



RICHMOND VALLEY COUNCIL

Minutes

Extraordinary Meeting

Tuesday, 5 October 2010

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MINUTES OF THE EXTRAORDINARY MEETING OF RICHMOND VALLEY COUNCIL, HELD IN THE COUNCIL CHAMBERS, CNR WALKER STREET AND GRAHAM PLACE, CASINO, ON TUESDAY, 5 OCTOBER 2010 AT 11.32 A.M.

PRESENT

Crs. C.J. Sullivan (Mayor), C.J. Cox, O. Crawford, S.A. George, B.J. Jeffery, D.A. Kinnish, S.E. Morrissey and S.N. Wheatley.

The General Manager, Director Corporate Services, Director Environmental Development Services, Manager Finance and Executive Assistant (Roslyn Townsend) were also in attendance.

1 APOLOGIES

An apology was tendered on behalf of Cr. Mustow.

051010/ 1 RESOLVED (Cr. Morrissey/Cr. Cox)

That such apology be accepted and leave of absence granted.

FOR VOTE - All Council members voted unanimously.
ABSENT. DID NOT VOTE - Cr. Mustow

2 DECLARATION OF INTERESTS

Nil.

3 REPORTS

3.1 TENDER 185.10 - ALTERATIONS AND ADDITIONS TO RICHMOND-UPPER CLARENCE REGIONAL LIBRARY, CASINO

Reference: Commercial Activities - Tendering; Council Properties - Design and Construction; Grants and Subsidies - Programs; P3397

Prepared by: Manager Planning and Development

Background

As reported to the Ordinary Meeting on 21 September 2010, Council has received a total of \$350,000.00 grant funding under two separate sources, being the RLCIP 100 (Department of Infrastructure, Transport, Regional Development and Local Government) and NSW Library Development Grants Program, to

undertake alterations and additions to the Richmond-Upper Clarence Regional Library which is located in Graham Place, Casino. The RLCIP funding has provided \$150,000.00 towards the project which is required to be expended by December 2010. An amount of \$200,000.00 was provided through the NSW Library Development Grants Program which Council is required to expend by June 2011.

Development Application No. 2010.411 was approved on 15 July 2010 for the proposed building works to the existing library building. These works include disabled access and facilities, additional staff-room, office and training space, information technology area, new ceiling and lighting, new covered entrance, and rendering and painting of the façade.

Report

Issues

The tender was first advertised in the Northern Star on 28 August 2010, closing on 27 September 2010. As a result, a total of five tenders were received and are summarised as follows:

Tendering Company	Amount Offered \$
Woollam Constructions	492,461.00
Ware Building	596,063.00
Bennett Constructions	477,114.00
Robertson Builders and Suppliers	514,060.00
AGS Commercial	432,540.00

All the tender prices were greater than the budget for the alterations and additions to Richmond-Upper Clarence Regional Library. The proposed works are fully funded by the grants received under RLCIP 100 (Department of Infrastructure, Transport, Regional Development and Local Government) and NSW Library Development Grants Program. It is imperative this project is delivered on budget so there will be no additional cost to Council.

Legal

Council is bound to comply with the provisions of the *Local Government (General) Regulation 2005* in relation to the acceptance of tenders. Clause 178 of the Regulation states:

178 Acceptance of tenders:

"(1) After considering the tenders submitted for a proposed contract, the council must either:

- (a) accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or*
- (b) decline to accept any of the tenders.*

(1A) Without limiting subclause (1), in considering the tenders submitted for a proposed contract for the performance of domestic or other waste

management services, the council must take into account whether or not existing workers (within the meaning of clause 170) will be offered employment or engagement on terms and conditions comparable to those applicable to the workers immediately before the tender was submitted.

- (2) *A council must ensure that every contract it enters into as a result of a tender accepted by the council is with the successful tenderer and in accordance with the tender (modified by any variation under clause 176). However, if the successful tender was made by the council (as provided for in section 55 (2A) of the Act), the council is not required to enter into any contract in order to carry out the requirements of the proposed contract.*
- (3) *A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:*
 - (a) *postpone or cancel the proposal for the contract,*
 - (b) *invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details,*
 - (c) *invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract,*
 - (d) *invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,*
 - (e) *enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,*
 - (f) *carry out the requirements of the proposed contract itself.*
- (4) *If a council resolves to enter into negotiations as referred to in subclause (3)(e), the resolution must state the following:*
 - (a) *the council's reasons for declining to invite fresh tenders or applications as referred to in subclause (3) (b)–(d),*
 - (b) *the council's reasons for determining to enter into negotiations with the person or persons referred to in subclause (3) (e)."*

It is the opinion of the Manager Planning and Development, options such as postponing or cancelling the contract (Clause 178(3)(a)), inviting fresh tenders (Clause 178(3)(b)), or inviting fresh applications (Clause 178(3)(c & d)) will not result in a more favourable cost outcome as the tender process has been exhausted. In accordance with Clause 178(3)(e) of the *Local Government (General) Regulation 2005*, it is hereby recommended Council enter into negotiations with the lowest tenderer with the aim to determine any further cost cutting measures to ensure the project can be realised within the specified budget.

Conclusion

The recently closed tender process has exhausted the current pool of tenderers and the five prices obtained were all over budget. As a result, in accordance with the provision of Clause 178(3)(e) of the *Local Government (General) Regulation 2005*, a resolution of Council is required to enter into negotiations

with the lowest tenderer with a view of revising the project to cut the costs. In addition, a resolution is sought to give the General Manager delegated authority to enter into a contract should negotiations result in project costs meeting the available budget.

RECOMMENDATION

Recommended that:

1. Council resolve under Clause 178(4) of the *Local Government (General) Regulation 2005*:

- a. the Council's reasons for declining to invite fresh tenders or applications as referred to in subclause (3) (b)-(d).

(Council resolves not to call fresh tenders as it foresees no likelihood of a successful outcome to a fresh tender given the pool of tenders has been exhausted.)

- b. the Council's reasons for determining to enter into negotiations with the person or persons referred to in subclause (3)(e).

(Council resolves to enter negotiations with the lowest tenderer with the aim to determine any further cost cutting measures to ensure the project can be realised within the specified budget.)

2. The General Manager be given delegated authority to enter into a contract should negotiations result in project costs meeting the available budget.

051010/ 2 RESOLVED (Cr. Wheatley/Cr. Morrissey)

That the above recommendation be adopted.

FOR VOTE - Cr. Sullivan, Cr. Cox, Cr. Crawford, Cr. George, Cr. Jeffery, Cr. Morrissey, Cr. Wheatley

AGAINST VOTE - Cr. Kinnish

ABSENT. DID NOT VOTE - Cr. Mustow

3.2 NATIONAL AUSTRALIA BANK - LOAN FOR WOODBURN/EVANS HEAD SEWERAGE WORKS

Reference: Financial Management - Loans

Prepared by: Manager Finance

At the June 2010 Ordinary Meeting, Council adopted the 2010/2013 Management Plan and 2010/2013 Budget Estimates. Within these documents there was approval for total loan borrowings of \$6,880,000 for the Sewerage Rising Main and Pump Station Augmentation at Woodburn/Evans Head. Expressions of Interest were sought from 17 financial institutions for funding of \$5,500,000 of the approved funding, closing on 21 September 2010.

Report

Issues

At the close of the Expression of Interest period, three financial institutions had registered interest and after consultation between the General Manager, Manager Finance and Council's Financial Advisers, it was decided National Australia Bank had put forward the most attractive offer for Council.

The National Australia Bank has supplied Council with a finance quote of the following:

Loan Amount:	\$5,500,000
Interest Rate:	7.51%
Term:	20 years fixed; semi-annual repayments
Repayments:	\$267,951.68 semi-annually
Application Fee:	Nil
Ongoing Fees:	Nil

In order for Council to accept this offer, Council must affix the Common Seal to the Business Letter of Offer; two Councillors must witness the Seal.

Conclusion

Council is seeking a loan in relation to funding of the sewerage program for works in Woodburn/Evans Head. For this financing to go ahead, the National Australia Bank requires Council to affix its Common Seal to the Business Letter of Offer.

RECOMMENDATION

Recommended that:

1. Council authorise the affixing of Council's Common Seal to the National Australia Bank Business Letter of Offer.
2. The Mayor and Deputy Mayor witness the Seal.

051010/ 3 RESOLVED (Cr. Wheatley/Cr. Crawford)

That the above recommendation be adopted.

FOR VOTE - All Council members voted unanimously.
ABSENT. DID NOT VOTE - Cr. Mustow

The Meeting closed at 11.42 a.m.

CONFIRMED - 19 October 2010

CHAIRMAN