

ITEM 9. EXEMPTION FROM TENDER – ENGINEERING SUPPORT – LIGHT RAIL

FILE NO: S124621.005

SUMMARY

The Sydney Light Rail project is a \$2.1 billion transport project from Circular Quay to Randwick and Kingsford that will transform the way the city works, looks and feels. In 2013, Council agreed to contribute \$220 million towards the project under a comprehensive set of conditions contained in a Development Agreement with Transport for NSW (TfNSW).

In 2012, Council approved the formation of the City Transformation group under the Chief Operating Officer division. Council also approved subsequent budgets to enable sufficient resources to work through the design and construction issues of this complex project with the light rail project led by TfNSW.

The City Transformation team includes a specialist engineer to advise on in-ground services for the light rail project; in particular, stormwater drainage design. This engineer went on maternity leave in March 2016 at a critical time in negotiations with TfNSW and the light rail contractor, ALTRAC, over the design of CBD drainage to avoid worsening flooding in the city.

Following a review of candidates from engineering consultants, it was agreed to engage a specialist engineer from ARUP Consulting on a part-time basis to backfill the vacancy. ARUP's engineer was initially engaged for six months, three days per week. Due to complexities encountered in resolving the drainage design, the total fee has marginally exceeded the Tender threshold of \$150,000 and requires Council approval and an exemption from tender.

RECOMMENDATION

It is resolved that Council:

- (A) approve an exemption from tender in accordance with section 55(3)(i) of the Local Government Act 1993 noting that, a satisfactory result would not be achieved by inviting tenders;
- (B) note that the reason why a satisfactory result would not be achieved by inviting tenders is due to the fact that going to tender would not deliver a competitive process. The selected candidate has undertaken the works and the fee has marginally exceeded the tender threshold; and
- (C) Council approve the additional expenditure for the backfill costs of replacing the specialist engineer for the light rail project as outlined in confidential Attachment A to the subject report.

ATTACHMENTS

Attachment A: Evaluation Summary (Confidential)

(As Attachment A is confidential, it will be circulated separately from the agenda paper and to Councillors and relevant senior staff only.)

BACKGROUND

1. The City Transformation team includes a specialist engineer to advise on in-ground services for the light rail project, in particular, stormwater drainage design.
2. The staff member went on maternity leave in March 2016 at a critical time in negotiations with TfNSW and the light rail contractor, ALTRAC, over the design of CBD drainage to avoid worsening flooding in the city.
3. Consequently, a number of agencies and engineering consultants were asked to nominate suitably qualified engineers for the position. Three candidates were interviewed. These are detailed in confidential Attachment A.
4. There was no available, suitably qualified specialist working at the City to temporarily replace the City Transformation engineer.
5. It was agreed to engage a specialist engineer from ARUP Consulting on a part-time basis to backfill the vacancy. ARUP was chosen due to the experience and qualifications of the person nominated and the fact that they were advising TfNSW on the same design issue.
6. An order was placed for ARUP's engineer to be engaged for six months, three days per week. The contract was to conclude in August 2016. This would have been completed within the approved amount for the engagement.
7. Due to complexities in resolving the drainage design, the total fee has exceeded the tender threshold of \$150,000 and requires Council approval and an exemption from tender. The ARUP engineer was required to attend negotiations and review design documentation beyond the anticipated contract end, into September 2016.
8. The ARUP engineer made a significant contribution to the ultimate resolution of the stormwater design strategy.

PERFORMANCE MEASUREMENT

9. The engineer was experienced in the flood modelling software being used by ALTRAC and TfNSW. He was thus able to provide expert and detailed commentary and advice on the stormwater design and flooding implications.

BUDGET IMPLICATIONS

10. Funding is available through the City Transformation Unit's operational budget.

RELEVANT LEGISLATION

11. Section 55(3)(i) of the Local Government Act 1993.
12. Attachment A contains confidential commercial information of the tenderers and details of Council's tender evaluation and contingencies which, if disclosed, would:
 - (a) confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business; and
 - (b) prejudice the commercial position of the person who supplied it.

13. Discussion of the matter in an open meeting would, on balance, be contrary to the public interest because it would compromise Council's ability to negotiate fairly and commercially to achieve the best outcome for its ratepayers.

CRITICAL DATES / TIME FRAMES

14. As the stormwater drainage design strategy has been successfully resolved, and the City's engineer has returned to work on 30 January 2017, there are no time critical issues.

KIM WOODBURY

Chief Operating Officer

Terry Daly, Executive Manager, City Transformation