

10.1 Confidential - Contract Award Port Noarlunga Foreshore Redevelopment Stage 2 Witton Centre Upgrade

This report seeks Council approval to award the building contract for the Witton Centre redevelopment component of the foreshore upgrade and delegate authority to the Chief Executive Officer to finalise and execute all documentation in accord with the Council endorsed procurement process.

This is a new proposal, concept or issue.

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Attachments: 1. Request for Proposal Evaluation Summary (5 pages)
2. Contracting and Tendering Services letter (1 page)

1 Executive summary

1.1 Topic

This report seeks Council approval to award the building contract for the Witton Centre redevelopment component of the foreshore upgrade and delegate authority to the Chief Executive Officer to finalise and execute all documentation in accord with the Council endorsed procurement process.

1.2 Context

As outlined in the non-confidential report on this agenda, stage 2 and 3 of the Port Noarlunga Foreshore Redevelopment has been brought forward in response to a \$3m federal funding grant.

The project will revitalise the Port Noarlunga foreshore node and provide accommodation for the Port Noarlunga Surf Life Saving Club, the Department of Education and Children Services (DECS) Aquatics Program and a commercial facility. Concept designs have been completed and detailed design has commenced for the redevelopment of the Witton Centre building (stage 2). It is now timely to appoint a building contractor to review and inform the detailed design process and engage all sub-contractors required to undertake the works, as outlined in the procurement process endorsed by Council on 1 September 2009.

The contract value for this role falls outside the Chief Executive Officer's delegated authority (\$500,000), therefore requiring a decision of Council for the expenditure.

A registration of interest and a subsequent select tender process (termed request for proposal in this procurement) was conducted for the building contractor services. Council approval to implement this phase of the project

and award the building contract for the Witton Centre redevelopment (Port Noarlunga Foreshore Redevelopment Stage 2) is now sought.

As outlined in the previous non-confidential report within this agenda and the 1 September 2009 report to Council, the early contractor involvement process requests tenders on the basis of three price elements and a fixed construction sum to be agreed near the conclusion of the design process.

Similar to the process undertaken for the Woodcroft redevelopment, the award of the contract essentially commits us to the entirety of the project. Therefore, this report also seeks Council delegation to the Chief Executive Officer (CEO) to finalise and execute all documentation associated with the fixed construction sum for the works. This is on the basis of probity advice and that the agreed sum is within the project budget. Probity advice has been sought throughout the registration of interest and request for proposal process, refer attachment 2 for approval of the process undertaken to date.

This report is presented subject to Council endorsement of the separate non-confidential item on this agenda which provides background information and seeks Council endorsement of the prudential report for this project.

Council's procurement policy and process focuses on ensuring that the confidentiality of all information provided in the course of tendering is preserved. The possible implication of not considering this item in confidence is that, in the event that Council elects not to award the contract and further negotiation with prospective tenderers is required extending the course of the tendering, these discussions would no longer be able to be held commercially in confidence.

It is therefore suggested that Council consider this item in Confidence. Section (ii) 90(3)(k) of the Local Government Act 1999 is suggested as the most appropriate to use for this purpose.

1.3 Suggested outcome

That Council approve the award of the contract to Badge Constructions (SA) Pty Ltd for the total sum of \$669,865 including GST and delegate authority to the CEO to finalise the fixed construction sum contract, subject to probity advice and providing it is within the current and forecast budget, together with all associated documentation in order for the project to proceed to implementation.

2 Recommendation(s)

1. That

a. under the provisions of Section 90(2) of the Local Government Act 1999 an order be made that the public be excluded from attendance at the meeting in order to consider in confidence this item.

b. Council is satisfied that it is necessary that the public be excluded to enable the Council to consider the report at the meeting on the following grounds:

- Section 90(3)(k) tenders for the supply of goods, the provision of services or the carrying out of works.**
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- c. accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential.
2. Council accept the proposal by Badge Constructions (SA) Pty Ltd for the provision of building contractor services for the Port Noarlunga Foreshore Redevelopment Stage 2 project Request for Proposal Number 09066a at a cost of \$669,865 (inclusive of GST).
3. Council authorise the Chief Executive Officer to finalise the contract and all associated documentation for the Port Noarlunga Foreshore Redevelopment Stage 2 fixed construction sum providing probity advice is provided and it is within the current and forecast project budget.
4. That an order be made under the provisions of Section 91(7) and (9) of the Local Government Act 1999 that the abovementioned document (or part of such document) including the minutes and the report of the Council relating to discussion of the subject matter of that document, having been dealt with on a confidential basis under Section 90 of the Act, should be kept confidential on the grounds of information contained in 90(3)(k) until the tender has been awarded and signed.

3 Discussion

In accordance with our Contracts, Tenders and Purchasing Policy and Procedures and the endorsed procurement process, a request for proposal process was undertaken. This commenced with a call for registrations of interest (ROI) from all 26 builders on the South Australian Government's Prequalified Contractors Register (\$4M - \$10M Category).

The registration of interest process resulted in 12 responses and all 12 respondents were subsequently invited to submit proposals for the building contractor services. Proposals were received from 6 of the 12 companies that registered an interest.

3.1 Tender Details

Request for Proposal Number 09066a for the provision of the building contractor services closed on 9 November 2009 with the following 6 submissions received:

Respondent	Price (inc GST)			Total estimated fee
	Professional Consulting Fee (\$/hour)	Preliminaries Lump Sum (\$)	Management Fee Construction (%) *	
Sarah Constructions Pty Ltd	100	527,212	4.0	\$799,212
ISIS Projects Pty Ltd	137	29,365	10.4	\$672,265
Cox Constructions	110	73,120	12.4	\$834,320

Pty Ltd				
Candetti Constructions Pty Ltd	198	462,000	2.8	\$651,200
Badge Constructions (SA) Pty Ltd	105	71,382	9.0	\$669,865
Axis Constructions Pty Ltd	95	59,343	7.5	\$522,592

★ allowing 100 hours for design input

★ based on \$5.5m fixed construction sum

The significant difference in the price for preliminaries above relates to where the building contractor costed various overheads. For example, some builders placed staff costs in preliminaries and some chose to incorporate these costs within the management fee percentage. As a result where preliminaries are high the management fee is low.

All proposals were reviewed by a quantity surveyor and advice provided. The proposals were deemed to be within the price range specified and reasonable market value, with the exception of Cox Constructions. Their proposed management fee was above the predetermined acceptable market range and their proposal was excluded from further assessment in accord with the request for proposal evaluation plan.

An evaluation panel consisting of four council staff assessed the submissions against a range of mandatory, weighted and other criteria nominated for this tender as shown in the Request for Proposal Evaluation Summary (attachment 1).

In accord with the tailored procurement process, prices submitted were assessed against a range provided by the project's quantity surveyor, for each of the cost elements to ensure they represented an acceptable market rate and value for money.

Axis Constructions failed to address the mandatory requirements and was excluded from further consideration. Cox Construction's fee proposal was above the industry benchmark determined by the project's cost planner and their submission was excluded for consideration in accordance with the Request for Proposal Evaluation Plan.

3.2 Tender Management System (TMS)

All evaluation scores (other than price and risk) have been determined by the assessment panel based on the weighted criteria nominated as shown in the Request for Proposal Evaluation Summary (attachment 1).

3.3 Request for Proposal Evaluation

The proposals have been evaluated by a panel of four council staff as detailed in attachment 1 and reviewed following industry and specialist knowledge provided by the advisory panel.

Badge Constructions covered all aspects of the tender submission well. They rated highly on demonstrated ability and demonstrated commitment to delivering the project within the stipulated timeframe. The submission included a project program, well qualified personnel and was assessed as being low in risk due to minimal changes suggested to the proposed council contract.

The assessment panel was satisfied that the company had the resources, capacity and expertise to satisfactorily perform the requirements of the contract. As a result Badge Constructions (SA) Pty Ltd is recommended as the preferred building contractor for the Port Noarlunga Foreshore Redevelopment Stage 2 project.

Due to the reasonable difference in results between the second ranked building contractor (Candetti Constructions at 64.5% with a moderate risk) and the highest ranked building contractor (Badge Constructions at 72% with a low risk), the assessment panel determined that Badge Construction was the preferred tenderer. The probity advisor present at assessment panel meetings was satisfied this was appropriate and was interviewed in accord with the evaluation plan.

Due to the scale of the project and the level of financial risk Corporate Scorecard was engaged to undertake a further due diligence check on Badge Constructions. Corporate Scorecard is a company that specialises in financial analysis, risk modelling and corporate research. The independent financial analysis together with a review of resource commitments and risk has been developed to provide confidence when making critical procurement decisions.

The objective of this process was to determine Badge Construction's financial position and its ability to resource the Port Noarlunga foreshore redevelopment project. The detailed financial and performance assessment demonstrated that Badge Constructions was in a strong financial position and appears to be well positioned in terms of time commitments to undertake the project.

4 Budget

The current and forecast budget for stages 2 and 3 plus increased income is \$7.003m (including \$373k additional income to be incorporated in Budget Review 2). Forecast project costs for design are \$440,000 and implementation of the Witton Centre redevelopment (stage 2) is currently costed at approximately \$6m. with the carpark, path and Kaurna elements (stage 3) currently costed at approximately \$0.9m totalling \$7.34m.

In accord with the non-confidential report on this agenda, detailed design will focus on minimising the project shortfall of \$337,000 between the current and forecast budget and the forecast project costs. Any remaining

shortfall will be the subject of further Council consideration via financial planning processes and budget review reports to Council.

In accord with the prudential report this does not have a material financial impact on Council.

5 Next Steps

Subject to Council endorsement, the building contractor will be appointed in December 2009, with the fixed construction sum to be finalised in March 2010 with elements of the works commencing in early 2010.
