

## **Cancellation of Tender - Drying Green Park, Green Square Town Centre**

**File No: S118373**

**Tender No: 1732**

### **Summary**

An Expression of Interest (EOI) for Design and Construction, went out on 26 April 2017 and five submissions were received. Based on the EOI, a shortlist of two prospective contractors were issued with Request for Tender (RFT) documents on 26 June 2017, one of whom was Tenderer A. The two tenderers submitted their final lump sum tenders on 22 August 2017.

The Tender Evaluation Panel reviewed the tenders and recommended that Tenderer A be accepted, with the other tender submission being deemed non-conforming.

On 23 October 2017, Council resolved to accept the tender of Tenderer A for the Drying Green Park. The City prepared the final contract documents and issued these to Tenderer A for execution in December 2017.

Tenderer A did not agree to execute the Contract in the form as submitted for execution by the City. The City and Tenderer A have sought to resolve the key differences between the parties which relate primarily to the content of the Principal Project Requirements (PPR) but this has been unsuccessful.

This report recommends Council decline to accept the tender submission of Tenderer A and cancel the tender for the Design and Construction of Drying Green Park in accordance with section 178 of the Local Government (General) Regulation 2005.

### **Recommendation**

It is resolved that Council:

- (A) decline to accept the tender submission of Tenderer A for the Design and Construction of Drying Green Park, Green Square in accordance with section 178(1) of the Local Government (General) Regulation 2005; and
- (B) cancel the tender for the Design and Construction of Drying Green Park, Green Square in accordance with section 178(3)(a) of the Local Government (General) Regulation 2005.

## Attachments

Nil.

## Background

1. Drying Green Park is located at the centre of the new Green Square Town Centre. It is a key component to achieve the vision for the new Town Centre and will provide a significant community green space as well as pedestrian connections between the Town Centre Library and Plaza and the Green Square Community and Cultural Precinct.
2. The City commissioned McGregor Coxall to prepare the design of the Park. The design indicated that some of the site conditions might pose challenges for construction. Given this, the City chose to tender the project through a selective tendering method in accordance with section 168 of the Local Government (General) Regulation 2005.

This included:

- (a) a preliminary design documented to 95 per cent, noting some geotechnical investigation, remediation and safety modifications are required;
  - (b) the Principal Project Requirements (PPR) setting out the objectives and functional requirements for the project; and
  - (c) specific operations and maintenance requirements for the landscape berms and wetland water management system.
3. An Expression of Interest (EOI) for Design and Construction, went out on 26 April 2017 and five submissions were received. Based on the EOI, a shortlist of two prospective contractors were issued with Request for Tender (RFT) documents on 26 June 2017, one of whom was Tenderer A. The two tenderers submitted their final lump sum tenders on 22 August 2017.
  4. The Tender Evaluation Panel reviewed the tenders and recommended that Tenderer A be accepted, with the other tender submission being deemed non-conforming.
  5. By Resolution of Council dated 23 October 2017, Council resolved to accept the tender of Tenderer A for the Drying Green Park. The City prepared the final contract documents and issued these to Tenderer A for execution in December 2017.
  6. Tenderer A did not agree to execute the Contract in the form as submitted for execution by the City. The City and Tenderer A have sought to resolve the key differences between the parties which relate primarily to the content of the Principal Project Requirements but this has been unsuccessful.
  7. The recommendation to cancel the tender is made given Tenderer A's proposed changes to the Principal Project Requirements are significant and materially different to what Council understood Tenderer A provided at time of awarding the tender.

### **Financial Implications**

8. There is adequate funding to deliver this project, however additional costs may be incurred due to the retender process. The Project team will closely monitor the costs.

### **Relevant Legislation**

9. The tender has been conducted in accordance with the Local Government Act 1993, the Local Government (General) Regulation 2005 and the City's Contracts Policy.

### **Critical Dates / Time Frames**

10. Cancellation of Tender notification Letter to be issued to Tenderer A following Resolution of Council.
11. Given the need to retender, a revised forecast construction completion is now late 2020.

### **AMIT CHANAN**

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