

## 4.4: CONTRACT C12018 PANEL OF SUPPLIERS – LEGAL SERVICES

**Proponent** : City of Albany  
**Owner** : City of Albany  
**Responsible Officer** : Executive Director Corporate Services (G Adams)

### IN BRIEF

- Contract C12018 Panel of Suppliers – Legal Services be AWARDED to all three Tenderers, being Latro Lawyers, Haynes Robinson and Albany Legal, for a period of three years from the date of the Letter of Engagement.

### ITEM 4.4: RESOLUTION

#### VOTING REQUIREMENT: SIMPLE MAJORITY

**MOVED: COUNCILLOR CALLEJA**

**SECONDED: COUNCILLOR HOLDEN**

**THAT Council ACCEPT the Tenders from Latro Lawyers, Haynes Robinson and Albany Legal, and award contract C12018 for the Panel of Suppliers – Legal Services for a period of three years from the date of the Letter of Engagement.**

**CARRIED 12-0**

### BACKGROUND

1. The City of Albany has access, through WALGA, to a panel providing Legal Services. There are currently nine law firms on this Panel, all of which are based in Perth, and only one of these with a local office (HHG). It was identified that the City potentially has need for local legal representation, in the following areas of law:
2.
  - Administrative
  - Advocacy in various Legal forums and jurisdictions
  - Aviation
  - Building Control
  - Commercial
  - Competition and Market Regulation
  - Construction
  - Contracts
  - Corporate and Statutory Governance
  - Environmental
  - General Litigation and Dispute Resolution
  - Health and Environmental Health
  - Industrial Relations and Employment
  - Insolvency and Creditor Recovery
  - Intellectual Property

- Local Government
- Property
- Taxation; and
- Town Planning and other Statutory Planning

A Tender subsequently went out on Wednesday 7 November 2012, closing on Wednesday 28 November 2012, therefore giving potential Tenderers three weeks to compile their responses.

### DISCUSSION

3. Together with completing a checklist of the areas of law (as above) for which they could provide a service, Tenderers were also asked to provide a Schedule of Rates for the following:

- Partners
- Senior Associates
- Associates
- Solicitors
- Restricted Practitioners
- Articled Clerks
- Paralegal
- Administration
- Others – to be specified

4. The tender documents included tender evaluation criteria using the weighted attribute method. This method scores the evaluation criteria and weights their importance to determine an overall point score for each tender. The criteria are tabled below:

Criteria	% Weight
Cost	40%
Relevant Experience	30%
Respondents Resources	30%
<b>TOTAL</b>	100%

5. Tenders from a total of three service providers were received. These firms are listed below:

Tenderer	Local Preference Qualification
Latro Lawyers	Yes
Haynes Robinson	Yes
Albany Legal	Yes

6. Each company claimed against the City of Albany's Regional Price Preference Policy. The following table details the evaluation ratings as scored, and the resulting overall evaluation weighted score applicable to each submission.

<b>Tenderer</b>	<b>Cost</b>	<b>Relevant Experience</b>	<b>Respondents Resources</b>	<b>Total Evaluation Score</b>
Latro Lawyers	98.86	230	240	<b>568.86</b>
Haynes Robinson	210.76	175	190	<b>575.76</b>
Albany Legal	290.38	195	160	<b>645.38</b>

7. The evaluation panel consisted of a Procurement Officer (Corporate Services), the Executive Director of Planning and Development Services and the Executive Director of Corporate Services, who independently scored the tenderers' submissions before jointly determining the final scores. On the basis of the total evaluation score, which considers the tender evaluation criteria of Cost, Relevant Experience and Respondents Resources, it is considered that all three firms are suitable to be included in the Panel. All three law firms indicated they are unable to provide services in the areas of Aviation and Taxation, with Albany Legal also not providing services in Administrative, Competition and Market Regulation, Health and Environmental Health and Intellectual Property. It should also be noted that the Cost Score was based solely on the average of the Partners' Rates, as not all three firms had the different categories of legal staff eg Associates, Restricted Practitioners and so on, so resultant Cost Score is indicative only. Panel members will be utilised by the City according to their areas of expertise and with reference to the price schedules submitted.

#### **GOVERNMENT CONSULTATION**

7. None required

#### **PUBLIC CONSULTATION / ENGAGEMENT**

8. The Tender was advertised in the West Australian on Wednesday 7 November 2012 and The Weekender on Thursday 8 November 2012, with the Tender documents available for downloading from the City of Albany website during the three weeks it was open. There were sixteen downloads during that period, with three submissions received at closing.

#### **STATUTORY IMPLICATIONS**

9. Regulation 11 of the *Local Government (Functions and General) Regulations 1996 (Regulations)* requires Council to publicly tender if the contract is, or is expected to be, more, or worth more, than \$250,000.
10. Regulation 18 of the Regulations outlines a number of requirements relating to choice of tender. Council is to decide which of the acceptable tenders is the most advantageous to Council. It may also decline to accept any tender.

11. Regulation 19 of the Regulations requires Council to advise each tenderer in writing the result of Council's decision.

### STRATEGIC IMPLICATIONS

12. This item relates to the following elements of the City of Albany Strategic Plan (2011-2021):

#### Key Focus Area

- *Organisational Performance*

#### Community Priorities

- *Policy and Procedures*

#### Proposed Strategies

- *Develop clear processes and policies and ensure consistent, transparent application across the organisation.*

*City of Albany Mission Statement: "At the City of Albany we are results driven and accountable. We provide best value in applying council and community resources, and we apply Council funds carefully."*

### POLICY IMPLICATIONS

13. The City of Albany Purchasing Policy and Regional Price Preference Policy are applicable to this item.

### RISK IDENTIFICATION & MITIGATION

14. The risk identification and categorisation relies on the City's Risk Management Framework.

Risk	Likelihood	Consequence	Risk Rating	Mitigation
<i>Incorrect or unsuitable legal advice is received from a Firm</i>	<i>Possible</i>	<i>Medium</i>	<i>Medium</i>	<i>Importance is given to the experience and resources of the tenderers in the evaluation process. Evidence of Professional Indemnity Insurance of \$5 million is to be provided by each Panel member.</i>
<i>Legal services not provided in a timely manner</i>	<i>Unlikely</i>	<i>Medium</i>	<i>Medium</i>	<i>General conditions of contract allow for contract termination on the basis of failure to supply services</i>

**FINANCIAL IMPLICATIONS**

15. The City's legal budget is contained in Cost Code 105620, Admin. – Legal Costs Mun, which for the Financial Year 2012/2013 has a budget of \$180,000. The Executive Director from each Department will need to authorise any legal costs to be borne by the City, either for this Contract and/or utilisation of the WALGA Legal Panel.
16. The value of this tender may exceed \$250,000, as it is over a three year period, and therefore the approval is referred to Council for consideration and award.

**LEGAL IMPLICATIONS**

17. Legal implications are addressed in the City of Albany General Conditions of Contract which forms part of the tender documents.

**ALTERNATE OPTIONS**

18. Council can accept or reject the tenders as submitted.

**SUMMARY CONCLUSION**

19. On reviewing the submissions the evaluation team assessed all three tenderers as being suitable across the evaluation criteria in terms of Cost, Relevant Experience, and Respondents Resources.

<b>Consulted References</b>	Local Government (Functions and General) Regulations 1995 Council Policy – Purchasing (Tenders & Quotes) Council Policy – Buy Local (Regional Price Preference)
<b>File Number (Name of Ward)</b>	C12018 (All Wards)