** of the Agreement provides that that Agreement may only be varied by the written agreement of the parties prior to its expiration.
- G. The parties have agreed to vary **Item 2 Schedule 1** to re-instate the parties' second option to extend, as originally intended, in accordance with this (Second) Deed of Variation (**Deed**).

IT IS AGREED by the parties as follows.

1. Interpretation and Governing Law

- (1) Unless the context requires or it is otherwise specified in this Deed, any words used in this Deed that are defined in the Agreement have the same meaning for the purpose of this Deed.
- (2) This Deed is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory.

2. Effective Date

This Deed takes effect on the date this Deed is executed by the second party.

3. Variation

- (1) The Deed of Grant is varied as follows:
 - a. **Item 2 Schedule 1** – is deleted and replaced with:
'From the date of this Agreement for five (5) years with two additional, one (1) year extension options (Five plus One plus One).'
- (2) For the avoidance of doubt, the parties acknowledge that:
 - a. the original five-year term expired on 21 March 2022;
 - b. the parties have agreed to exercise the first one-year option period which expires on 22 March 2023; and

- c. the second one-year option period, if exercised, will commence on 23 March 2023.
-

4. Counterparts

This Deed may be executed in any number of counterparts and by the parties in separate counterparts. Each counterpart constitutes the agreement of each party who has executed and delivered that counterpart to the other party either physically or electronically. All such counterparts taken together will be deemed to constitute one and the same Deed.

SIGNATURE AS A DEED

Sch 2.2(a)(ii)

Signature of witness

Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

Scott Seddler

Print name

SIGNED by or for and on behalf of
DNYAMIC MOTIVATION PTY LTD
ABN 57 153 358 484 in accordance with
s127 of the *Corporations Act 2001* (Cth)
in the presence of:

Sch 2.2(a)(ii)

Print name and position

Signature of director/secretary

Print name

Date

Date

Must be dated on the date the last party signs the Deed or, if signed counterparts of the Deed are exchanged, the date of exchange. Also date the cover page.

Company

Must be signed in accordance with section 127 of the *Corporations Act 2001* (Cth) for example, by the Sole Director if the company has only one Director, or by two Directors or a Director and a Secretary.

From: [Welfare, Maggie](#)
To: [Cunningham, Catherine](#)
Cc: [Thompson, Daniel](#)
Subject: MTB Shuttle Operators
Date: Friday, 1 July 2022 12:19:06 PM
Attachments: [image001.jpg](#)

Hi Catherine,

Following up from our conversation yesterday about shuttle services in Canberra (for the DM tender).

There are no other MTB Shuttle operators in Canberra, however there are some regionally:

- Snowlinks Shuttle, <https://snowlinkshuttle.com.au/mtb-shuttle/> (Snowy Mountains NSW)
- Snowy Mountains Shuttles, <https://www.snowymountainsshuttles.com.au/summer/mtb-transfers> (Snowy Mountains NSW)
- Blue Dirt, <https://bluedirt.com.au/> (Victorian Alpine region)
- Transition Extreme, <https://transitionextreme.com.au/> (Central Coast NSW)
- Hunter Shuttle Service, <https://www.huntershuttleservice.net/> (Hunter, NSW)

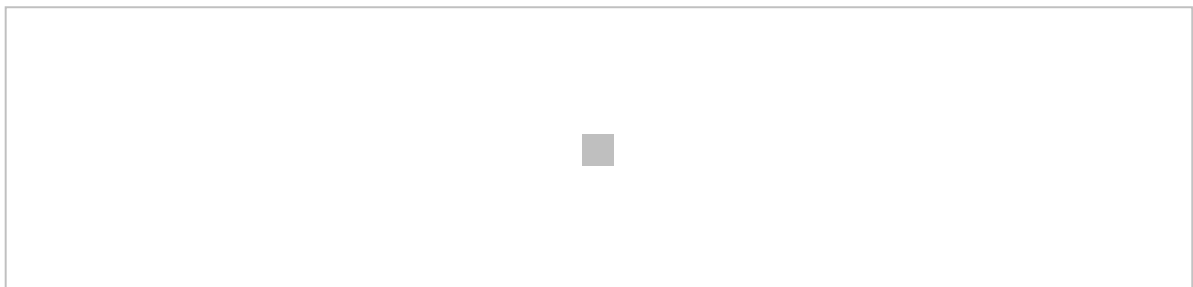
I'm not sure about the capacity or interest of these companies to undertake work at Stromlo, but it's a start!

Thanks,

Maggie Welfare | Stromlo Forest Park Booking and Marketing Assistant | National Arboretum Canberra and Stromlo Forest Park

E maggie.welfare@act.gov.au | **T** 02 6205 0973 **M** Sch 2.2(a)(ii)

Property and Venues | Chief Minister, Treasury and Economic Development Directorate
GPO 158, Canberra ACT 2601. | <https://stromloforestpark.act.gov.au>



From: [Thompson, Daniel](#)
To: [Costanzo, Letitia](#); [Cunningham, Catherine](#)
Subject: RE: Deed of Variation - Stromlo Shuttle Service
Date: Tuesday, 7 June 2022 10:43:04 AM
Attachments: [scan_daniel_thompson_2022-06-07-10-41-00.pdf](#)
[image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)

UNOFFICIAL

Signed and witnessed.

Thanks

From: Costanzo, Letitia <Letitia.Costanzo@act.gov.au>
Sent: Tuesday, 7 June 2022 10:04 AM
To: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>; Saddler, Scott <Scott.Saddler@act.gov.au>
Cc: Thompson, Daniel <Daniel.Thompson@act.gov.au>
Subject: RE: Deed of Variation - Stromlo Shuttle Service

UNOFFICIAL

Hi all,

I've printed off the hard copy for Scott to sign & have witnessed.

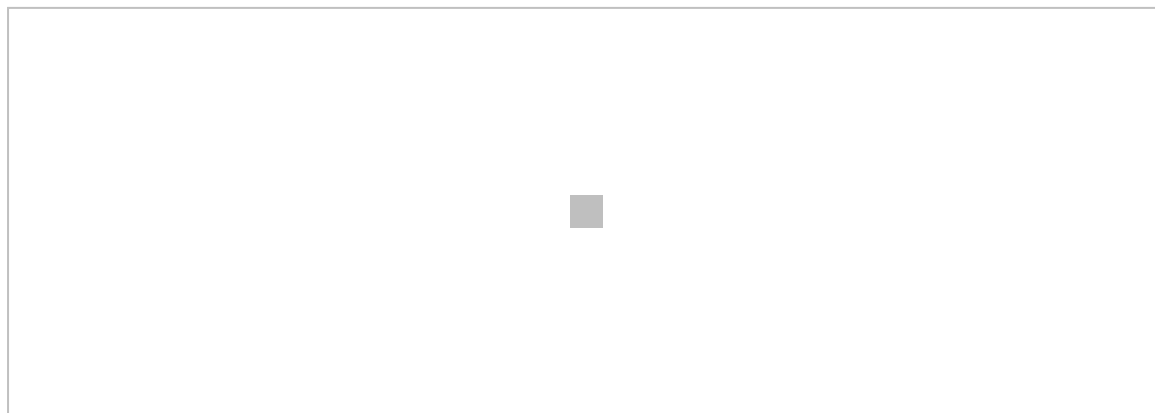
Kind regards,

Lettie

Letitia Costanzo | Administration Support Officer | National Arboretum Canberra and Stromlo Forest Park Branch

e letitia.costanzo@act.gov.au | t 02 6207 7874 | m Sch 2.2(a)(ii)

Property and Venues | Chief Minister, Treasury and Economic Development Directorate



From: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>

Sent: Tuesday, 7 June 2022 9:42 AM
To: Saddler, Scott <Scott.Saddler@act.gov.au>
Cc: Costanzo, Letitia <Letitia.Costanzo@act.gov.au>; Thompson, Daniel <Daniel.Thompson@act.gov.au>
Subject: RE: Deed of Variation - Stromlo Shuttle Service

UNOFFICIAL

Hi Scott,

This one needs to be signed in the presence of a witness, so unfortunately you'll have to go old-fashioned and print it for signature.

Lettie, can you please arrange?

Cheers
CC

From: Saddler, Scott <Scott.Saddler@act.gov.au>
Sent: Tuesday, 7 June 2022 9:20 AM
To: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>; Thompson, Daniel <Daniel.Thompson@act.gov.au>; Shawcross, Amalie <Amalie.Shawcross@act.gov.au>; Callen, Christine <Christine.Callen@act.gov.au>
Subject: FW: Deed of Variation - Stromlo Shuttle Service

UNOFFICIAL

Place my digital signature on this....right to go!

From: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>
Sent: Monday, 6 June 2022 3:35 PM
To: Costanzo, Letitia <Letitia.Costanzo@act.gov.au>
Cc: Saddler, Scott <Scott.Saddler@act.gov.au>; Thompson, Daniel <Daniel.Thompson@act.gov.au>
Subject: RE: Deed of Variation - Stromlo Shuttle Service

UNOFFICIAL

Hello Scott and Lettie.

I hope you had a nice weekend.

Lettie, can you please print and arrange for Scott to sign the final page of this Deed of Variation (p.4), and also date the front page once done?

Scott, I got you to sign this a week or so ago, but recalled it is better practice for the external organisation (Dynamic Motivation) to sign first and the Territory last.

Once you've signed, the Deed will be considered "fully executed".

Let me know if you have any queries.

Cheers

CC

Catherine Cunningham

Business Development Officer | National Arboretum Canberra and Stromlo Forest Park Branch

E catherine.cunningham@act.gov.au | T 02 6205 9687

Economic Development – Chief Minister, Treasury and Economic Development Directorate
ACT Government

Please note I do not work Wednesdays.

From: Sch 2.2(a)(ii)

Sent: Sunday, 5 June 2022 6:28 PM

To: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>

Cc: Rope, Darren <Darren.Rope@act.gov.au>

Subject: Deed of Variation - Stromlo Shuttle Service

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Hi Catherine,

Hope you had a great weekend and the weather didn't impact it too much.

Please find the signed deed of variation for the Stromlo Shuttle Service attached.

Also, I may have missed it, but has there been a Sch 2.2(a)(xi) sent through that I have missed ?

Kind Regards,

Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

From: Sch 2.2(a)(ii)
To: [Thompson, Daniel](#)
Cc: [Cunningham, Catherine](#)
Subject: Re: Request of Expression of Interest
Date: Wednesday, 20 July 2022 2:23:41 PM
Attachments: Sch 2.2(a)(ii) [signature_jake_ross.png](#)

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[Learn why this is important](#)

Hi Daniel,

Thanks for reaching out and apologies for the delay in reply. I would be interested in looking at further detail regarding this if you can please include us in your process.

Thanks

Sch 2.2(a)(ii)



On 14 Jul 2022, at 12:48 pm, Thompson, Daniel
<Daniel.Thompson@act.gov.au> wrote:

OFFICIAL

Hi,

The National Arboretum and Stromlo Forest Park are looking into procurement for the shuttle bus services at our Stromlo Forest Park mountain biking facility, more info on our park can be found here <https://www.stromloforestpark.act.gov.au/>.

We are gauging interest from potential providers and are wondering whether your company would like to be invited for our 'Request for Quote' process? We understand there may be location/distance/infrastructure challenges so at this stage there is no obligation to be included.

I'd be happy to answer any questions you may have before deciding on receiving a formal Request for Quote.

Thanks

Dan

Dan Thompson | A/g Business Manager

Ph: (02) 620 50798 | Mobile: Sch 2.2(a)(ii)

National Arboretum and Stromlo Forest Park | Economic Development | **Chief Minister, Treasury and Economic Development Directorate** | ACT Government

National Arboretum Canberra, Forest Drive, off Tuggeranong Parkway, Weston Creek | GPO Box 158, Canberra ACT 2601 | <https://www.nationalarboretum.act.gov.au/> | <https://www.stromloforestpark.act.gov.au/>

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<image001.png>

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From: [Cunningham, Catherine](#)
To: Sch 2.2(a)(ii)
Cc: [Thompson, Daniel](#)
Subject: RE: Services Agreement - early procurement process
Date: Monday, 1 August 2022 2:43:00 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

UNOFFICIAL

Hi Sch 2.2(a)(ii)

Hope you had a nice weekend.

Further to the below, I'm emailing to advise there's been a slight delay in the RFQ process, so it will not be issued today as previously advised.

Sch 2.2(a)(xi)

Let me know if you have any queries.

Cheers

Catherine

Catherine Cunningham

Business Development Officer | National Arboretum Canberra and Stromlo Forest Park Branch

E catherine.cunningham@act.gov.au | T 02 6205 9687

Economic Development – Chief Minister, Treasury and Economic Development Directorate
ACT Government

Please note I do not work Wednesdays.

From: Cunningham, Catherine
Sent: Monday, 25 July 2022 2:41 PM
To: Sch 2.2(a)(ii)
Cc: Thompson, Daniel <Daniel.Thompson@act.gov.au>
Subject: RE: Services Agreement - early procurement process

UNOFFICIAL

Yes, it was lovely!

From: Sch 2.2(a)(ii)
Sent: Monday, 25 July 2022 1:25 PM
To: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>; Sch 2.2(a)(ii)
Sch 2.2(a)(ii)
Cc: Thompson, Daniel <Daniel.Thompson@act.gov.au>
Subject: RE: Services Agreement - early procurement process

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Thank you Catherine.

How beautiful was the weather once the fog finally lifted!

Kind Regards,

Sch 2.2(a)(ii)

From: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>
Sent: Monday, 25 July 2022 8:11 AM
To: Sch 2.2(a)(ii)
Cc: Thompson, Daniel <Daniel.Thompson@act.gov.au>
Subject: RE: Services Agreement - early procurement process

UNOFFICIAL

Hello Sch 2.2(a)(ii)

I hope you had a nice weekend. There will be a two-week window to respond the Request for Quote.

Let me know if you have any further queries.

Cheers

Catherine

Catherine Cunningham

Business Development Officer | National Arboretum Canberra and Stromlo Forest Park Branch

E catherine.cunningham@act.gov.au | T 02 6205 9687

Economic Development – Chief Minister, Treasury and Economic Development Directorate
ACT Government

Please note I do not work Wednesdays.

From: Sch 2.2(a)(ii)

Sent: Friday, 22 July 2022 7:16 PM

To: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>; Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

Cc: Thompson, Daniel <Daniel.Thompson@act.gov.au>

Subject: RE: Services Agreement - early procurement process

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Thank you for the update Catherine. How long will the 3 businesses have to provide a response ?

Have a great weekend.

Kind Regards,

Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

From: Cunningham, Catherine <Catherine.Cunningham@act.gov.au>

Sent: Friday, 22 July 2022 2:17 PM

To: Sch 2.2(a)(ii)

Cc: Thompson, Daniel <Daniel.Thompson@act.gov.au>

Subject: Services Agreement - early procurement process

UNOFFICIAL

Hello Sch 2.2(a)(ii)

I hope you've had a great week.

Following your request for an early procurement process some months ago, preferring not to exercise your final +1 extension option, we've been liaising with Procurement ACT to determine the requirements and conditions to commence this process.

We've been advised that a Request for Quote (RFQ) process must be undertaken, wherein the Territory seeks proposals/submissions from three businesses who can potentially provide shuttle bus services at SFP. Given the Services Agreement value will be below \$200,000, it does not trigger a more robust process like a public tender.

On 1 August 2022, we will issue an RFQ to Dynamic Motivation and two other businesses with similar experience, and will await submissions in response to the identified scope of services.

From there, we will conduct an equitable appraisal, selecting the business that will best service demand while providing value for money – and revenue generation for injection back into the Park. The selected business will then work with the Territory to negotiate a new Services Agreement, which will come into effect from March 2023 at the completion of Dynamic Motivation's existing term.

If you have any queries, please don't hesitate to ask.

Cheers

Catherine

Catherine Cunningham

Business Development Officer | National Arboretum Canberra and Stromlo Forest Park Branch

E catherine.cunningham@act.gov.au | T 02 6205 9687

Economic Development – Chief Minister, Treasury and Economic Development Directorate
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From: [Thompson, Daniel](#)
To: [Welfare, Maggie](#)
Cc: [Callen, Christine](#); [Cunningham, Catherine](#)
Subject: Shuttle bus procurement - tender panel
Date: Tuesday, 16 August 2022 3:21:24 PM
Attachments: [image001.png](#)

OFFICIAL

Hi Maggie,

Would you be able to be a third member on procurement panel for the shuttlebus at SFP please?

We were advised we need to go out further to look for other providers and asked some of the contacts you previously gave and two responded with interest – [Sch 2.2\(a\)\(xiii\)](#)

We'd need to decide as a panel who is best based on their submissions. Catherine and I will also be on the panel to so you won't be alone and will be guided what to do. Let me know if you can assist.

Thanks

Dan

Dan Thompson | A/g Business Manager

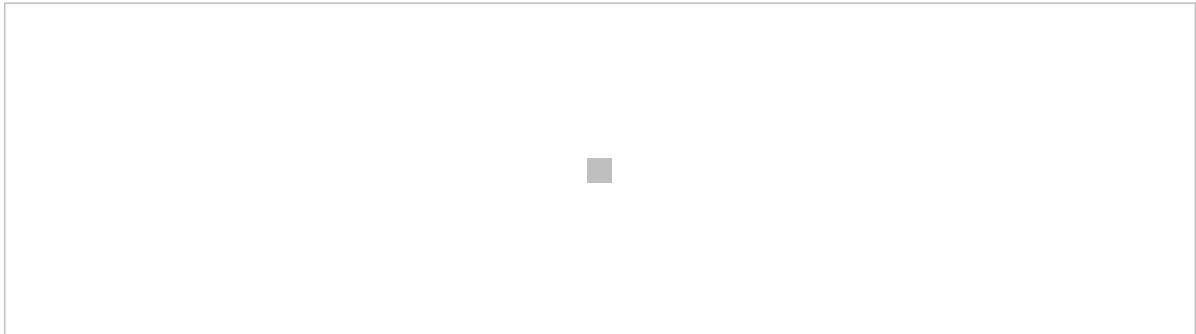
Ph: (02) 620 50798 | Mobile: [Sch 2.2\(a\)\(ii\)](#)

National Arboretum and Stromlo Forest Park | Economic Development | **Chief Minister, Treasury and Economic Development Directorate** | ACT Government

National Arboretum Canberra, Forest Drive, off Tuggeranong Parkway, Weston Creek | GPO Box 158, Canberra ACT 2601 |

<https://www.nationalarboretum.act.gov.au/> | <https://www.stromloforestpark.act.gov.au/>

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ACT
Government

STROMLO
FOREST PARK
CANNBERA AUSTRALIA

Request for quote (RFQ) – Stromlo Forest Park Shuttle Bus Services

Introduction

The Territory is seeking to engage a registered and experienced business to provide shuttle bus services at Stromlo Forest Park (SFP), a multi-use recreational sporting facility.

The business will ideally have experience operating a similar offering in an equivalent setting, and be familiar with the preferences, needs and challenges of servicing diverse tourists and residents in a fast-paced, popular environment.

The successful provider will enter into a Services Agreement (SA) with the Territory detailing the specific contractual obligations of operation, which will be discussed and negotiated further with the chosen business.

Stromlo Forest Park

SFP is Australia's premier multi-use recreational sporting facility situated in the heart of the Molonglo Valley in the nation's capital, Canberra. Set on 1200 hectares, Stromlo is surrounded by spectacular views and pristine waterways. Only 15 minutes from the city centre, the Park has something for everyone, from recreational to professional users.

Boasting a purpose-built event pavilion, a 1.2km criterium cycling circuit, a 2.5km grass cross country running track, a network of equestrian trails, pump track and over 50km of mountain bike trails suitable for riders of all abilities. Both the Centenary Trail and Bicentennial National Trail pass through the Park, and there are kilometres of shared trails for those wanting to explore on foot as well.

Adjacent to the main carpark is a café/bar and bike hire for pre and post activity needs, as well as the existing, award-winning Stromlo shuttle bus service. The current provider's SA is approaching the end of its contractual term, and in accordance with ACT Government Procurement regulations and procedures, the Territory seeks to test the market to ensure the best quality services and value for money are secured.

Strategic Context – SFP Masterplan

SFP continues to enjoy exponential growth and popularity as a well-known destination in the ACT. The SFP Master Plan is a far-reaching vision that will facilitate SFP's evolution into a vibrant, specialist centre for recreational and professional sports in Canberra. While cycling, equestrian, running and walking will continue to be key activities within the Park, it is also becoming an integral recreation resource for the residents of Molonglo. The ACT Government is confident the final Master Plan balances a range of new sport and recreation opportunities at the Park, while still being considerate of traditional user groups. Further information can be found here:

[Stromlo Forest Park Master Plan Report.pdf \(act.gov.au\)](https://act.gov.au/stromlo-forest-park-master-plan-report)

Scope of service requirements

The service requirements are as follows:

- Provide a transport (bus) shuttle service from within Stromlo Forest Park (SFP) to the summit of Mount Stromlo (Leased Land – Australian National University)
- Solicit and carry fare-paying passengers between SFP and the summit of Mount Stromlo
- Provide other services as agreed by both parties in writing

The existing service route may be altered on formal approval of NAC/SFP Branch and/or the Road Transport Authority.

The Service Schedule

The Contractor must provide a consistent and timely service that meets any advertised service schedule.

The Contractor must provide Service Schedule information and timetables in a manner that are readily accessible and understood by members of the public.

The one-way service will operate every 40 minutes as per the schedule below:

- Saturday and Sundays 8:30am-4:00pm
- Public Holidays 8:30am-4:00pm
- School Holidays Subject to demand
- Other days Subject to demand

The Public Service Terms, Fares and Fare Structure

The Contractor must publish, and clearly display all Terms and Conditions relating to the passenger services and the sale of tickets in a manner that the Terms and Conditions are readily available to passengers before or during the purchase of tickets.

Fare structure (i.e., day pass, x number of rides pass etc.), terms and conditions of payment are to be provided for consideration by the submitting RFQ business.

Contract Price, Payment Terms and Service Reporting Requirements

The RFQ business is to propose a percentage of gross financial turnover per calendar month for all Services covered in the proposed SA for their tenure at SFP.

The Contractor will provide NAC/SFP Branch an electronic record that clearly identifies all revenue income transactions for the Services provided under the Agreement. The electronic record will provide a listing of all revenue transactions for the month, including but may not be limited to:

- The type of revenue transaction (single or multi-use ticket)
- The amount of income received for each transaction
- The total income received for all transactions; and
- The percentage and amount of income transactions payable to NAC/SFP branch.

Sch 2.2(a)(xi)

Response to RFQ for the Provision of Services Agreement Stromlo Forest Park Shuttle Bus

Reference ID: CM2222370

THRESHOLD ASSESSMENT CRITERIA

This RFQ has not specified any **Threshold Criteria**.

PART 1 - POTENTIAL SUPPLIER'S DETAILS

ENTITY DETAILS

Instruction to Potential Suppliers: Potential Suppliers should be aware of the ACT Government's policies for Local Industry Participation, Indigenous Business, Sustainability, Workplace Health and Safety, and Environment.

IMPORTANT: The ACT Government is committed to ensuring competitive local businesses are given every opportunity to compete for government contracts.

Full legal business name:	Sch 2.2(a)(xi)
Registered business address:	Sch 2.2(a)(xi)
ACN/ARBN (if applicable):	Sch 2.2(a)(xi)
ABN (if applicable):	Sch 2.2(a)(xi)
Web Address:	Sch 2.2(a)(xi)
The entity's legal status	Company
Is your company located in the Canberra Region?	Currently no.
Is your company a Small to Medium Enterprise (SME)?	Yes
Do you identify your organisation as an Aboriginal and Torres Strait Islander business?	No
Is your company a Social Enterprise?	No

CONTACT OFFICER

For all matters relating to this RFQ, including any notices, the Respondent's contact officer will be:

Name or position title:	Sch 2.2(a)(ii)
Work:	Sch 2.2(a)(ii)
Mobile:	Sch 2.2(a)(ii)
Email:	Sch 2.2(a)(ii)
Postal Address:	Sch 2.2(a)(xi)

ADDRESS FOR NOTICES

If different to the Contact Officer, the address for notices relating to this RFQ is:

Name or position title:	
Work:	



Mobile:	
Email:	
Postal Address:	

CONTRACT MANAGER

Instruction to Potential Suppliers:

Potential Suppliers should provide the requested details of the person they propose to be their Contract Manager if a contract is awarded. That person will be responsible for general liaison with the Customer and accepting and issuing any written notices for that Contract.

If different to the Contact Officer, the address for notices relating to this RFQ is:

Name or position title:	
Work:	
Mobile:	
Email:	
Postal Address:	

Sch 2.2(a)(xi)

PART 3 - ABILITY TO MEET THE REQUIREMENT

THRESHOLD ASSESSMENT CRITERIA

If there are any Threshold Assessment Criteria (any of Threshold criteria and Secure Local Jobs criteria), you must specifically respond to them here.

Please Note: If you are unable to meet any Threshold Assessment Criteria your response will be excluded from consideration.

NOT APPLICABLE.

DETAILED PROPOSAL TO MEET THE CUSTOMER'S REQUIREMENT

Insert your description of how you will meet the Territory's requirements as set out in A.A.3 THE REQUIREMENT.

Include details of goods/services and your capability to deliver against the requirements.

Evaluation of your quote will be based on value for money (e.g. capacity, capability and budget/cost) and will include consideration of your business status (i.e. SME). When completing this RFQ ensure your response covers these areas.

Sch 2.2(a)(xi)

Our aim for Stomlo Forest Park:

- Provide a professional and reliable uplift shuttle service for bike riders.
- Increase Stomlo Forest Park usage.
- Grow commercial returns for Stroll Forest Park.
- Grow long-term sustainable local business employing more locals and services.
- Assist in developing a world class bike park generating ride visits throughout the year.
- Assist grow local rider and visiting rider numbers across a range of activities at SFP.
- Actively promote and market SFP as a leading mountain bike destination.

Services to be provided:

- World class uplift shuttle service.
- Service to operate at a minimum of once every Sch 2.2(a)(xi)
- We plan to provide multiple buses departing frequently ie every Sch 2.2(a)(xi). Our experience shows that rider demand for a bike park of Stomlo's nature necessitates this level of service. Resulting in Sch 2.2(a)(xi) for riders, which based on local rider feedback is a shortfall with current services at Stomlo.
- A discounted Sch 2.2(a)(xi) healthy youth.
- A scalable shuttle service avoiding "booked out" days and "waitlists" that currently happen.

Our core brand values:

A focus on the social element

- Sch 2.2(a)(xi)

Goal is to protect and leverage our own IP for each location we operate in. Consisting of:

- Sch 2.2(a)(xi)

Sch 2.2(a)(xi)

Sch 2.2(a)(xi) **Team:**

All of the Sch 2.2(a)(xi) team are experienced and seasoned mountain bikers. All staff frequently ride in and outside of work hours. We all have a passion for riding bikes and love to share this with our customers. We are currently a team of Sch 2.2(a)(xi) people with professional skills and qualifications covering:

- Marketing
- Trail Building
- Engineering
- Tour Operators
- Bike Mechanic
- Merchandising
- First Aid
- Tourism Administration
- Landscaping
- Economics & Finance
- Barista
- Retail Sales
- Public Relations
- Mountain Bike Skills Instructors

Sch 2.2(a)(xi) brings a broad industry knowledge and global approach to mountain biking in Australia. Our strategic and professional approach is key to sustainable growth and world-class mountain bike parks.

The Sch 2.2(a)(xi) **Standard:**

One key to Sch 2.2(a)(xi) success is our Service Standard. Sch 2.2(a)(xi) We are famous in the industry for this and proud of it.

To affect this we Sch 2.2(a)(xi)

Business growth and rider reviews are testament to our Service Standard, and also the flow on affect for the locations in which we operate.

Sch 2.2(a)(xi) **Collaborative Methodology:**

Over Sch 2.2(a)(xi) as a tourism business we have developed a collaborative methodology (outlined below) that when applied successfully yields fantastic results.

It is a Sch 2.2(a)(xi) openness and approach to some.

Sch 2.2(a)(xi)

Key Factors of our Collaborative Method:

- Work closely and in alignment with land manager / owner.
- Actively engage with local operators for a range of services and benefits. Sch 2.2(a)(xi)
- Engage with industry leading companies (across multiple and competing brands) in a positive manner to the betterment of all entities to help cross promote and grow each other.
- Source as many resources from local suppliers as possible; from food & beverage to bike mechanical services to accommodation for staff to vehicle repairs and so forth.

- Engage with Sch 2.2(a)(xi)
- Support local bike clubs with fundraisers and support for junior riders including our grassroots program.
- Sch 2.2(a)(xi) Ambassador program using local riders and influencers.

Sch 2.2(a)(xi) **Business Growth and Numbers:**

Sch 2.2(a)(xi) has achieved significant growth in the Sch 2.2(a)(xi) inception. This has grown from humble beginnings to in excess of Sch 2.2(a)(xi) shuttle riders per year. This has been achieved via many means, some key areas being:

- Working closely with land owners/managers/boards to establish world class ride destinations to enable scale and sustainable commercial returns for all parties.
- Working closely with local businesses to promote mutual products and services and achieve seamless integration for the rider tourist.
- Sch 2.2(a)(xi)

|
|

Marketing and Promotions

Sch 2.2(a)(xi)

orts in
ns for

Sch 2.2(a)(xi)

<p>Sch 2.2(a)(xi) Programs</p>	<p>Sch 2.2(a)(xi)</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>
<p>Sch 2.2(a)(xi)</p>	<p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>
<p>[Redacted]</p>	<p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted] a special package for local ACT schools for shuttles at SFP.</p>

Ability to manage customer feedback and complaints

Sch 2.2(a)(xi) is directly open to customer feedback and complaints. Our feedback process is managed as follows:

- **On the day on location:** first by driver, then with senior crew on hand if required. If customer is unsatisfied with our reply the issue is escalated to our General Manager.
- **Over the phone:** if call made to our dedicated SFP number the issue is addressed by our senior crew. If customer is unsatisfied with our reply the issue is escalated to our General Manager.
- **Received via email:** The issue is addressed by our General Manager.
- **Received via Facebook, other social media:** The issue is addressed by our General Manager.

Sch 2.2(a)(xi)

[Redacted]

[Redacted]

[Redacted]

[Redacted]



Local Employment

We forecast the need to initially employ ^{Sch 2.2} local people to commence operations at Stromlo. These cover job roles from location manager, shuttle driver, customer service, marketing and administration.

We plan to employ these people Sch 2.2(a)(xi)

Customer Service Centre

Sch 2.2(a)(xi) ther options).

PART 4 - POTENTIAL SUPPLIER'S PROVEN CAPACITY

CAPACITY TO DELIVER THE REQUIREMENTS

Insert your description of how you can demonstrate proven capacity to deliver the Services described in A.A.3 THE REQUIREMENT.

Sch 2.2(a)(xi) currently owns and operates a fleet of Sch 2.2(a)(xi).

Our core team have been working in the MTB shuttle industry for Sch 2.2(a)(xi).

We bring a range of experience from delivering shuttles to small groups to delivering large shuttle events Sch 2.2(a)(xi).

The quality of our business is underwritten Sch 2.2(a)(xi).

We have long worked alongside many Government agencies and land managers and employ an open and honest approach with great results. Our current shuttle business see us operating under Sch 2.2(a)(xi) Government departmental land managers.

Financially Sch 2.2(a)(xi).

We envisage the investment required to commence shuttle operations at SFP Sch 2.2(a)(xi).

Internal Systems:

Sch 2.2(a)(xi)

EMERGENCY Sch 2.2(a)(xi)

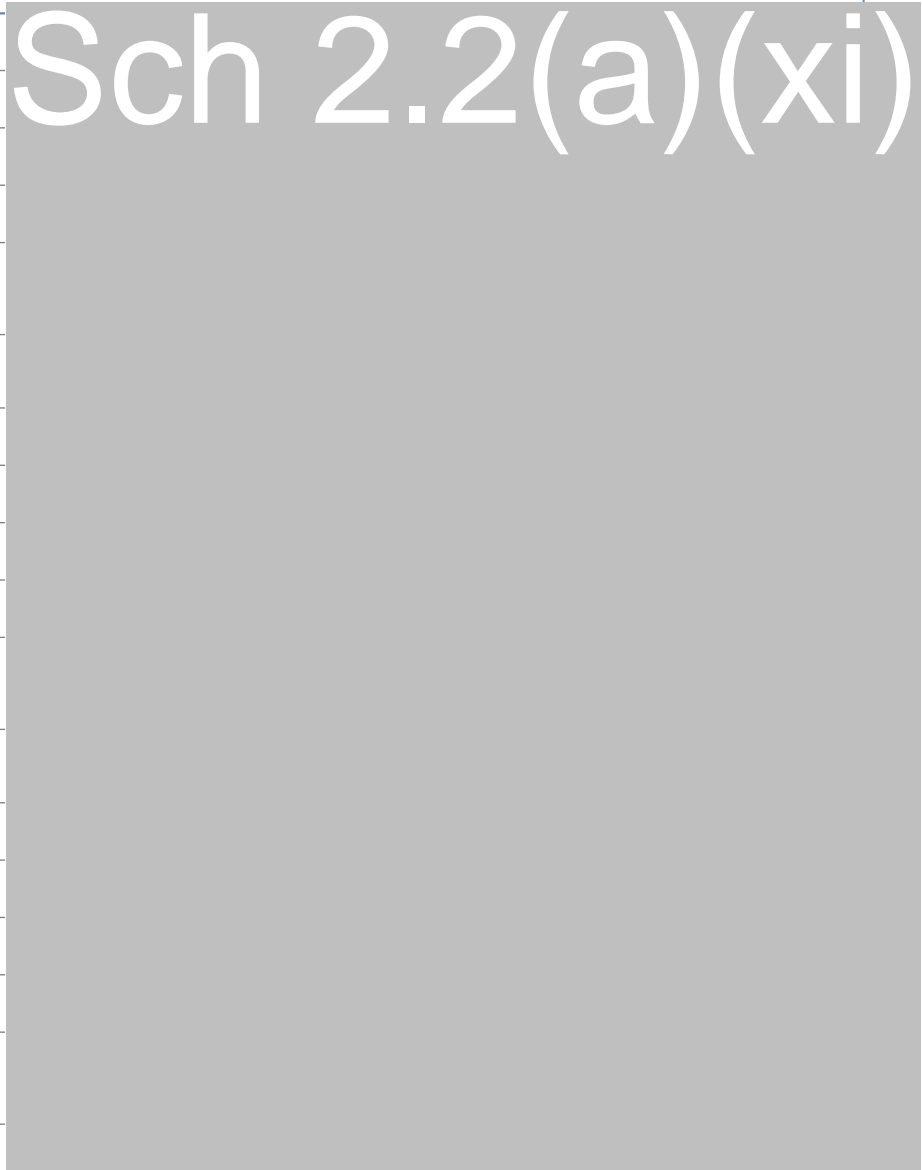
REFEREES

Include at least three (3) referee contacts that are for the provision of Services of a similar nature and comparable size.

Name
Position/Company
Phone Number
Email Address
Description of Goods/ Services provided

Name
Position/Company
Phone Number
Email Address
Description of Goods/ Services provided

Name
Position/Company
Phone Number
Email Address
Description of Goods/ Services provided



PART 5 - TOTAL COSTS TO BE INCURRED BY THE CUSTOMER

Note: all rate, prices and monetary values must be in Australian dollars and include, or itemise, any duties payable.

PRICES FOR SERVICES

Provide the following for each service requirement:

Task, Milestone deliverable (if applicable), Milestone delivery date (if applicable), Payment schedule excluding GST, Payment schedule GST component, Payment schedule including GST.

Also include the total costs showing the: Total GST Exclusive, Total GST, Total GST inclusive.

We propose the following Shuttle Ticket Pricing which is to be paid by the customer:

Sch 2.2(a)(xi)

All prices include GST.

Services Agreement Fee & NAC/SFP Revenue

We propose a Sch 2.2(a)(xi)

As we were unable to obtain facts and figures on current shuttle operations at SFP we can only forecast total revenue to NAC/SFP based on business at existing locations we operate. Based on this we expect annual revenue to NAC/SFP from Sch 2.2(a)(xi) to exceed Sch 2.2(a)(xi) in the first year.

Days of service at a minimum:

Sch 2.2(a)(xi)

Once established we see the potential for Sch 2.2(a)(xi)

Fares & Terms

Easy to use and clearly visible online and social media booking system.

Secure payment gateway online booking system.

Clearly visible service terms and conditions.

Reporting to NAC/SFP

Sch 2.2(a)(xi) will provide an electronic record that covers all revenue on an item by item basis on a monthly basis.

The report will include:

Sch 2.2(a)(xi)

SPECIAL CONDITIONS OF QUOTATION

Insert any special conditions that apply to your Quotation

Sch 2.2(a)(xi)

PART 6 - OTHER DETAILS

SPECIFIED PERSONNEL (DELETE IF NOT APPLICABLE)

Provide the following information for each specified personnel:

Name, Position or Role, Rate excluding GST, Rate including GST, Anticipated time, Current level of security clearance.

Also include a summary of the total costs for all personnel, if applicable.

Not applicable.

SUBCONTRACTORS

Provide the following information for each proposed subcontractor:

Legal name and ABN/CAN,

Scope of work to be subcontracted and technical specifications,

Fees and associated expenses excluding GST, and

Fees and associated expenses including GST.

Where no subcontractors are proposed simply state "No subcontractors are proposed".

Not applicable.

CONFIDENTIAL TEXT

Under the Procurement Act, a resultant contract (if any) resulting from this RFQ would be a notifiable contract, and accordingly, the full text of a notifiable contract must be published on the Territory's Contracts Register except where text is deemed to be confidential. In addition C.C.22 (H) of the Territory's Contract Terms will apply.

Div 3.2 of the Procurement Act clause 28 (1) stipulates that the following sections of a contract must be published:

- the parties to the contract;*
- the responsible Territory entity for the contract and any change in the responsible Territory entity for the contract;*
- a brief description of what the contract is for;*
- the date the contract was made; and*
- the date the contract ends;*
- the value of the total consideration, or estimated total consideration, for the contract.*

Aside from items specified above, Respondents may identify any sections of their response (that may be included in any resultant contract) that it considers to be confidential text and the applicable grounds for that consideration.

Please note that whether information proposed by a Respondent is ultimately considered and treated as confidential text (and therefore redacted from the published contract) is a matter for the Territory's delegated authority.

For information about confidential text, please refer to <https://www.legislation.act.gov.au/a/2001-28/current/pdf/2001-28.pdf>

Parts of this Response that are to be considered as Confidential Text	Applicable grounds under section 35(1) Procurement Act
insert the Section and details of proposed Confidential Text	insert the grounds for consideration

CM2222370

Sch 2.2(a)(xi)

Respondent Declaration

I/We declare that all information required by the A.A.2 [*Requirements*] of this RFQ has been included in our Response to RFQ CM2222370, and is true and accurate.

I/We declare I/We have sighted and agree to the *Territory Standard Terms of Quotation*, and any *Additional Contract Terms* specified in this RFQ.

I/We undertake to provide evidence of insurance policies, if selected as the preferred Supplier, prior to entering into a contract with the Territory.

I/We declare I/We are not named by the Workplace Gender Equality Agency as an employer currently not complying with the *Workplace Gender Equality Act 2012* (Cth).

I/We declare that I/We have not engaged in any collusive, anti-competitive or any other similar conduct with any other Respondent or person, or offer any unlawful inducements in relation to this RFQ process.

Prior to completing this declaration ensure you have the legal authority to be a signatory for this quotation.

Signatory's Full Name:	Sch 2.2(a)(ii)
Signatory's Title/Position:	Sch 2.2(a)(ii)
Signatory's Phone Number:	Sch 2.2(a)(ii)
Signatory's email address	Sch 2.2(a)(ii)
Date:	16 September 2022

NB: physical signatures are not required for this document. Complete the information and return electronically to the email address provided in A.A.5 [*LODGEMENT METHOD*].



ACT
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**Response to RFQ
CM2222370**

Sch 2.2(a)(xi)

Sch 2.2(a)(xi)

Response to RFQ for the Provision of Services Agreement Stromlo Forest Park Shuttle Bus

Reference ID: CM2222370

THRESHOLD ASSESSMENT CRITERIA

This RFQ has not specified any **Threshold Criteria**.



Response to RFQ
CM2222370

Sch 2.2(a)(xi)

PART 1 - POTENTIAL SUPPLIER'S DETAILS

ENTITY DETAILS

Instruction to Potential Suppliers: Potential Suppliers should be aware of the ACT Government's policies for Local Industry Participation, Indigenous Business, Sustainability, Workplace Health and Safety, and Environment.

IMPORTANT: The ACT Government is committed to ensuring competitive local businesses are given every opportunity to compete for government contracts.

Full legal business name:	Sch 2.2(a)(xi)
Registered business address:	Sch 2.2(a)(xi)
ACN/ARBN (if applicable):	Sch 2.2(a)(xi)
ABN (if applicable):	Sch 2.2(a)(xi)
Web Address:	Sch 2.2(a)(xi)
The entity's legal status	<input checked="" type="checkbox"/> Company <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Trader <input type="checkbox"/> Sole Director Company <input type="checkbox"/> *Other (specify)
Is your company located in the Canberra Region?	Yes
Is your company a Small to Medium Enterprise (SME)?	Yes
Do you identify your organisation as an Aboriginal and Torres Strait Islander business?	No
Is your company a Social Enterprise?	No

CONTACT OFFICER

For all matters relating to this RFQ, including any notices, the Respondent's contact officer will be:

Name or position title:	Sch 2.2(a)(ii)
Work:	Sch 2.2(a)(ii)
Mobile:	Sch 2.2(a)(ii)
Email:	Sch 2.2(a)(ii)
Postal Address:	Sch 2.2(a)(xi)



**Response to RFQ
CM2222370**

ADDRESS FOR NOTICES

If different to the Contact Officer, the address for notices relating to this RFQ is:

Name or position title:	
Work:	
Mobile:	
Email:	
Postal Address:	

CONTRACT MANAGER

Instruction to Potential Suppliers:

Potential Suppliers should provide the requested details of the person they propose to be their Contract Manager if a contract is awarded. That person will be responsible for general liaison with the Customer and accepting and issuing any written notices for that Contract.

If different to the Contact Officer, the address for notices relating to this RFQ is:

Name or position title:	
Work:	
Mobile:	
Email:	
Postal Address:	



**Response to RFQ
CM2222370**

PART 2 - EXECUTIVE SUMMARY

Instruction to Potential Suppliers:

Provide a brief (less than 1 page) Executive Summary of your proposal highlighting any key aspects, including how you (and any subcontractors) propose to comply with the ACT Government's requirements.

Sch 2.2(a)(xi)



**Response to RFQ
CM2222370**

Sch 2.2(a)(xi)

PART 3 - ABILITY TO MEET THE REQUIREMENT

THRESHOLD ASSESSMENT CRITERIA

If there are any Threshold Assessment Criteria (any of Threshold criteria and Secure Local Jobs criteria), you must specifically respond to them here.

Please Note: If you are unable to meet any Threshold Assessment Criteria your response will be excluded from consideration.

DETAILED PROPOSAL TO MEET THE CUSTOMER'S REQUIREMENT

Insert your description of how you will meet the Territory's requirements as set out in A.A.3 THE REQUIREMENT.

Include details of goods/services and your capability to deliver against the requirements.

Evaluation of your quote will be based on value for money (e.g. capacity, capability and budget/cost) and will include consideration of your business status (i.e. SME). When completing this RFQ ensure your response covers these areas.

The service requirements are as follows:

- Provide a transport (bus) shuttle service from within Stromlo Forest Park (SFP) to the summit of Mount Stromlo (Leased Land – Australian National University)
- Solicit and carry fare-paying passengers between SFP and the summit of Mount Stromlo
- Provide other services as agreed by both parties in writing

The existing service route may be altered on formal approval of NAC/SFP Branch and/or the Road Transport Authority.

Sch 2.2(a)(xi)



Sch 2.2(a)(xi)

The Service Schedule

The Contractor must provide a consistent and timely service that meets any advertised service schedule.

The Contractor must provide Service Schedule information and timetables in a manner that are readily accessible and understood by members of the public.

The one-way service will operate every 40 minutes as per the schedule below:

- Saturday and Sundays 8:30am-4:00pm
- Public Holidays 8:30am-4:00pm
- School Holidays Subject to demand
- Other days Subject to demand



ACT
Government

**Response to RFQ
CM2222370**

Sch 2.2(a)(xi)

The Public Service Terms, Fares and Fare Structure

The Contractor must publish, and clearly display all Terms and Conditions relating to the passenger services and the sale of tickets in a manner that the Terms and Conditions are readily available to passengers before or during the purchase of tickets.

Sch 2.2(a)(xi)

Fare structure (i.e., day pass, x number of rides pass etc.), terms and conditions of payment are to be provided for consideration by the submitting RFO business.

Sch 2.2(a)(xi)



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**Response to RFQ
CM2222370**

Sch 2.2(a)(xi)

Sch 2.2(a)(xi)

Cancellation Policy:

Sch 2.2(a)(xi)



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**Response to RFQ
CM222370**

Fare Structure

Sch 2.2(a)(xi)



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**Response to RFQ
CM2222370**



Contract Price, Payment Terms and Service Reporting Requirements

The RFQ business is to propose a percentage of gross financial turnover per calendar month for all Services covered in the proposed SA for their tenure at SFP.

The Contractor will provide NAC/SFP Branch an electronic record that clearly identifies all revenue income transactions for the Services provided under the Agreement. The electronic record will provide a listing of all revenue transactions for the month, including but may not be limited to:

- The type of revenue transaction (single or multi-use ticket)
- The amount of income received for each transaction
- The total income received for all transactions; and
- The percentage and amount of income transactions payable to NAC/SFP branch

Sch 2.2(a)(xi)



ACT
Government

**Response to RFQ
CM2222370**

Sch 2.2(a)(xi)

Sch 2.2(a)(xi)



Response to RFQ
CM2222370

PART 4 - POTENTIAL SUPPLIER'S PROVEN CAPACITY

CAPACITY TO DELIVER THE REQUIREMENTS

Insert your description of how you can demonstrate proven capacity to deliver the Services described in A.A.3 THE REQUIREMENT.

Background

Sch 2.2(a)(xi)

Sch 2.2(a)(xi)



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**Response to RFQ
CM2222370**

Sch 2.2(a)(xi)



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**Response to RFQ
CM2222370**

Sch 2.2(a)(xi)



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**Response to RFQ
CM222370**

Sch 2.2(a)(xi)



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**Response to RFQ
CM2222370**

Sch 2.2(a)(xi)

Sch 2.2(a)(xi)



ACT
Government

**Response to RFQ
CM222370**

Sch 2.2(a)(xi)



Sch 2.2(a)(xi)



Sch 2.2(a)(xi)



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**Response to RFQ
CM2222370**

Sch 2.2(a)(xi)

REFEREES

Include at least three (3) referee contacts that are for the provision of Services of a similar nature and comparable size.

Please note that we are currently delivering the Stromlo Shuttle Bus Service under a services agreement to the ACT Government. This being so, we are advised there would be a direct conflict of interest should we include any referee contacts with the ACT Government so have not done so. We have done our best to provide adequate scope of referees given those parameters.

Name	Sch 2.2(a)(ii)
Position/Company	Sch 2.2(a)(ii)
Phone Number	Sch 2.2(a)(ii)
Email Address	Sch 2.2(a)(ii)
Description of Goods/Services provided	Sch 2.2(a)(ii)

Name	Sch 2.2(a)(ii)
Position/Company	
Phone Number	Sch 2.2(a)(ii)
Email Address	Sch 2.2(a)(ii)
Description of Goods/Services provided	Sch 2.2(a)(ii)



ACT
Government

**Response to RFQ
CM2222370**



Name	Sch 2.2(a)(ii)
Position/Company	
Phone Number	Sch 2.2(a)(ii)
Email Address	Sch 2.2(a)(ii)
Description of Goods/Services provided	Sch 2.2(a)(ii) [Redacted] [Redacted] [Redacted] [Redacted]



**Response to RFQ
CM2222370**

PART 5 - TOTAL COSTS TO BE INCURRED BY THE CUSTOMER

Note: all rate, prices and monetary values must be in Australian dollars and include, or itemise, any duties payable.

PRICES FOR GOODS

Provide the following for each product required:

Item number, Item description, Quantity required, Unit price excluding GST, Unit price GST component, Total price.

Also include an overall total price including GST.

N/A

PRICES FOR SERVICES

Provide the following for each service requirement:

Task, Milestone deliverable (if applicable), Milestone delivery date (if applicable), Payment schedule excluding GST, Payment schedule GST component, Payment schedule including GST.

Also include the total costs showing the: Total GST Exclusive, Total GST, Total GST inclusive.

Sch 2.2(a)(xi)

SPECIAL CONDITIONS OF QUOTATION

Insert any special conditions that apply to your Quotation

Nil



Response to RFQ CM2222370

PART 6 - OTHER DETAILS

~~SPECIFIED PERSONNEL (DELETE IF NOT APPLICABLE)~~

Provide the following information for each specified personnel:

Name, Position or Role, Rate excluding GST, Rate including GST, Anticipated time, Current level of security clearance.

Also include a summary of the total costs for all personnel, if applicable.

7

SUBCONTRACTORS

No subcontractors are proposed

CONFIDENTIAL TEXT

Under the Procurement Act, a resultant contract (if any) resulting from this RFQ would be a notifiable contract, and accordingly, the full text of a notifiable contract must be published on the Territory's Contracts Register except where text is deemed to be confidential. In addition C.C.22 (H) of the Territory's Contract Terms will apply.

Div 3.2 of the Procurement Act clause 28 (1) stipulates that the following sections of a contract must be published:

- the parties to the contract;*
- the responsible Territory entity for the contract and any change in the responsible Territory entity for the contract;*
- a brief description of what the contract is for;*
- the date the contract was made; and*
- the date the contract ends;*
- the value of the total consideration, or estimated total consideration, for the contract.*

Aside from items specified above, Respondents may identify any sections of their response (that may be included in any resultant contract) that it considers to be confidential text and the applicable grounds for that consideration.

Please note that whether information proposed by a Respondent is ultimately considered and treated as confidential text (and therefore redacted from the published contract) is a matter for the Territory's delegated authority.

For information about confidential text, please refer to <https://www.legislation.act.gov.au/a/2001-28/current/pdf/2001-28.pdf>

Parts of this Response that are to be considered as Confidential Text	Applicable grounds under section 35(1) Procurement Act
insert the Section and details of proposed Confidential Text	insert the grounds for consideration



**Response to RFQ
CM2222370**

<<Insert Supplier Name
and/or Logo>>

Respondent Declaration

I/We declare that all information required by the A.A.2 [*Requirements*] of this RFQ has been included in our Response to RFQ CM2222370, and is true and accurate.

I/We declare I/We have sighted and agree to the *Territory Standard Terms of Quotation*, and any *Additional Contract Terms* specified in this RFQ.

I/We undertake to provide evidence of insurance policies, if selected as the preferred Supplier, prior to entering into a contract with the Territory.

I/We declare I/We are not named by the Workplace Gender Equality Agency as an employer currently not complying with the *Workplace Gender Equality Act 2012* (Cth).

I/We declare that I/We have not engaged in any collusive, anti-competitive or any other similar conduct with any other Respondent or person, or offer any unlawful inducements in relation to this RFQ process.

Prior to completing this declaration ensure you have the legal authority to be a signatory for this quotation.

Signatory's Full Name:	Sch 2.2(a)(ii)
Signatory's Title/Position:	Sch 2.2(a)(ii)
Signatory's Phone Number:	Sch 2.2(a)(ii)
Signatory's email address	Sch 2.2(a)(ii)
Date:	16 th September 2022

NB: physical signatures are not required for this document. Complete the information and return electronically to the email address provided in A.A.5 [*LODGEMENT METHOD*].



ACT
Government

**Response to RFQ
CM2222370**

<<Insert Supplier Name
and/or Logo>>

<<Insert Supplier Name and/or Logo>>

Response to RFQ for the Provision of Services Agreement Stromlo Forest Park Shuttle Bus

Reference ID: CM2222370

THRESHOLD ASSESSMENT CRITERIA

This RFQ has not specified any **Threshold Criteria**.



ACT
Government

**Response to RFQ
CM2222370**

<<Insert Supplier Name
and/or Logo>>

PART 1 - POTENTIAL SUPPLIER'S DETAILS

ENTITY DETAILS

Instruction to Potential Suppliers: Potential Suppliers should be aware of the ACT Government's policies for Local Industry Participation, Indigenous Business, Sustainability, Workplace Health and Safety, and Environment.

IMPORTANT: The ACT Government is committed to ensuring competitive local businesses are given every opportunity to compete for government contracts.

Full legal business name:	
Registered business address:	
ACN/ARBN (if applicable):	
ABN (if applicable):	
Web Address:	
The entity's legal status	<input type="checkbox"/> Company <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Trader <input type="checkbox"/> Sole Director Company <input type="checkbox"/> *Other (specify)
Is your company located in the Canberra Region?	
Is your company a Small to Medium Enterprise (SME)?	
Do you identify your organisation as an Aboriginal and Torres Strait Islander business?	
Is your company a Social Enterprise?	

CONTACT OFFICER

For all matters relating to this RFQ, including any notices, the Respondent's contact officer will be:

Name or position title:	
Work:	
Mobile:	
Email:	
Postal Address:	

ADDRESS FOR NOTICES

If different to the Contact Officer, the address for notices relating to this RFQ is:

Name or position title:	
--------------------------------	--



ACT
Government

**Response to RFQ
CM2222370**

<<Insert Supplier Name
and/or Logo>>

Work:	
Mobile:	
Email:	
Postal Address:	

CONTRACT MANAGER

Instruction to Potential Suppliers:

Potential Suppliers should provide the requested details of the person they propose to be their Contract Manager if a contract is awarded. That person will be responsible for general liaison with the Customer and accepting and issuing any written notices for that Contract.

If different to the Contact Officer, the address for notices relating to this RFQ is:

Name or position title:	
Work:	
Mobile:	
Email:	
Postal Address:	



ACT
Government

**Response to RFQ
CM2222370**

<<Insert Supplier Name
and/or Logo>>

PART 2 - EXECUTIVE SUMMARY

Instruction to Potential Suppliers:

Provide a brief (less than 1 page) Executive Summary of your proposal highlighting any key aspects, including how you (and any subcontractors) propose to comply with the ACT Government's requirements.



ACT
Government

**Response to RFQ
CM2222370**

<<Insert Supplier Name
and/or Logo>>

PART 3 - ABILITY TO MEET THE REQUIREMENT

THRESHOLD ASSESSMENT CRITERIA

If there are any Threshold Assessment Criteria (any of Threshold criteria and Secure Local Jobs criteria), you must specifically respond to them here.

Please Note: If you are unable to meet any Threshold Assessment Criteria your response will be excluded from consideration.

DETAILED PROPOSAL TO MEET THE CUSTOMER'S REQUIREMENT

Insert your description of how you will meet the Territory's requirements as set out in A.A.3 THE REQUIREMENT.

Include details of goods/services and your capability to deliver against the requirements.

Evaluation of your quote will be based on value for money (e.g. capacity, capability and budget/cost) and will include consideration of your business status (i.e. SME). When completing this RFQ ensure your response covers these areas.



**Response to RFQ
CM2222370**

<<Insert Supplier Name and/or Logo>>

PART 4 - POTENTIAL SUPPLIER'S PROVEN CAPACITY

CAPACITY TO DELIVER THE REQUIREMENTS

Insert your description of how you can demonstrate proven capacity to deliver the Services described in A.A.3 THE REQUIREMENT.

REFEREES

Include at least three (3) referee contacts that are for the provision of Services of a similar nature and comparable size.

Name	
Position/Company	
Phone Number	
Email Address	
Description of Goods/Services provided	

Name	
Position/Company	
Phone Number	
Email Address	
Description of Goods/Services provided	

Name	
Position/Company	
Phone Number	
Email Address	
Description of Goods/Services provided	



ACT
Government

**Response to RFQ
CM2222370**

<<Insert Supplier Name
and/or Logo>>

PART 5 - TOTAL COSTS TO BE INCURRED BY THE CUSTOMER

Note: all rate, prices and monetary values must be in Australian dollars and include, or itemise, any duties payable.

PRICES FOR GOODS

Provide the following for each product required:

Item number, Item description, Quantity required, Unit price excluding GST, Unit price GST component, Total price.

Also include an overall total price including GST.

PRICES FOR SERVICES

Provide the following for each service requirement:

Task, Milestone deliverable (if applicable), Milestone delivery date (if applicable), Payment schedule excluding GST, Payment schedule GST component, Payment schedule including GST.

Also include the total costs showing the: Total GST Exclusive, Total GST, Total GST inclusive.

SPECIAL CONDITIONS OF QUOTATION

Insert any special conditions that apply to your Quotation



ACT
Government

**Response to RFQ
CM2222370**

<<Insert Supplier Name
and/or Logo>>

PART 6 - OTHER DETAILS

SPECIFIED PERSONNEL (DELETE IF NOT APPLICABLE)

Provide the following information for each specified personnel:

Name, Position or Role, Rate excluding GST, Rate including GST, Anticipated time, Current level of security clearance.

Also include a summary of the total costs for all personnel, if applicable.

SUBCONTRACTORS

Provide the following information for each proposed subcontractor:

Legal name and ABN/CAN,

Scope of work to be subcontracted and technical specifications,

Fees and associated expenses excluding GST, and

Fees and associated expenses including GST.

Where no subcontractors are proposed simply state "No subcontractors are proposed".

CONFIDENTIAL TEXT

Under the Procurement Act, a resultant contract (if any) resulting from this RFQ would be a notifiable contract, and accordingly, the full text of a notifiable contract must be published on the Territory's Contracts Register except where text is deemed to be confidential. In addition C.C.22 (H) of the Territory's Contract Terms will apply.

Div 3.2 of the Procurement Act clause 28 (1) stipulates that the following sections of a contract must be published:

- the parties to the contract;*
- the responsible Territory entity for the contract and any change in the responsible Territory entity for the contract;*
- a brief description of what the contract is for;*
- the date the contract was made; and*
- the date the contract ends;*
- the value of the total consideration, or estimated total consideration, for the contract.*

Aside from items specified above, Respondents may identify any sections of their response (that may be included in any resultant contract) that it considers to be confidential text and the applicable grounds for that consideration.

Please note that whether information proposed by a Respondent is ultimately considered and treated as confidential text (and therefore redacted from the published contract) is a matter for the Territory's delegated authority.

For information about confidential text, please refer to <https://www.legislation.act.gov.au/a/2001-28/current/pdf/2001-28.pdf>

Parts of this Response that are to be considered as Confidential Text	Applicable grounds under section 35(1) Procurement Act
insert the Section and details of proposed Confidential Text	insert the grounds for consideration



**Response to RFQ
CM2222370**

<<Insert Supplier Name
and/or Logo>>

Respondent Declaration

I/We declare that all information required by the A.A.2 [*Requirements*] of this RFQ has been included in our Response to RFQ CM2222370, and is true and accurate.

I/We declare I/We have sighted and agree to the *Territory Standard Terms of Quotation*, and any *Additional Contract Terms* specified in this RFQ.

I/We undertake to provide evidence of insurance policies, if selected as the preferred Supplier, prior to entering into a contract with the Territory.

I/We declare I/We are not named by the Workplace Gender Equality Agency as an employer currently not complying with the *Workplace Gender Equality Act 2012* (Cth).

I/We declare that I/We have not engaged in any collusive, anti-competitive or any other similar conduct with any other Respondent or person, or offer any unlawful inducements in relation to this RFQ process.

Prior to completing this declaration ensure you have the legal authority to be a signatory for this quotation.

Signatory's Full Name:	
Signatory's Title/Position:	
Signatory's Phone Number:	
Signatory's email address	
Date:	

NB: physical signatures are not required for this document. Complete the information and return electronically to the email address provided in A.A.5 [*LODGEMENT METHOD*].

ACT GOVERNMENT PROCUREMENT FRAMEWORK THRESHOLDS

PROCUREMENT FACTSHEET: PLN-01-202206

This factsheet provides guidance on the various thresholds under the ACT Government Procurement Framework.

Quotation and Tender Thresholds



The *Government Procurement Regulation 2007 (Regulation)* prescribes the quotation and tender thresholds for approaching the market when procuring goods, services or works.¹ These thresholds specify the minimum requirements for approaching the market depending on the total estimated value of your procurement.

Goods, Services and Works

Total estimated value	Minimum Quotation and Tender Requirements
Less than \$25,000	Must seek at least one (1) oral quotation from a supplier. ²
\$25,000 or more and less than \$200,000	Must seek at least three (3) written quotations from suppliers.
\$200,000 or more	Must invite public tenders .

The thresholds are the minimum requirements set by legislation to help demonstrate the evidence base for open and effective competition as a relevant consideration in the pursuit of value for money.³

Territory entities should seek quotation above the minimum or invite public tenders, where it makes sense for the specific procurement, for example, to obtain more competitive responses from the market. A public tender process may be used for any procurement, regardless of the total estimated value, where it is considered appropriate in pursuit of value for money.

How do I estimate the total value of a Procurement?

When estimating the total value of your procurement, you must consider the whole of life cost. This includes, as relevant:

- > the initial purchase price of the goods, services or works
- > maintenance and operating costs
- > transition out costs
- > licensing costs
- > consumable costs
- > decommissioning, remediation and disposal costs (including waste disposal).

¹ Sections 5, 6 and 9, *Government Procurement Regulation 2007*.

² Please keep appropriate records relating to oral quotations.

³ Section 22A3(c), *Government Procurement Act 2001*.

For the purposes of approaching the market, when the total value of a procurement cannot be estimated, the procurement should be treated as though it is above the \$200,000 threshold.

What if the price offered in a tender is in a higher quotation threshold?

A tendered price that is higher than the total estimated value of a procurement is generally an indication that you might not have researched the market adequately. If this occurs, and there is no other better value for money tender, you may consider a number of options, including approaching a broader market.

For example, if you estimated the total value of the procurement to be \$140,000 and the only quotations that represent value for money are \$210,000 or above, it may be an indication that you should approach through a public tender. If evidence suggests that the market is limited, you may seek an exemption from the quotation and tender thresholds before considering the tender. In all circumstances, you need to ensure that there is sufficient budget in relation to the procurement.

Do the Quotation and Tender Thresholds apply to standing offers or panels?

Standing offer arrangements (including panels) are usually established by public tender, and their total estimated value reflects the entirety of procurements (through work orders or similar) under the standing offer arrangement.⁴

The quotation and tender thresholds apply to the procurement for the establishment of the standing offer arrangement, but they do not apply to procurements (eg work orders) under a standing offer arrangement.⁵

Please note that some panels have specified requirements to approach a minimum number of suppliers on the panel. This will be noted in the panel management plan.

Otherwise, when conducting a procurement using a standing offer or panel arrangement that does not have specified minimum quotation requirements you may approach as many, or as few suppliers on a panel as required to ensure value for money can be demonstrated. That said, seeking multiple quotations may assist a better value for money outcome through effective competition.

Can a procurement be exempt from the Quotation and Tender Thresholds?

The responsible chief executive officer⁶ (or delegated officer)⁷ of a Territory entity may exempt the Territory entity from the quotation and tender thresholds for a particular procurement proposal.⁸ When providing an exemption, the delegate must be satisfied, on reasonable grounds, that the benefit in giving the exemption for that particular procurement proposal outweighs the benefit in complying with

⁴ Refer to [Procurement Factsheet - Establishing Standing Offer Arrangements and Panel Arrangements](#).

⁵ Section 4(1), *Government Procurement Regulation 2007*.

⁶ 'Responsible chief executive officer' means for a directorate, the responsible director-general of the directorate, or for a territory authority, the chief executive officer of the authority.

⁷ Refer to your Chief-Executive's Financial Instructions or internal procurement procedures.

⁸ Section 10, *Government Procurement Regulation 2007*.



the quotation and tender thresholds in the Regulation.⁹

An exemption must be in writing,¹⁰ and state:¹¹

- > the procurement proposal to which it applies
- > the responsible chief executive officer's reasons for the exemption
- > a direction to seek a stated kind or number of quotations for the procurement or invite a tender from a stated supplier for the procurement.

When can I use an exemption?

A delegate may exempt a procurement proposal from the quotation and tender requirements only if the limited approach to market offers better value for money than complying with the requirements.¹²

The Regulation provides the following examples, noting that if a procurement proposal is covered by a Free Trade Agreement (FTA), only the exemptions grounds outlined in the FTA may be used¹³:

- > only a single or limited number of suppliers are available because of the need to purchase equipment that is compatible with existing equipment or because of a supplier's specialist knowledge
- > only one supplier can supply a particular good or service
- > standardisation of a product is agreed after public tenders have been called for the original equipment

- > the time within which a particular procurement activity must be completed prevents the calling of public tenders – note that poor procurement planning is not a valid ground for exemption
- > where a secondary objective of the procurement is to achieve an appreciable social or community benefit
- > the procurement is through a common use agreement established in another jurisdiction.

As better practice, the Territory should maintain a written record of the exemption that includes the name of the procuring entity, the value and what is being procured, and a statement indicating the circumstances and conditions that justify the limited tender consistent with the Regulation.

In all circumstances, Territory entities should ensure that they follow relevant internal processes for exemption approval.

Can I obtain a blanket exemption from a category of procurements?

No, it is not appropriate, and indeed would be contrary to the intention of the provisions relating to exemption, to seek a "blanket approval" for a category(ies) of procurements. An exemption needs to be approved for each procurement proposal. Procurement ACT strongly discourages all practices that may be perceived as an attempt to circumvent the quotation and tender thresholds.

⁹ Section 10(2), *Government Procurement Regulation 2007*.

¹⁰ Section 10(1), *Government Procurement Regulation 2007*.

¹¹ Requirements set by section 10(4), *Government Procurement Regulation 2007*.

¹² Section 10(2), *Government Procurement Regulation 2007*.

¹³ Ibid.



Can I use an exemption to directly approach a Social Enterprise or Aboriginal and Torres Strait Islander Enterprise?

The Regulation allows a relevant delegate to approve an exemption from the tender and quotation thresholds to enable the Territory entity to directly approach a Social Enterprise or Aboriginal and Torres Strait Islander Enterprise. This is because engaging with Social Enterprises and Aboriginal and Torres Strait Islander Enterprises achieve an appreciable social or community benefit.¹⁴

Do I need to undertake an evaluation if an exemption has been approved to approach one supplier or a select number of suppliers only?

An exemption made under section 10 of the Regulation does not remove the requirement to pursue value for money by undertaking a value for money assessment of the resultant quote or tender. The Territory entity needs to ensure that there is evidence base to demonstrate that the exemption delivers greater value for money than complying with the quotation and tender thresholds.¹⁵

When procuring from a single supplier, the Territory entity still needs to evaluate the supplier's response against assessment criteria, having regard to the principle of value for money.

Free Trade Agreement Thresholds¹⁶



Free Trade Agreement (FTA) obligations apply to covered procurements with a

total estimated value at or over the following thresholds:

Category	Total estimated value
Goods and services (including consultancy services associated with works)	\$697,000
Construction	\$9,819,000

Not all procurements at or over these thresholds are covered by FTAs – some Territory entities are not covered, and some categories are exempt.

How do the FTAs impact exemptions?

When deciding if an exemption from the quotation and tender requirements in the Regulation should be approved, the delegate must ensure compliance with any FTAs to which the Territory entity is a party.

For procurements covered by an international procurement agreement (e.g. World Trade Organization Government Procurement Agreement and government procurement chapters in Free Trade Agreements), it is important to remember that the reasons for not approaching the open market are very specific.¹⁷ The circumstances in which FTAs allow the Territory entity to conduct a limited tender for a procurement covered by FTAs are outlined in full in [Procurement Factsheet - Australian Free Trade](#)

¹⁴ Section 10(2)(5), *Government Procurement Regulation 2007*.

¹⁵ Section 22A, *Government Procurement Act 2001*.

¹⁶ For more information see [Procurement Factsheet - Australian Free Trade Agreements](#).

¹⁷ Ibid.

Agreements. If your procurement is at or above the relevant free trade agreement threshold,¹⁸ the reasons allowed under free trade agreements, and not the generic examples in section 10(2) of the Regulation should be used in any approvals.

FTAs also require that the Territory maintain a written record of the exemption that includes the name of the procuring entity, the value and kind of goods or services procured, and a statement indicating the circumstances and conditions that justify the limited tender.

Government Procurement Board Thresholds



Procurement proposals of Territory entities that meet certain criteria and thresholds must be reviewed by the Government Procurement Board (the Board).

This includes procurement proposals that:¹⁹

Category/Buyer	Total estimated value
Administrative Units	\$5 million or more, unless the proposal is covered by an endorsed strategic procurement plan.

All other Territory entities	\$1 million or more, unless the proposal is covered by an endorsed strategic procurement plan.
ICT Systems development or Redesign Procurements	\$1 million or more, unless the proposal is covered by an endorsed strategic procurement plan.
Disposals	of \$1 million or more.

For more information on the Government Procurement Board refer to the upcoming [Procurement Factsheet - The Government Procurement Board](#).

¹⁸ Refer to [Procurement Factsheet - Free Trade Agreements](#) for more information on this.

¹⁹ Section 11, *Government Procurement Regulation 2007*.



Notifiable Contracts, Amendments and Invoice Thresholds



Notifiable Contracts

The threshold amount for a notifiable contract is \$25,000.²⁰

A notifiable contract is a written contract for procurement entered into by the Territory or a Territory entity. This does not include a contract with the total or estimated total consideration to be less than the prescribed amount, an intergovernmental agreement or a contract prescribed under the regulations.²¹

For more information see the [Procurement Factsheet - Reporting Contracts and Invoices](#).

Notifiable Amendments

A notifiable amendment of a notifiable contract is any amendment that have been notified in the notifiable contracts register that increases the total consideration of the contract by 10% or \$25,000 (whichever is the greater).²²

For more information see the [Procurement Factsheet - Reporting Contracts and Invoices](#).

Notifiable Invoices

The threshold amount for a notifiable invoice is \$25,000.²³

A notifiable invoice is an invoice for the prescribed amount or more payable by a responsible Territory entity for goods, services, works, or property provided to, or procured by the Territory or a Territory entity. This includes invoices for reimbursements.

For more information see the [Procurement Factsheet - Reporting Contracts and Invoices](#).

Canberra Region Local Industry Participation Policy Thresholds

The Canberra Region Local Industry Participation Policy (LIPP) ensures that Territory entries consider local capability and economic benefits for the Canberra Region when determining the best available procurement outcome.

This applies to all approaches to market by Territory entities as implemented from 1 January 2017.

LIPP obligations apply to procurements valued at \$200,000 or above. These obligations will be stated at the initial invitation stage of the procurement process.

²⁰ Section 12A, *Government Procurement Regulation 2007*.

²¹ Section 25, *Government Procurement Act 2001*.

²² Section 26, *Government Procurement Act 2001* and Section 12B *Government Procurement Regulation 2007*.

²³ Section 12C, *Government Procurement Regulation 2007*.



Total estimated Contract value (GST Inc.)	LIPP Requirement
Less than \$25,000	No additional obligations.
\$25,000 or more and less than \$200,000	Where possible: <ul style="list-style-type: none"> one quote must be sought from a respondent located in the Canberra Region, and one quote must be sought from an SME.
\$200,000 or more	Submission of an Economic Contribution Test (ECT) is mandatory. Assessment of the ECT will be allocated a default 10% weighting in evaluation process.
\$5 million or more	Submission of a Local Industry Participation (LIP) plan is mandatory. Assessment of the LIPP will be allocated a default 10% weighting in evaluation process.

Secure Local Jobs Code Threshold²⁴



Category	Supplier must hold a certificate	Supplier must submit a LRTWEP
Cleaning	All procurements	\$25,000
Security	All procurements	\$25,000
Traffic Management	All procurements	\$25,000
Construction	All procurements	\$200,000
Services or works that are primarily ²⁵ for labour ²⁶	\$200,000	\$200,000

For more information relating to Secure Local Jobs Code applicable procurements refer to Part 2B of the Act and Part 4 of the Regulations and by visiting: <https://www.procurement.act.gov.au/supplying-to-act-government/securelocaljobs>.

Construction Related Procurement Thresholds



Prequalification

Prequalification under the ACT Government Prequalification Scheme for

²⁴ Section 22G, *Government Procurement Act 2001* and Section 12AA, *Government Procurement Regulation 2007*.

²⁵ The labour component of the contract is 51%, or more.

²⁶ Other than excluded services or works; see section 22F(1), *Government Procurement Act 2001*.

Construction Industry Contractors (Prequalification Scheme) may be a precondition to a contractor participating in a procurement process conducted by the Territory. This will occur if the supplier is prequalified in the required category and meets the required financial threshold prior to the tender closing.

Prequalification under the Prequalification Scheme is not a mandatory requirement for procurements with a total estimated value less than \$250,000.

The [ACT Government Prequalification Scheme for Construction and Industry Contractors Policy and Guidelines](#) provides further information on threshold requirements for construction related procurements.

Work Health and Safety Active Certification

[Work Health Safety Active Certification](#) applies to:

- > contractors on Government building projects in the ACT
- > Superintendents and Principals Authorised Persons (PAP) on ACT building projects
- > Government Approved auditors on Government building projects in the ACT

- > all new construction contracts valued at or above \$250,000 (excl. GST).

Further Information

For more information or advice contact Procurement ACT via email: ProcurementACT@act.gov.au or by calling (02) 6207 9000 option 7.



Local Jobs
Vehicles
Revenue Share
booking system
marketing/promotion
Followers/reach

cost of rides

opening hours

claims

contract

Sch 2.2(a)(xi)

Sch 2.2(a)(xi)

Ticket Type
Day Pass - Weekday
Day Pass – Weekend and Public Holidays
Twilight Pass
10 Ride pass
25 ride pass
Single ride pass

Sch 2.2(a)(xi)

Shuttle Ticket Pricing

Sch 2.2(a)(xi)

From: [Saddler, Scott](#)
To: [Thompson, Daniel](#)
Cc: [Shawcross, Amalie](#); [Welfare, Maggie](#); [Callen, Christine](#); [Khan, Ahmed](#); [Cunningham, Catherine](#)
Subject: RE: Shuttlebus Procurement
Date: Monday, 26 September 2022 4:03:42 PM
Attachments: [image001.png](#)

OFFICIAL

Hi Daniel,

Happy with the process with Dynamic Motivation

Scott Saddler AM

From: Thompson, Daniel <Daniel.Thompson@act.gov.au>
Sent: Monday, 26 September 2022 3:24 PM
To: Saddler, Scott <Scott.Saddler@act.gov.au>
Cc: Shawcross, Amalie <Amalie.Shawcross@act.gov.au>; Welfare, Maggie <Maggie.Welfare@act.gov.au>; Callen, Christine <Christine.Callen@act.gov.au>; Khan, Ahmed <Ahmed.Khan@act.gov.au>; Cunningham, Catherine <Catherine.Cunningham@act.gov.au>
Subject: Shuttlebus Procurement

OFFICIAL

Hi Scott,

I would like to request formal endorsement of the chosen applicant for the Stromlo Forest Park (SFP) shuttle bus services Request for Quote (RFQ) process, as per the recommendation of the internal assessment panel (Maggie Welfare, Catherine Cunningham and I).

The RFQ was issued to three shuttle bus service providers on 5 September 2022 and closed on 19 September 2022, including:

Sch 2.2(a)(xiii)

Sch 2.2(a)(xiii)

Thanks
Dan

Dan Thompson | A/g Business Manager

Ph: (02) 620 50798 | Mobile: [Sch 2.2\(a\)\(ii\)](#)

National Arboretum and Stromlo Forest Park | Economic Development | **Chief Minister, Treasury and Economic Development Directorate** | ACT Government

National Arboretum Canberra, Forest Drive, off Tuggeranong Parkway, Weston Creek | GPO Box 158, Canberra ACT 2601 |

<https://www.nationalarboretum.act.gov.au/> | <https://www.stromloforestpark.act.gov.au/>

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