

## **10.2 Confidential - Tender No. 08047 - Port Noarlunga Foreshore Redevelopment Stage 1**

*Approval is sought for the expenditure of Council's budgeted funds in excess of \$500,000.*

*This is information seeking council direction.*

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Attachments: 1 – Tender Process Summary (1 page)

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## **1 Executive Summary**

### **Topic**

Approval is sought for the expenditure of Council's budgeted funds in excess of \$500,000.

### **Context**

In accordance with Council's Contracts, Tenders and Purchasing Policy and Procedures, an open tender invitation was issued for the construction of decks, paving and landscaping works for Stage 1 of the Port Noarlunga Foreshore redevelopment. In order to implement the project Council approval is now sought for the award of the contract.

Council has allocated \$1,420,064.00 for this project from the 2008/2009 Major Projects Fund. Three tenders were received and the preferred tenderer is McMahon Services Australia Pty Ltd (McMahon Services) for the sum of \$1,484,868.00 inclusive of GST or \$1,349,880.00 excluding GST.

A separate non-confidential report has been included in this Agenda that provides details in relation to Stage 1 of the Port Noarlunga Foreshore Redevelopment.

### **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 represents commercial tenders for the carrying out of works for Council's consideration and award.

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.

That Council approve the award of the contract for the construction of decks, paving and landscaping works associated with the Port Noarlunga Foreshore Redevelopment Stage 1 to McMahon Services for the sum of \$1,484,868.00 inclusive of GST (\$1,349,880.00 excl. GST)

### **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 this report at the meeting on the following grounds:**
    - (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 Council accept the fee proposal by McMahon Services Australia Pty Ltd and approve the award of contract No. 08047 for the construction of decks, paving and landscaping works associated with the Port Noarlunga Foreshore Redevelopment Stage 1 for the sum of \$1,484,868.00 (inclusive of GST).**
- 3. 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.**

### **Key Factors**

## Discussion

In accordance with Council's Contracts, Tenders & Purchasing Policy and Procedures, an open tender invitation was issued for the construction of decks, paving and landscaping works associated with Stage 1 of the Port Noarlunga Foreshore Redevelopment.

## Tender Details

Tenders closed on 21 October 2008. At the time of closing a total of three (3) tenders were received for the foreshore upgrade works:

<b>Tenderer</b>	<b>Fee Proposal</b>
McMahon Services Australia Pty Ltd	\$1,484,868.00 (inclusive of GST)
	\$1,349,880.00 (excluding GST)
JMS Civil and Mining (AUST) Pty Ltd	\$1,482,009.00 (inclusive of GST)
	\$1,347,281.00 (excluding of GST)
GK Structures Pty Ltd	\$1,474,614.00 (inclusive of GST)
	\$1,340,559.00 (excluding of GST)

## Tender Evaluation

The tenders have been evaluated by a panel of five (5) Council staff. The tendered fees were equalised to determine a score for price comparison and a weighted matrix was used to rank the tenderers in order of preference.

The evaluation panel have nominated McMahon Services as the preferred contractor for Stage 1 of the Port Noarlunga Foreshore Redevelopment.

Given the close fee proposals by the three tenderers, an investigation was undertaken to assess the impact of the various qualifications by the respective tenderers and to ensure that the parties had appropriately addressed all criteria contained within the Tender Specification documentation, and their capacities to undertake the required works.

The evaluation panel has assessed that McMahon has the resources and capacity and expertise to satisfactorily perform the works as specified. McMahon Services was the preferred tenderer when the works were previously tendered in 2007 but did not proceed due to the project costs exceeding budget. McMahon Services has specific knowledge pertaining to the project and its complexities, the prevailing site factors, etc and has taken into account the precautions to be undertaken with respect to the works in a sensitive operating environment (busy public precinct, the need to minimise disruption to operations by the Port Noarlunga Surf Life Saving Club and the Department of Education and Children's Services Aquatics Program, etc).

The company has been in operation for nearly 30 years with a proven record in Building Works, Civil Engineering and Remediation and Construction Services. The Company has recently satisfactorily completed Stage 3 of the Foreshore Access Plan (part of the Sellicks Beach Foreshore redevelopment and the end-point of the Metropolitan Coast Path) and other construction works for Council and is well regarded.

As part of the tender evaluation process, clarification was sought from McMahon Services in relation to a number of issues. All of these issues have been satisfactorily addressed in a response from the company dated 12 November 2008 and in particular as a result, potential net savings in the order of \$70,000 have been identified from the original tender price. These matters will be addressed by variation during administration of the tender contract.

The anticipated savings, together with the tender coming in under budget by \$70,000, results in a potential contingency of \$140,000 or approx. 10% of the total budget allocation.

#### Tender Management System (TMS)

Council staff utilise the TMS database program to evaluate tender fee proposals. The database calculates (using the Australian Consulting Engineers Association calculation) the price score based on the median price.

All evaluation scores (other than price) are determined by the evaluation panel based on the weighted criteria nominated for this tender. A summary of the tender process comprising the identities of the tenderers, tender pricing, evaluation criteria and attributable weightings, an explanation of the weightings and aggregate scores for each tenderer is at Attachment 1.