

Tender - T-2023-1041 - Reject and Negotiate - Sydney Park Brick Kilns Precinct Upgrade and Contract Variation - Head Design Consultant

File No: X082505.008

Tender No: T-2023-1041

Summary

This report provides details of the tenders received for the construction of the Sydney Park Brick Kilns Precinct Upgrade and contract variations for the Head Design Consultant.

The Sydney Park Brick Kilns Precinct contains substantial remains of the brickmaking industry which once dominated the area. There were previously four separate brick manufacturing facilities operational on different sites within Sydney Park throughout the twentieth century. The structures that remain on this site constitute a striking landmark and a powerful example of this brickmaking history that contributes to the streetscape of the Princes Highway and act as a significant gateway into Sydney Park.

The objectives of the current project are to deliver the stabilisation and preservation of the Sydney Park Brick Kilns structures, to renew the surrounding landscape of the precinct and to celebrate and interpret the significant industrial and cultural history of the site.

The project scope for the Sydney Park Brick Kilns Precinct Renewal works was endorsed by Council on 22 August 2022, forming the basis for the development application and future tender for the renewal works. The updated scoping report was endorsed by Council on 11 March 2024 for the design refinement including accessibility, structural works, services and waterproofing to the Down Draught Kilns.

This report recommends that Council decline to accept the tender offers received for the construction of the Sydney Park Brick Kilns Precinct Upgrade and enter into negotiations with suitable vendors for the construction of the Sydney Park Brick Kilns Precinct Upgrade.

This report also seeks Council approval of additional contract contingency for Head Design Consultant services during the construction stage of the Sydney Park Brick Kilns Precinct Upgrade.

Recommendation

It is resolved that:

- (A) Council decline to accept the tender offers for the Sydney Park Brick Kilns Precinct Upgrade for the reasons outlined in Confidential 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 contractors over and above those that have responded to this tender and preceding Expression of Interest;
- (C) authority be delegated to the Chief Executive Officer to enter into negotiations with any person with a view to entering into a contract on terms that are appropriate in relation to the subject matter of the tender;
- (D) Council note that the outcome of negotiations will be reported back to Council; and
- (E) Council approve additional contract contingency for the Head Design Consultant services during the construction stage of the Sydney Park Brick Kilns Precinct Upgrade for the amount outlined in Confidential Attachment A to the subject report.

Attachments

Attachment A. Tender Evaluation Summary and Financial Implications (Confidential)

Background

1. Sydney Park occupies a large parcel of land in the southern part of the Local Government Area (LGA) between St Peters and Alexandria. It is owned and managed by the City. The Brick Kilns are located in the north-western portion of the park, adjacent to the intersection of the Princes Highway and Sydney Park Rd, St Peters.
2. The former Bedford brickworks kilns, chimneys and machinery are listed heritage items. The brick kilns stand as a unique and significant example of the industrial heritage and the previous vast brick making works which was the dominant industry in the area now known as Sydney Park.
3. The condition of the kiln and chimney structures is under constant review and to date the City has undertaken a series of projects to ensure the stability of the structures and maintain public safety.
4. Due to their age and, in part, the nature of their original construction detail, the brick kilns have dilapidated to the extent that it has been determined major works are required to stabilise and restore the brick kiln structures to help protect and maintain the heritage fabric of the precinct and improve the overall visual aesthetic. The works will include landscape renewal and associated services upgrade works.
5. In August 2021 the project was endorsed for the renewal and upgrade works at Sydney Park Brick Kiln Precinct commencing with the engagement of a Head Design Consultant to develop the proposal.
6. The project will deliver the stabilisation and restoration of the existing Sydney Park Brick Kiln and Chimney structures including reinstatement/ renewal of roofs, services renewal, provide heritage interpretation and an upgraded public domain and park entry which integrates the kilns as structures within the landscape of Sydney Park.
7. Tonkin Zulaikha Greer Architects were engaged for Head Design Consultancy Services for the Sydney Park Brick Kilns Precinct Upgrade following an Expression of Interest and Tender process. The contract was approved by the Chief Executive Officer under delegation on 8 December 2021.
8. This report also seeks Council approval of additional contract contingency for Head Design Consultant services during the construction stage of the Sydney Park Brick Kilns Precinct Upgrade.

Invitation to Tender

9. An Expression of Interest (Stage 1) was undertaken to shortlist contractors to proceed to a selected tender process, in accordance with s.55(4) of the Local Government Act 1993.
10. The City invited submissions through an open Expression of Interest (E-2023-1040) via Tenderlink on 14 November 2023, closing on 12 December 2023. The Expression of Interest was listed with Supply Nation and NSW Indigenous Chamber of Commerce. Eight suppliers provided submissions. Five suppliers were shortlisted to provide a Tender.
11. Prior to release of the Request for Tender, one of the shortlisted suppliers advised the City of their intention to withdraw from the tender process.

12. The Request for Tender was released to the remaining four shortlisted suppliers via Tenderlink on 27 March 2024 and was in the market for a period of eight weeks. Submissions closed on 21 May 2024.

Tender Submissions

13. During the tender period, an additional shortlisted supplier advised the City of their intention to withdraw from the tender process.
14. Three submissions were received from the following organisations:
 - Belmadar Pty Ltd (ABN: 53 156 053 351)
 - Ford Civil Contracting Pty Ltd (ABN: 24 002 542 814)
 - Gartner Rose Pty Ltd (ABN: 31 059 738 242)
15. No late submissions were received.

Tender Evaluation

16. All members of the Tender Evaluation Panel have signed Pecuniary Interest Declarations. No pecuniary interests were noted.
17. The relative ranking of tenders as determined from the total weighted score is provided in the Confidential Tender Evaluation Summary – Attachment A.
18. All submissions were assessed in accordance with the approved evaluation criteria being:
 - (a) Lump sum price and schedule of prices;
 - (b) Company / Team Suitability and Capacity:
 - (i) Demonstrated suitability and assessed value, vision, and qualities to deliver a project of similar scope, scale and complexity including in performing the role of principal contractor and leading a multi-disciplinary delivery team of specialist contractors.
 - (ii) Current capacity to deliver the project works with consideration of project commitments and current workload.
 - (iii) Demonstrated commitment to Supplier Code of Conduct and Aboriginal and Torres Strait Islander Involvement.
 - (c) Structure and Personnel Capability:
 - (i) Proposed delivery team structure, roles and responsibilities and reporting framework for the tenderer's nominated personnel including project leaders from the Key Project Team and nominated sub-contractors proposed for this specific contract.

- (ii) Nominated personnel allocation for the project as named in the Delivery Team Structure including details of position held and percentage of time on this project.
 - (iii) CV's and other information to demonstrate their experience and capabilities in delivering a project of similar scope, scale and complexity to the works nominated in this RFT including demonstrated experience in managing multi-disciplined teams across general construction, landscaping and heritage restoration projects.
- (d) Relevant Previous Experience and References - Key Project Team:
- (i) Demonstrated experience in performing the role of Principal Contractor and leading a multi-disciplinary delivery team of specialist contractors.
 - (ii) Demonstrated experience in delivering projects of a similar scope, scale and complexity by the Key Project Team.
 - (iii) Demonstrated experience in delivering complex heritage, building and landscape projects.
 - (iv) Associated references checks as provided for previous projects of a similar scope, scale and complexity.
- (e) Company Profile and Relevant Previous Experience and References of Nominated Sub-contractors (excluding those Nominated in the Key Project Team);
- (i) Company profile statements and associated sub-contractor information - including Licences and other accreditations.
 - (ii) Demonstrated experience in delivering projects of a similar scope, scale and complexity by key sub-contractors including relevant experience in the delivery of complex landscape and heritage restoration projects.
 - (iii) Associated reference checks as provided for previous projects of a similar scope, scale and complexity.
- (f) Proposed Program and Methodology:
- (i) Program: Demonstrated clear and deep understanding of the project through the logic, breakdown and sequence of the works under contract including demonstration of a realistic and achievable delivery duration. Consideration of contract and administration requirements including hold/witness points & milestones, lead times, Authority approvals and any other critical issues of the project. Understanding of significant sub-contractors' involvement, management of sub-contractors and any other activities that require management during the works and other matters described in the Returnable Schedule.
 - (ii) Methodology: Proposed Construction Methodology including logic for proposed sequencing of works that aligns with the submitted construction program. Understanding of site-specific opportunities, risks and limitations with proposed mitigation strategies including but not limited to public interface and other matters described in the Returnable Schedule.

- (iii) Proposed site-specific management plans - Site Management Plan, Traffic and Pedestrian Management Plans. Responses to WHS Management System and Heavy Vehicle National Law Chain of Responsibility schedules.
- (g) Demonstrated Project understanding:
 - (i) Demonstrated understanding of project scope, project risk and associated costs through the assessment of the Schedule of Prices, requested rates and Materials Schedule. Statement of Conformance and acceptance of the General Conditions of Contract.
 - (h) Insurances are compliant with the City's standard insurance requirements, as confirmed by the Risk Office.
 - (i) Work, Health and Safety.
 - (j) Financial and commercial trading integrity including insurances.

Performance Measurement

19. Key Performance Indicators were identified in the Request for Tender document. Performance will be assessed at each project stage and at the completion of the contract, with each assessment forming the basis of the Performance Review Results.

Financial Implications

20. An increase to the contract contingency is sought for the Head Design Consultant contract for additional design services required during the construction stage, as outlined in Confidential Attachment A.
21. There are sufficient funds allocated for this contract contingency increase within the current year's capital works budget and future years' forward estimates.
22. Additional funds may be required for the delivery of the construction works, which will be known upon completion of the negotiation. If required, approval for additional funds will be sought through a future quarterly report to Council

Relevant Legislation

23. The tender has been conducted in accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2021.
24. 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.

25. 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.
26. 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

27. The following key dates apply to this project:
- (a) Council approval to reject and negotiate July 2024
 - (b) Further Council report recommending the preferred Contractor early 2025
 - (c) Chief Executive Officer approval to execute contract early 2025
 - (d) Forecasted Contractor site establishment mid 2025
 - (e) Forecasted date for construction completion mid 2027
28. The Head Design Consultant construction stage services will be required for the duration of the construction period nominated above.

Options

29. Alternative options for the construction delivery are:
- (a) Accept one of the submitted tenders. This is not recommended due to the assessed variance between the pre-tender estimate and the value of tender submissions requiring further interrogation and negotiation to ensure the contract value reflects the true market value for the works and associated risk profile for the project.
 - (b) Reject all tenders and readvertise. This is not recommended as it is not expected to provide a better outcome and the new process would delay the delivery of works and the remediation of the heritage structures.
 - (c) Not proceed with the project, which is not recommended as the heritage brick kiln structures will continue to deteriorate and subsequently increase asset renewal.

30. Alternative options for the Head Design Consultant for the additional services required for the construction stage:
- (a) Request fee submissions from other design consultants. The Head Design Consultant has undertaken extensive works to investigate, design and document the works proposed for delivery by the construction contractor. The Head Design Consultant is currently engaged to provide construction stage services within their contract and as such, the engagement of an alternative consultancy for the additional construction stage services is not expected to provide a better price outcome and could compromise the coordination and execution of the works and risk the quality and compliance of the deliverables.
 - (b) Not utilising the Head Design Consultant and their sub-consultancies for potential additional construction stage services is not recommended as it could compromise the coordination of works and risk the quality and compliance of the deliverables.

Public Consultation

31. Two periods of community consultation have been undertaken to date. The first period of early engagement consultation was on exhibition from 14 March 2022 to 8 April 2022. The second period of concept design community consultation was on exhibition from 1 July 2022 to 29 July 2022.
32. Early engagement consultation was undertaken between 14 March 2022 to 8 April 2022 to understand how the community use the space and what they value to inform a concept design.
33. Community consultation on the concept design was undertaken between 1 July 2022 to 29 July 2022.
34. A public exhibition of detailed design plans was undertaken between 25 September and 24 October 2023 as part of the planning approval process.
35. Additional public, community and property owner consultation will be undertaken throughout the project as it progresses:
- Prior to construction, notification letters will be sent to adjoining property owners and businesses.
 - During construction, the contractor will include a nominated community liaison officer to ensure ongoing communication and coordination with all stakeholders.
 - There will be regular updates on the City of Sydney website.

KIM WOODBURY

Chief Operating Officer

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