

Item 9.**Tender - Reject and Negotiate - Bathurst Street (Greenland) Creative Hub (working title) Operator****File No: X021544.003****Tender No: 1955****Summary**

This report provides details of the tenders received from prospective service operators for the "Bathurst Street (Greenland) Creative Hub (working title) Operator".

In 2014, the City of Sydney (the City) entered into a Voluntary Planning Agreement with Greenland Pty Ltd to deliver a Creative Hub as part of the Development Application consent for its mixed-use building at 115-119 Bathurst Street, Sydney. The Creative Hub will provide approximately 2,000 square metres of work space for creative practitioners and enterprises in the form of affordable rehearsal spaces, production spaces and creative studios.

The City sought to partner with a service operator for the ongoing operational management of the Creative Hub. This management and service delivery model would maximise opportunities for the cultural and creative sector to access the Creative Hub's facilities and align with industry best practice.

In June 2019, the City commenced a two-stage procurement process for the ongoing management of the Creative Hub. Three submissions were received to the first stage Expression of Interest. Two submissions from suitably qualified tenderers progressed to the second stage 'select tender'.

This report recommends that Council reject and negotiate the tender offers from suitably qualified tenderers for Bathurst Street (Greenland) Creative Hub (working title) Operator.

Recommendation

It is resolved that:

- (A) Council decline to accept all tender offers received for the Bathurst Street (Greenland) Creative Hub (working title) Operator for the reasons set out in the confidential Tender Evaluation Summary, Attachment A to the subject report;
- (B) Council does not invite fresh tenders, as it is considered that inviting fresh tenders would not attract additional suitable tenderers over and above those that have responded to this tender and the preceding Expression of Interest;
- (C) authority be delegated to the Chief Executive Officer to enter in to negotiations with any person with a view to entering into a contract in relation to the subject matter of the tender;
- (D) authority be delegated to the Chief Executive Officer to execute and administer the contract with the preferred service provider following completion of the negotiations; and
- (E) Council be informed of the successful service provider via CEO Update.

Attachments

Attachment A. Tender Evaluation Summary (Confidential)

Background

1. In 2014, the City developed and adopted its 'Creative City Cultural Policy and Action Plan'. This policy identified limited access to affordable, customised work-space for creative practitioners and enterprises in Sydney as the most pressing challenge to sustainable creative practice in the city. This lack of workspace impedes the growth and health of the city's creative arts sectors.
2. In 2014, the City entered into a Voluntary Planning Agreement (VPA) with Greenland (Sydney) Bathurst Street Development Pty Ltd for the provision of a 'Creative Hub' as part of the Development Application (DA) consent for its mixed-use development at 115-119 Bathurst Street, Sydney. The following public benefits were specified in the VPA:
 - (a) The proposal will contribute to Sydney's creative economy by providing low-cost, affordable space for the creative population.
 - (b) The proposal is long-term, providing sustainability to the creative sector in the future.
 - (c) The proposal has the potential to create a whole new creative precinct and transform the character of the area.
 - (d) The proposal incorporates innovative reuse of the existing building and will foster distinctiveness due to the unique combination of uses in the creative hub.
3. The Creative Hub will provide approximately 2,000 square metres of work space for creative practitioners and enterprises in the form of affordable rehearsal spaces, production spaces and creative studios.
4. Occupying the podium of the 115-119 Bathurst Street high-rise residential tower (currently under construction), the facility will wrap levels 2-7 of the tower's above-ground parking on the eastern and northern facades. The main entry of the Creative Hub is located on the ground floor addressing Bathurst Street.
5. The Creative Hub comprises:
 - (a) entry, lobby café and exhibition window (level 0);
 - (b) plant room (level 1);
 - (c) performing arts rehearsal spaces and back of house uses (level 2);
 - (d) performing arts administration facilities and rooms (level 3);
 - (e) rehearsal and recording studios with control room (level 5);
 - (f) production studios and editing suites (level 6);
 - (g) creative studios and an artist in residence apartment with attached creative studio (level 7);
 - (h) three car spaces including one accessible space and loading zone; and
 - (i) lift to service all Creative Hub levels and basement level for waste and deliveries.

6. The VPA grants the City tenancy rights for the use of the Creative Hub for a 99 year term. The Detailed Performance Brief attached to the VPA specifies that the key objectives of the Creative Hub are that:
 - (a) The overall centre will promote cross disciplinary integration between the various art forms. This will include a sharing of some technical spaces and connectivity via cabling infrastructure.
 - (b) The spaces may host a mix of early career, mid-career, senior artists and creative teams to encourage upward and downward mentoring.
 - (c) The overall centre will create rehearsal and practice spaces for dedicated creative practice by semi-professional and professional artists and creative teams.
 - (d) Each floor will contain a mix of practical workspaces customised for the needs of a range of creative disciplines.
 - (e) Some floors include offices, meeting spaces and supplementary facilities.
7. Under the VPA, Greenland Pty Ltd is undertaking the Creative Hub's base building works and a limited fit out, with the City to undertake the final fit-out of specialist areas for technical performance, recording and production capabilities, as well as the fit out of the entry foyer and café.
8. In June 2019, the City commenced a two-stage procurement process to engage and partner with a suitable service operator for the ongoing operational management of the creative hub. Three submissions were received to the first stage expression of interest, with two submissions being progressed to the second stage 'select tender'.
9. The aim of the service is to:
 - (a) ensure industry best practice management and service delivery to maximise opportunities for the creative and cultural sector to access the Creative Hub;
 - (b) provide access to affordable space;
 - (c) provide equity of access across creative practitioners and organisations, and art forms;
 - (d) implement affordable and market value (industry aligned) hireable rates;
 - (e) maximise utilisation and occupancy;
 - (f) provide opportunities for interaction and collaboration between creative practitioners and disciplines;
 - (g) support and respond to the needs of the creative sector within the parameters of the Creative Hub; and
 - (h) embed effective management and governance to support long term financial sustainability.

10. The service operator will be responsible for the full range of services provided at the Creative Hub including but not limited to:
 - (a) overall operational management of the Creative Hub;
 - (b) operation of or arranging an operator for services for the café;
 - (c) coordinating all arrangements for the artist in residence apartment;
 - (d) providing, but not limited to, all necessary staff, additional equipment required by the operator or hirers, materials, consumables, insurances, utility costs and organisational support for the delivery of the services; and
 - (e) providing a full range of services including but not limited to service delivery, business planning, marketing, work health and safety, program reporting and selected cleaning and maintenance.
11. The City recognises the need for a collaborative approach in the delivery of this service and wishes to establish a professional arrangement with an operator based on co-operation, regular dialogue and a strategic approach to ensure the community, the City and the operator all achieve their goals in a professional, fair and best value manner.

Invitation to Tender

12. Tenderers were short listed as registered tenderers by the previous Expression of Interest, "E0419 Bathurst Street (Greenland) Creative Hub (working title) Operator" which was released in July 2019 and open for three weeks.

Tender Submissions

13. Tender submissions were received from both organisations invited to the Select Tender:
 - Brand X Productions Incorporated; and
 - The Studio Ltd.
14. No late submissions were received.

Tender Evaluation

15. All members of the Tender Evaluation Panel have signed Pecuniary Interest Declarations. No pecuniary interests were noted.
16. The relative ranking of tenders as determined from the total weighted score is provided in the Confidential Tender Evaluation Summary – Attachment A.

17. All submissions were assessed in accordance with the approved evaluation criteria being:
- (a) demonstrated organisational and financial capacity including:
 - (i) guaranteed operating payment;
 - (ii) annual operating budget that supports the running costs of the facility in a sustainable manner;
 - (iii) justification for other income;
 - (iv) financial statements; and
 - (v) financial schedule;
 - (b) demonstrated experience:
 - (i) operating a quality and compliant Creative Hub, including but not limited to sub-contractor management, asset management and maintenance (including technical equipment and information technology) and risk management; and
 - (ii) delivering similar services including but not limited to hiring services;
 - (c) proposed methodology to achieve service aims and objectives including:
 - (i) occupancy;
 - (ii) access to affordable space;
 - (iii) equity of access; and
 - (iv) opportunities for interaction and collaboration between creative practitioners; and disciplines;
 - (d) proposed operational plans and capacity and capability to deliver the services:
 - (i) draft management plan;
 - (ii) draft implementation plan;
 - (iii) draft annual business plan; and
 - (iv) café and residential apartment management methodology;
 - (e) Work, Health and Safety; and
 - (f) financial and commercial trading integrity, including insurances.

Performance Measurement

18. Key Performance Indicators were identified in the Request for Tender document. Performance will be evaluated regularly, at least annually, and always upon completion of each contract term. Each assessment will form the basis of the Performance Review.

Financial Implications

19. There are sufficient funds allocated for this project within the current year's operating budget and future years' forward estimates.

Relevant Legislation

20. The tender has been conducted in accordance with the Local Government Act 1993, the Local Government (General) Regulation 2005 and the City's Procurement and Contract Management Policy.
21. Local Government Act 1993 - Section 10A provides that a council may close to the public so much of its meeting as comprises the discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.
22. 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.
23. 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

24. The Creative Hub projected timeframes are:
 - (a) July-September 2020 Negotiation period with suitable operators
 - (b) October 2020 Service operator contract awarded
 - (c) December 2020 Greenland Pty Ltd base build anticipated completion
 - (d) February 2021 City fit out works commence
 - (e) August 2021 City fit out works complete
 - (f) August 2021 City handover building to service operator

25. The City wishes to contract the service operator as soon as possible to have them engaged during the City fit out works and to allow operations to commence as soon as possible following completion of these works.

Options

26. The City could elect to cancel the tender and instead operate the Creative Hub itself. This option is not recommended because it is considered it would not achieve best value for money or maximise sector outcomes. Importantly, this result would contradict consultation feedback from the sector on the Creative Hub's operation.
27. It is recommended that the City reject these tender offers and negotiate with suitably qualified providers.

Public Consultation

28. Public consultation was undertaken with the cultural and creative sector over a three month period in 2018 regarding the most appropriate operational model for the Creative Hub. Based on this feedback, in mid-2019 the City undertook an Expression of Interest process, E0419 "Bathurst Street (Greenland) Creative Hub (working title) Operator", which was widely distributed to 192 potentially interested parties in the arts, innovation and creative industries.

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