

## **Exemption from Tender and Contract Variation - Head Design Consultant - Hyde Park South Cafe**

**File No: S122018.002**

### **Summary**

This report seeks an exemption from tender for the extended consultancy services of the Head Design Consultant and an increase in the contract contingency for works on the Hyde Park South Cafe.

The Hyde Park South Café is currently in an extended construction period for the delivery of the new café and the landscape integration of the café into the surrounding parkland. Works also include the integration of the Transport for NSW easy access upgrade to the Museum Station lift lobby to the café.

The Head Design Consultant was engaged in 2015 to design and document the Hyde Park South Café. Construction works commenced in March 2018, however, works have been delayed by a number of factors including Transport for NSW construction management and design requirements, additional heritage approvals and third party integration works, including the adjacent Anzac Memorial integration works.

A number of the unanticipated issues that have arisen have required additional design services during the construction period. As a result, and due to the extended delivery timeframes, the contract contingency has been exhausted for this contract.

This report recommends that Council grant an exemption from tender to extend the Head Consultant engagement to the end of the construction phase of the project, with an increase to the contract contingency.

## **Recommendation**

It is resolved that:

- (A) Council approve an exemption from tender for the Head Design Consultant - Hyde Park Café South for additional contract contingency to allow for additional design services;
- (B) Council note that a satisfactory result would not be achieved by inviting tenders for this work because the consultant is already engaged and work is well underway. It would not present value for money to engage someone else to do this work; and
- (C) authority be delegated to the Chief Executive Officer to finalise negotiations and enter into any documentation to vary the existing agreement.

## **Attachments**

**Attachment A.** Financial Implications (Confidential)

## Background

1. The Head Design Consultant, Andrew Burns Architects (ABA), was engaged in May 2015 to design and document the Hyde Park South Café. Construction works commenced in March 2018, however, works were initially delayed as a result of Transport for NSW construction management and design requirements, additional heritage approvals and the adjacent Anzac Memorial integration works, which restricted site access prior to the Invictus Games in October 2018.
2. Based on the above delays, on 10 December 2018, Council endorsed the additional contract contingency for the Head Design Consultancy contract for the continuity of design services through the extended construction phase.
3. Further delays have since occurred due to site complexities, heritage approval requirements and third party integration works.
4. A number of the unanticipated issues that have arisen have required additional design services during the construction period. As a result, and due to the extended delivery timeframes, the contract contingency has been exhausted for this contract.
5. The original consultancy contract sum and all previously approved contingencies for the Head Design Consultant have now been exhausted and a further extension of the contract is required for additional design services to bring the project to completion and meet all statutory requirements to achieve the Occupation Certificate.

## Key Implications

### Strategic Alignment - Sustainable Sydney 2030

6. Sustainable Sydney 2030 is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. This program is aligned with the following strategic directions and objectives:
  - (a) Direction 9 - Sustainable Development, Renewal and Design - the completion of this development will make a substantial contribution to Hyde Park and the City surrounds, to improve and enhance passive recreation for the community.

## Financial Implications

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

### Relevant Legislation

8. An exemption from tender for the Head Design Consultancy for the Hyde Park South Café is recommended in accordance with Local Government Act 1993, section 55(3)(i).
9. Local Government Act 1993, the Local Government (General) Regulation 2005 and the City's Procurement and Contract Management Policy.
10. 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.
11. Attachment A contains confidential commercial information of the consultancy contract which, if disclosed, would:
  - (a) confer a commercial advantage on a person with whom Council is conducting business; and
  - (b) prejudice the commercial position of the person who supplied it.
12. 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

13. If approved by Council, the timeframe for the project is:
  - (a) Approval of contract extension August 2020
  - (b) Completion of works September 2020

### Options

14. The City could go to tender for the remaining design consultancy works required to complete the project. This option is not recommended as work is well underway and the project is near completion. It would not present value for money to tender and engage someone else to do this work. The time taken to undertake a new tender process would also further delay completion of the project.
15. Completion of the project without a head design consultant is not recommended as continuation of consultancy services is necessary to ensure the design integrity of the built outcome and compliance with architectural documentation and specifications.

**Public Consultation**

16. No public consultation has been undertaken in relation to this contract extension.

**AMIT CHANAN**

Director City Projects and Property

Linda Phillips, Design Manager, City Projects