

Ipswich Central

Tender Consideration Plan:

Ipswich City Properties Pty Ltd Supplier Agreement Novations to Ipswich City Council

19 June 2019



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1. BACKGROUND

On 28 February 2017, Ipswich City Council (ICC) resolved to enter into a Development Management Agreement (DMA) with Ipswich City Properties Pty Ltd (ICP). This DMA included the development of the Civic Space occurring in stages. Ipswich Central CBD Transformation Project (“Project”) works have steadily progressed over this time period.

Separate to the DMA, ICP also delivers retail operations (“Retail”) within the Ipswich City Square and 2 Bell Street properties, located in the Ipswich CBD.

At the Council Meeting of 16 October 2018, ICC resolved to integrate the assets and operations of ICP into Ipswich City Council (ICC) and to wind-up ICP.

Through the process of preparing to transfer the assets and operations, it was identified that as part of the ongoing redevelopment and retail operations of Ipswich City Square, there are a number of consultants, contractors and suppliers actively supporting ICP to deliver these activities. To ensure that Council is able to continue with the CDB redevelopment in a timely way and maintain the ongoing retail operations, along with market considerations and the strategic importance for the project of the continuation of relevant particular supplier relationships, it is recommended that Council novate from ICP these existing contracts on the basis that it is not feasible or practical in the circumstances and timeframes to undertaken a new quotation or tender process to enable Council to engage each supplier.

The Local Government Regulation 2012 Section 230 allows a local government to enter into medium and large contractual agreements, without first inviting written quotes or tenders, through the preparation and adoption of a Tender Consideration Plan (TCP). This TCP provides the information required to comply with the regulation and to justify the use of the plan as an effective and appropriate alternative to seeking quotes or to calling for open tenders.

2. SUPPLIER DETAILS FOR NOVATION

The following Project suppliers which provide consultancy and contracting services in relation to the redevelopment of the CBD, are recommended for novation:

TABLE 1:

NO.	SUPPLIER	SCOPE PERFORMED
1	Ranbury Management Group Pty Ltd	Project Management Services
2	ACOR Consultants (Qld) Pty Ltd	Structural Engineering Design Services
3	Douglas Partners Pty Ltd	Geotechnical Inspection Services
4	Origin Securities Pty Ltd as trustee for Origin Securities Trust	Probity Services
5	Procore Technologies, Inc.	Project Management Software
6	Energex Limited	Temporary Relocation of Services
7	J. Hutchinson Pty Ltd	Demolition, Civil Works, Construction Services
8	James Trowse (Qld) Pty Ltd	Site Remediation Services
9	RGC Consulting Pty Ltd	Furniture Fittings and Equipment (FF&E) Consultancy Services

The following Retail suppliers are recommended for novation:

TABLE 2:

NO.	SUPPLIER	SCOPE PEFORMED
1	Advance Global Elevators Pty Ltd	Comprehensive VT Maintenance ICS
2	AE Smith Service (SEQ) Pty Ltd	Comprehensive AC Maintenance ICS
3	AGL Sales Pty Limited	Electricity Supply
4	Australian Essential Services Compliance Pty Ltd	Essential Safety Measures Auditing for Occupiers Statements
5	Brisbane Fire Protection	Fire equipment maintenance 2 Bell St
6	Dormakaba Australia Pty Ltd	Auto Door Platinum Maintenance
7	Facility Operations Pty Ltd T/A Boss Air	AC Maintenance 2 Bell St
8	Firemex Pty Limited	Fire Roller Doors Maintenance
9	Millennium Services Group Ltd	Cleaning and adhoc toilet consumables
10	Fresh & Clean - Brisbane	Sanitary, Sharps, Nappy, Air Fresheners ICS
11	Point Parking Pty Ltd	Carpark Management (difference between revenue & cost via I&E)
12	Schindler Lifts Australia Pty Ltd	Comprehensive VT Maintenance 2 Bell St
13	Trident Security Services Pty Ltd	24/7 Security, Concierge & Facilities Support
14	Watts Energy Pty Ltd	Electricity Meter Reads

The following Consultants (previously novated to ICP from the developer EPC) are recommended for novation:

TABLE 3:

NO.	SUPPLIER	SCOPE PEFORMED
1	The Buchan Group Australia Pty Ltd	Base Building Design Architect
2	Robert Bird Group Pty Ltd	Structural Engineer
3	Umow Lai VIC Pty Ltd	Vertical Transportation
4	Inhabit Australasia Pty Ltd	Façade Engineer
5	Lehr Paul and Partners Pty Ltd	Fire Engineer
6	MRP Hydraulic and Fire Services Consultants Pty Ltd	Hydraulics
7	NDY Management Pty Ltd	Services
8	Steve Watson and Partners Pty Ltd	Certifier

An Officers' Report will be presented at the 27 June 2019 Special Council meeting requesting resolution for the adoption of recommendations to transfer assets and operating activities of ICP to ICC. Subject to passing of this resolution, it is proposed that a number of suppliers/contractors currently engaged directly by ICP for the project and retail operations be novated to ICC.

3. OBJECTIVES

This tender consideration plan is intended to fulfil the following objectives:

	OBJECTIVES
1	Enable integration of the assets and operations of ICP into Council and to ensure the operations of ICP once transferred to ICC should proceed in a timely manner with continuity of works
2	Document Council's decision not to seek quotes or tenders and to novate the suppliers from ICP to ICC
3	Consideration of the five (5) sound contracting principle outlined in the Local Government Act 2009
4	Key risks associated with novation be identified and mitigated

4. HOW WILL OBJECTIVES BE ACHIEVED

The objectives identified for the TCP in Section 3 will be achieved by the actions detailed in the following table:

	OBJECTIVE	ACHIEVED BY
1	Enable integration of the assets and operations of ICP into Council and to ensure the operations of ICP once transferred to ICC should proceed in a timely manner with continuity of works	<p>The proposed novation of the existing contractors, consultants and suppliers currently engaged by ICP in relation to the CBD redevelopment and operations of Ipswich City Square will enable the timely continuation of the redevelopment and retail operations.</p> <p>Through the recent restructure within ICC, the CBD redevelopment and Ipswich City Square operations are now part of the Coordination and Performance Department. This will ensure greater transparency, coordination and reporting of the project to ensure alignment with Council's objectives for the CBD redevelopment.</p>
2	Document Council's decision not to seek quotes or tenders and to novate the suppliers from ICP to ICC	<p>This plan outlines the objectives and reasons to support the recommendation to novate the suppliers and contractors to ICC from ICP without initially undertaking a quote or tender process, ensuring consideration is given to the sound contracting principles.</p>
3	Consideration of the five (5) sound contracting principle outlined in the Local Government Act 2009	<p>The Procurement Process used by ICP to engage Project suppliers (including those in Section 2, Table 1 of this TCP) is as per that set out in the <i>ICC CBD Transformation Program – Program Management Plan (PMP)</i> dated September 2016. The PMP requires ICP procurement to be performed in accordance with ICC procurement policies and procedures. To the best of the knowledge of the current project team, this process was followed by the Project team with oversight/certification made by an independent probity advisor.</p> <p>The Procurement Process used by ICP to engage Retail suppliers (including those in Section 2, Table 2 of this TCP) is as per that set out in the <i>Ipswich City Properties Pty Ltd (The Company) – Procurement Policy</i>.</p> <p>The consultants included in Section 2, Table 3 of this TCP were novated to ICP as part of the settlement Council reached with the former developer of the Administration Building, EPC. These consultants were engaged in relation to the design of the Administration Building Base Build.</p>
4	Key risks associated with novation be identified and mitigated	<p>Evaluate levels of various risk profiles with mitigation strategies to be implemented (refer Section 8).</p>

5. HOW WILL ACHIEVEMENT OF OBJECTIVES BE MEASURED

The following table details the measurements required to confirm objectives are achieved:

	OBJECTIVE	MEASUREMENT
1	Enable integration of the assets and operations of ICP into Council and to ensure the operations of ICP once transferred to ICC should proceed in a timely manner with continuity of works	<p>The timely delivery of the project in accordance with the project schedule is monitored by the Project Steering Committee with support from the CBD Transformational Working Group.</p> <p>As mentioned above; the operations of Ipswich City Square are now part of the Coordination and Performance Department which will be responsible for the ongoing delivery of services.</p>
2	Document Council's decision not to seek quotes or tenders and to novate the suppliers from ICP to ICC.	Acceptance of this plan and recommendations by Council.
3	Consideration of the five (5) sound contracting principle outlined in the Local Government Act 2009	<p>The delivery of services by contractors and consultants as part of the CBD redevelopment will be managed and monitored by the project team in accordance with novated contracts.</p> <p>The retail operational suppliers will be reviewed by the Coordination and Performance Department within 6 months of novation. If Council requires these service on an ongoing basis and Council doesn't have existing suppliers who can undertake the services within existing contracts, then a quotation or tender process will be undertaken.</p>
3	Evaluate levels of various risk profiles with mitigation strategies to be implemented	Ensure mitigation strategies provide significant effect on reducing the evaluated risk level

6. IDENTIFICATION & ANALYSIS OF ALTERNATIVES:

The analysis of reasons to support the novation of existing suppliers is set out below.

The alternative options was for Council to undertake a new quotation or tender process for the appointment of all suppliers and contractors. The time frames of undertaking this process would have meant that either the project was delayed or that the integration of the ICP into ICC, as resolved by Council, would have been delayed. The continued use of ICP to deliver the project was not a feasible option as financial support by Council through the Statutory Bodies Financial Arrangements Act loan approval reduces to \$50 million on 30 June; as outlined in the separate report of the Finance Manager.

In addition, to minimise the risks of the project, Council needed to ensure that the intellectual property, knowledge, licenses etc. were transferred to Council. It was established that novation of the existing contracts was the best way to achieve this.

Project suppliers (consultants and contractors for the CBD Redevelopment), along with their respective services and substantiation for requesting novation of these agreements are included in Attachment 2 of the overall Officer's report. As listed, substantiation includes:

- Maintaining the intellectual knowledge these suppliers have on the Project due to long-standing involvement,
- Maintaining benefits of existing agreements through warranties and licenses to intellectual property (IP), or
- Contractual requirements due to works currently underway or subject to a Defects Liability Period.

Retail suppliers, along with their respective services and substantiation for requesting novation of these agreement are included in Attachment 3 of the overall Officer's report. It is envisaged these agreements continue on a month to month basis for a maximum 6 month period to 31 December 2019. As listed, substantiation includes:

- Continuity of service with experienced service providers
- A longer notice period of termination to ensure an amicable separation with service providers should the requirement arise
- The ability to undergo a detailed handover process should the requirement arise whereby ICC can obtain information on the assets and equipment
- The ability of more time and a smooth transition to enable Council to consider each service provided, what will be required in the future pending the CBD Redevelopment Project and provide time for Council to undertake a new procurement process were Council requires the continuation of services.
- Active management onsite to reduce all services not required from each service provider

Consultants (previously novated from the former developer EPC) along with their respective services and substantiation for requesting novation of these agreements are included in Attachment 4 of the overall Officer's report. As listed, substantiation includes:

- The contracts were novated to ICP from EPC as part of the settlement with EPC following the termination of the Development Management Agreement
- Maintaining the intellectual knowledge these suppliers which were engaged in relation to the design of the Administration Building Base Build

- Maintaining benefits of existing agreements through warranties and licenses to intellectual property (IP)
- The appointed Contractor may at their option novate some or all of these consultants.

Relevant insurance and security documentation will be sought. Any effect on the works being carried out by suppliers will be negligible.

7. PROPOSED TERMS OF CONTRACTS

As the recommendation is to novate the existing contracts from ICP to ICC, the existing terms and conditions of the contracts will remain the same.

In relation to the retail suppliers, all contracts to be novated are on a month to month basis. The report outlines that the Coordination and Performance Department will review the existing retail suppliers within 6 months and if it is determined that Council requires the services on an ongoing basis then a quote or tender process will be undertaken.

8. RISK ANALYSIS OF MARKET FROM WHICH SERVICES ARE TO BE OBTAINED:

The key risks identified when assessing the market from which the services are obtained is the ability for the project to continue without further delay and to ensure that Council has the intellectual property, warranties, defects liability obligations transferred. If the project is delayed further than the overall cost of completion of the project would escalate.

In addition, if the current suppliers, contractors and consultants were not novated or engaged by Council, then the risk of not successfully delivering the project or Council being able to continue the operations of Ipswich City Square would be higher as the project knowledge and maintenance knowledge in relation to the assets could be lost.

The following general risks and mitigation strategies have been identified in relation to novating existing ICP supplier agreements to ICC:

Financial Risk		Risk Level
Event	Suppliers may choose not to accept novation of current agreements	
Likelihood	Unlikely	Low
Consequence	Minimal	
Mitigation	Suppliers have been advised that ICC are considering whether to novate their current ICP agreements, and that they would be advised immediately once the ICC decision is made. Due to the organisation stability of ICC, it is considered unlikely suppliers will choose not to accept the novation. In some cases of Project suppliers, there is a contractual obligation to novate should it be deemed necessary.	
Legal & Governance		Risk Level

Event	Suppliers may dispute the terms & conditions (T&C's) of the novation document, or dispute the ceasing of their engagement, should ICC not decide to novate their current ICP agreement	
Likelihood	Unlikely	Low
Consequence	Minimal	
Mitigation	All Retail suppliers have been given 30-days' notice under the T&C's of their contract of ICP operations ending, but with the option to novate to ICC should this be approved. For Project suppliers, construction agreements have a novation clause allowing such a novation if required.	

Political / Reputation		Risk Level
Event	Suppliers refuse to sign novations and project is delayed.	
Likelihood	Unlikely	Low
Consequence	Minimal	
Mitigation	At the 16 October 2018 (public) Council meeting, ICC resolved to wind-up operations of ICP. Communication has been made with suppliers recently as to the possibility of contract novations or terminations, subject to a final decision by ICC	

Community and Environment		Risk Level
Event	None	
Likelihood	N/A	N/A
Consequence	N/A	
Mitigation	There is no perceived Community or Environmental risk due to delivering the objectives of this TCP.	

Health & Safety		Risk Level
Event	None	
Likelihood	N/A	N/A
Consequence	N/A	
Mitigation	There is no perceived Health & Safety risk due to delivering the objectives of this TCP.	

Service Delivery / Business Continuity		Risk Level
Event	Delays in executing novation agreements causing project or operational delays	
Likelihood	Possible	Moderate
Consequence	Moderate	
Mitigation	Suppliers will be formally advised immediately once ICC approval is given to novate, including novation documentation. There is no expectation of any significant delays to services being provided.	

Information Confidentiality, Integrity and Accessibility		Risk Level
Event	Information and Knowledge of the Projects and Assets not transferred to ICC	
Likelihood	Possible	Moderate
Consequence	Moderate	
Mitigation	Novation documents to transfer all rights etc to ICC. The TCP and proposed novation of existing suppliers vs undertaking a new quote or tender process helps mitigate this risk	

9. SUMMARY

To ensure continuity of CBD Redevelopment Project and Retail works, it is recommended to novate existing ICP agreements to ICC per those listed in Section 2 (Tables 1, 2 and 3) of this Tender Consideration Plan.

Each supplier will be managed by a nominated Principal or Superintendent Representative, ensuring the contract is appropriately managed in accordance with terms and conditions of the relevant Contract.