
10.3 Confidential - Contract Number 09067 Willunga balancing storage dam 2 – pipes, pumps and lining and reclaimed water distribution system

This report is seeking Council approval to award the contract for the Willunga balancing storage dam 2 – pipes, pumps and lining and reclaimed water distribution system elements of Water Proofing the South.

This is information seeking council direction.

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Attachments: 1. The Tender Process and Tender Evaluation by Contractor Summary (3 pages)
2. Preliminary Probity Audit (Contracting and Tendering Services) (1 page)

1 Executive Summary

1.1 Topic

This report is seeking Council approval to award the contract for the Willunga balancing storage dam 2 – pipes, pumps and lining and reclaimed water distribution system elements of Water Proofing the South.

1.2 Context

Tenders were received through an open tender process and assessed through Council's Tender Management System (TMS) Contract No. 09067 OT.

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

A separate non-confidential report has been included in this agenda that provides tendering background information and a status update to Council on the Willunga balancing storage and effluent reuse elements of Water Proofing the South.

1.3 Suggested Outcome

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

This item is presented as a confidential item because it presents commercial tenders for carrying out of works for Council's consideration and award. Our procurement policy and process focuses on ensuring that the confidentiality of all information in the course of tendering is preserved.

The possible implications of not considering this item in confidence could reasonably be expected to prejudice the commercial position of the companies that supplied the information, or to confer a commercial advantage on a third party.

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. **the 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.**
 - 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. **That for the construction of the Willunga balancing storage dam 2 – pipes, pumps and lining and reclaimed water distribution system, Council accept the tender proposed by York Civil for Contract No. 09067 for the value of \$1,836,371 (GST inclusive).**
 3. **That Council authorise the Chief Executive Officer to sign all required documentation to finalise and award contract no. 09067 as outlined in recommendation 2 above.**
 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 purchase order has been placed and confirmed.**

3 Key Factors

3.1 Details of Tender

In accordance with Council's Contracts, Tenders and Purchasing Policy and Procedures an open tender invitation was issued through SA Tenders and Contracts.

3.2 Number of Tenders Received

Five tenders were received from

- York Civil
- ERTECH

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- ADCIV Pty Ltd
 - Lorenzin Construction
 - McMahon Services

3.3 Tender Management System (TMS)

The TMS tender evaluation summary (refer attachment 1) reflects the following assessment guidelines:

- compliance with the mandatory criteria is determined by consensus opinion of the tender evaluation panel
- all evaluation scores are determined by the tender evaluation panel based on the weighted criteria selected for this tender
- all risk assessments are determined based on a consensus opinion of the tender evaluation panel.

3.3.1 Tender Assessment

The tender assessment was carried out across three areas. They were:

- compliance with mandatory criteria.
- rankings based on the desirable criteria of:
 - cost
 - accreditations and certifications
 - capability
 - capacity
 - methodology (including appreciation of task)
- lowest level of foreseeable risk associated with the contractor, identified through the tender evaluation panel's qualitative assessment.

The tender evaluation panel evaluated the tenders in accordance with the agreed selection criteria, which were made available in the tender document. Specific weightings for each of the criteria are presented in attachment 1. The outcomes of all three areas of assessment were combined to identify the preferred tenderer.

A representative from Contracting and Tendering Services (CTS) was present to audit the tender process. CTS are engaged as probity advisor/auditor for all major procurements relating to Water Proofing the South. The auditing role ensures that the award of contracts process is fair and transparent. A copy of the preliminary probity audit for the procurement is contained in attachment 2.

Mandatory Criteria

Table 4 of attachment 1 summarises the tenderers compliance with the mandatory criteria.

Two of the five tenderers did not meet the mandatory criteria and as such, the tender evaluation panel resolved not to evaluate these tenders any further.

Weighted criteria

The outcomes of the weighted criteria assessment are available in attachment 1.

The following table summarises the tender amounts received from those tenderers that passed the mandatory criteria.

Tenderer	Tendered Amount (GST inclusive)
York Civil	\$1,836,371.00
ADCIV Pty. Ltd.	\$2,449,227.89
McMahon Services	\$2,201,298.00

York Civil scored the highest (77.9). Their submission included costs for all elements of the project and demonstrated that all necessary accreditations and certifications were in place. It also included a thorough methodology and in turn appreciation of task. They also provided evidence of suitably skilled and experienced sub-contractors who will be undertaking the various elements of the project coupled with the capacity to deliver the project prior to the end of March 2010.

McMahon Services scored the second highest (67). Their submission included costs for all elements of the project and demonstrated that all necessary accreditations and certifications were in place. It responded to most areas of the project methodology. They indicated the subcontractors that would be undertaking the various elements of the project however did not provide evidence of the sub-contractors previous experience.

ADCIV scored the third highest (44.6). Their submission did not include sub-total costs for the creation of the reclaimed water distribution scheme. They indicated the sub-contractors that would be undertaking most of the elements of the project, however did not confirm several of them; indicating "to be advised". The submission demonstrated that they had capacity to deliver the project prior to the end of March 2010. They were unable to provide a response to the request for information regarding methodology due to time constraints and delays in receiving contractor responses.

Outcome

The tender evaluation considered three areas of assessment: mandatory criteria, weighted criteria and risk assessment. In summary:

Tenderer	Mandatory criteria	Weighted criteria	Risk rating
York Civil	Pass	77.9	Low

ADCIV Pty. Ltd.	Pass	44.6	Low
McMahon Services	Pass	67	Moderate

York Civil scored highest and is recommended as the preferred contractor. They responded to all criteria within their tender submission providing comprehensive and relevant information on their available resources, experience with similar works and detailed methodology of works through the provision of a detailed work breakdown structure and anticipated schedule.

3.4 Budget details and allocation

As indicated in the information report provided earlier in this agenda, the funds remaining in Water Proofing the South for the delivery of this contract total \$2,208,000 (exc GST).

The cost for the delivery of this contract is \$1,699,428 (exc GST) as per York Civil's submission.

Remaining funds will be used to:

- address latent conditions
- respond to requests for variations
- meet the cost of repairs for the geotechnical issues to the eastern dam (with partial cost recovery) as previously reported in Weekly News
- support other elements of Water Proofing the South that are not yet completed.

3.5 Next Steps

Subject to Council's endorsement of this report works on the element will commence immediately to achieve the end of June 2010 completion date.

Council will be kept informed of the status of these elements of WPS via Weekly News and the Project Register.

Declarations of Interest

Council Meeting Date:		Councillor:
Item No. (e.g. 3.1)	Declaration of Interest <i>(where a member has an interest that does not lead to a conflict)</i>	Declaration of Conflict of Interest <i>(where a member has an interest that leads to a conflict)</i>