

**DIS404 - C24005 SOUTHERN OCEAN SURF REEF – LEAD MARINE  
CONTRACT AWARD**

<b>Proponent / Owner</b>	: City of Albany
<b>Project Name</b>	: Southern Ocean Surf Reef
<b>Attachments</b>	: <b>Confidential Briefing Note</b>
<b>Report Prepared By</b>	: Manager Major Projects (A. McEwan) Major Projects Officer (L. Adams)
<b>Authorising Officer:</b>	: Executive Director Infrastructure, Development & Environment (P. Camins)

**CONFIDENTIAL ATTACHMENT**

*It is recommended that if discussion is required in regards to details contained within the Confidential Attachment, that the matters are discussed behind closed doors, in accordance with section 5.23(2)(c) & (e)(ii) of the Local Government Act 1995, being: a contract which may be entered into and information that has commercial value.*

**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
  - **Pillar:** People - A welcoming, healthy and inclusive community, with pride in our rich history and heritage.
  - **Outcomes:** 1.2 - A happy, healthy and resilient community.

**In Brief:**

- Following a three-stage tender process, Council approval is sought to support an award for Contract C24005 for the construction of the Southern Ocean Surf Reef.
- All figures within this Item are exclusive of GST.

**RECOMMENDATION**

**DIS404: AUTHORISING OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**THAT Council:**

1. **INCREASE** expenditure budget item 15984 Southern Ocean Surf Reef from \$11,146,715 to \$13,146,715
2. **INCREASE** revenue budget item 14555 Southern Ocean Surf Reef grant funding from \$9,755,000 to \$10,755,000
3. **INCREASE** transfer from reserve budget line item 12849 T/F from Debt Management Reserve from \$1,753,164 to \$2,753,164
4. **AWARD** Contract C24005 – Southern Ocean Surf Reef to Tenderer A (identified in the Confidential Briefing Note).

**BACKGROUND**

2. The City of Albany (City) seeks to engage a lead marine Contractor for the construction of the Southern Ocean Surf Reef, as set out in the Request for Tender (RFT) documents.
3. The procurement process was administered by the City in three stages:
  - a. Stage - 1. Expression of Interest (EOI)
  - b. Stage - 2. Early Tender Involvement (ETI)
  - c. Stage - 3. Request for Tender (RFT)
4. The City, as Project Manager, is overseeing the delivery of this project, with an independent marine engineering consultant engaged in a Quality Assurance and certifying role.
5. It is preferable to award the tender and enable an immediate contract to ensure the tender validity period does not expire and to meet funding milestone requirements. Additionally, the project's successful delivery will be influenced by seasonal factors and the availability of an appropriate vessel spread within a specific timeframe

**DISCUSSION**

6. The tender process as prescribed by the Local Government Act 1995 (the Act) and Local Government (Function and General) Regulations 1996 (the Regulations) was followed.
7. The Expression of Interest (EOI) was advertised for a five-week period and closed on Thursday 15 February 2024. Two submissions were received, both of which could demonstrate experience on similar projects and capacity to deliver the Southern Ocean Surf Reef to the high standards required to meet design tolerances.
8. The EOI process was followed by an Early Tender Involvement (ETI) process, where negotiations took place with successful applicants to collaboratively develop a construction methodology, value-manage their proposal and explore risk profiles.
9. Following this ETI process, a closed Request for Tender (RFT) was issued to the two qualified contractors. Tenders were received 7<sup>th</sup> May 2024.
10. The tender evaluation team evaluated tenders using the weighted criteria methodology across five key areas:

<b>Qualitative Criteria</b>	<b>Weighting (%)</b>
Cost	40
Methodology	25
Materials, Plant and Equipment	20
Program of Works	10
Corporate Social Responsibility	5
<b>Total</b>	<b>100</b>

11. The following table summarises the final weighted scores of the tenders received:

<b>Tenderer</b>	<b>Total Score</b>	<b>Rank</b>
Tenderer A	825.00	1
Tenderer B	302.50	2

12. Neither Tenderer claimed a Buy Local Policy reduction.
13. Tenderer A ranked highest with the highest score of 825.00.

14. A Preferred Tenderer status was awarded to Tenderer A, and Tenderer B was informed that their tender was unsuccessful.
15. A further round of clarifications was entered into, solely with Tenderer A, to manage the City's risk exposure and collaborate with regulatory stakeholders to ensure the proposed methodology would be acceptable.
16. Tenderer A are the preferred tenderer, and it is recommended that their tender be accepted and a contract award be supported.

**GOVERNMENT & PUBLIC CONSULTATION**

17. The Expression of Interest opportunity was published in the tender sections of the West Australian on 17 January 2024 and the Albany Extra on 19 January 2024.
18. There is no government consultation required for the award of C24005, however the funding bodies (the WA and Federal governments) have been updated regarding the project status.
19. A Southern Ocean Surf Reef Community Reference Group meeting was held on 12 March 2024 to update community members and organisations on the procurement of a lead marine contractor, and provide the opportunity to ask the project team and marine engineer who designed the reef questions.
20. Regulatory stakeholders have been engaged throughout the procurement process, and have been involved in collaborative workshops with the potential tenderers to inform their proposed methodologies.
21. The funding bodies and the public will be notified about the outcome of the award and timeframe for implementation.

**STATUTORY IMPLICATIONS**

22. Regulation 11 of the Regulations requires Council to publicly tender if the contract is, or is expected to be, more, or worth more than \$250,000.
23. Regulation 18 of the Regulations outlines a number of requirements relating to choose 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.
24. Regulation 19 of the Regulations requires Council to advise each tenderer in writing of Council's decision.
25. Voting Requirement for this item is **Absolute Majority**.

**POLICY IMPLICATIONS**

26. The City of Albany Purchasing Policy is applicable to this item.
27. The value of this tender is more than \$500,000 and therefore Council approval is required as this exceeds the CEO's delegation.

**RISK IDENTIFICATION & MITIGATION**

28. The risk identification and categorisation relies on the City's Enterprise Risk and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputation, Financial</b> <i>Risk: Failure to deliver project within specified timeframe may jeopardise multiple funding agreements for this project.</i>	Possible	Major	High	<i>Award tender as soon as possible to enable construction (subject to additional funding) to proceed and the project completed in accordance with the funding agreements.</i>
<b>Reputation &amp; Community</b> <i>Risk: Appointment of the recommended tenderer is not supported.</i>	Possible	Major	High	<i>City staff to work with preferred tenderer to value-manage their submission and</i>

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
				<i>address any risk items prior to awarding the tender.</i>
<b>Financial</b> <b>Risk:</b> <i>Tenders exceed the available budget</i>	<i>Likely</i>	<i>Major</i>	<i>High</i>	<i>Three-stage tender process to value manage the proposal and explore cost-saving methodologies.</i>
<b>Financial</b> <b>Risk:</b> <i>Appointment of the recommended tenderer is not supported.</i>	<i>Possible</i>	<i>Major</i>	<i>High</i>	<i>Confidential Briefing Appendix 5 - Refer Risk Profile item 21.</i>
<b>Opportunity:</b> <i>Project is a grassroots community project with a high level of local support. Increased benefit and amenity for the community.</i>				

### FINANCIAL IMPLICATIONS

29. To allocate an additional \$2,000,000 for potential contingency funding in the budget, with \$1,000,000 provided by the State government and \$1,000,000 sourced from the Debt Management Reserve leaving a budgeted balance as at 30 June 2025 of \$3,208,619. Any unspent portion of the City's funds will remain in the Debt Management Reserve, while the State's unspent portion will remain unclaimed.
30. The State requires that the additional \$1,000,000 will be held by the Department of Primary Industries and Regional Development (DPIRD) and will be released to the City of Albany on an as-needed basis and as evidence is presented that contingency funding is required to complete the project, and after the City of Albany exhausts its own contingency funding of \$1,000,000.

### LEGAL IMPLICATIONS

31. Nil.

### ENVIRONMENTAL CONSIDERATIONS

32. Should the tender be awarded, the Contractor will be required to prepare, implement and monitor a Construction and Environmental Management Plan, specific to the site.
33. Significant preparatory work has taken place regarding environmental approvals. The Tenderer will be required to comply with a suite of regulatory approvals and construct the artificial reef within the parameters and using the mitigation measures approved by the Environmental Protection Authority (EPA).

### ALTERNATE OPTIONS

34. Council may:
  - Choose to accept the recommended tender and associated budget amendments, or
  - Not accept any tender.

### CONCLUSION

35. The City has undergone a competitive process in line with the relevant legislation and established policies.
36. The recommendation is to:
  - a. Allocate an additional \$2,000,000 for potential contingency funding in the budget, with \$1,000,000 provided by the State government and \$1,000,000 sourced from the Debt Management Reserve leaving a budgeted balance as at 30 June 2025 of \$3,208,619. Any unspent portion of the City's funds will remain in the Debt Management Reserve, while the State's unspent portion will remain unclaimed.
  - b. Award the contract to Tenderer A as the Preferred Tenderer, as supported by the evaluation scoring and clarifications provided.

<b>Consulted References</b>	:	<ul style="list-style-type: none"> <li>• <i>Local Government Act 1995</i></li> <li>• <i>Local Government (Functions and General) Regulations 1996</i></li> <li>• City of Albany Policies: <ul style="list-style-type: none"> <li>○ Purchasing Policy (Tenders and Quotes)</li> <li>○ Tender Procedure</li> <li>○ Evaluation Procedure (Tenders and Quotations)</li> <li>○ Buy Local Policy (Regional Price Preference)</li> </ul> </li> </ul>
<b>File Number</b>	:	PR.DEC.86
<b>Previous Reference</b>	:	<ul style="list-style-type: none"> <li>• Elected Member Briefing - 10 Jul 2024</li> <li>• Item SCM0024 (incl Confidential Attachment) - Building Better Regions Fund (BBRF) Round Six Application - SCM -1 Feb 2022</li> </ul>