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4 December 2022

Mr David MacLennan  
Chief Executive Officer  
City of Vincent  
244 Vincent Street  
Leederville,  
WA 6007

Dear David,

## **PROBITY CERTIFICATE: EOI PROCESS FOR REDEVELOPMENT CONCEPTS FOR THE AVENUE AND FRAME COURT CARPARKS, LEEDERVILLE**

This report details our opinion regarding the probity of the processes undertaken for the conduct of the evaluation process for the above Expression of Interest (EOI) process.

On this occasion, Stantons International (Stantons) was engaged by the City of Vincent (CoV) to provide probity oversight of the evaluation process for this two-stage selection process to select a developer (or developers) for the Avenue and Frame Court carpark sites, known as Sites 1 and 2 in all subsequent procurement (land sales) documentation.

This report outlines the involvement of Stantons in this process and confirms the evaluation was conducted in a fair and consistent manner, which complied fully with Local Government and CoV guidelines and had ensured that potential conflict of interest situations had been addressed in an appropriate manner throughout the process.

### **2. Involvement of Stantons**

Stantons was appointed to the project as the independent Probity Advisor on 13 April 2022 and as such had the opportunity to review the draft EOI document before release to the market on 27 June 2022, and to provide ad-hoc probity advice before the closing of tenders on 8 August 2022. We were represented as the independent probity advisor at the Evaluation Panel consensus scoring meetings held on 30 August and 5 September 2022 and provided probity oversight of the discussions relating to the development of the shortlisting recommendation to the Council of CoV for progression to the second phase of the process, now known as the Detailed Request for Proposal (RFDP) phase. Our review of the background information provided to us, along with the engagement kick-off meeting, provided confidence that the process had been well-managed and in accordance with the terms and conditions of the EOI document and that the proposed procurement process was likely to produce an outcome that would be supportable and free from the likelihood of challenge based on any claimed probity weakness.

### **3. Purpose and Scope**



The purpose of this review has been to ensure that the tendering and evaluation process was administered fairly and impartially to all parties and was consistent with relevant Western Australian State Government, Local Government and CoV regulations, policies, and guidelines.

#### **4. Summary and Evaluation Methodology**

The EOI process was structured as an open invitation process, which was advertised publicly, and which allowed all appropriately qualified and experienced organisations to participate in the process. Concurrent with the appointment of Stantons as the project Probity Advisors, CoV appointed Cygnet West as the agent to market the opportunity and to perform the role of commercial advisors to the project team.

The evaluation process was clearly enunciated in the EOI document and was followed by the Evaluation Panel members. In accordance with the evaluation plan, the outcome of the evaluation process was the production of an evaluation spreadsheet for presentation to Council which provided details of the outcome of the consensus scoring process and which made a recommendation for three organisations to progress to the second stage RFDP process, from which one proponent would be identified for consideration by Council and endorsement as the preferred proponent.

The two consensus scoring meetings of the Evaluation Panel were conducted in a manner that was free from bias, allowed for the viewpoints of all members to be considered and was free from any intrusion of unsubstantiated personal views. The project secretariat captured all scores in an accurate manner, along with the narratives to support the agreed scores. The consideration of the final consensus scoring process resulted in the identification of three proponents that achieved acceptable weighted scores to justify recommendation to Council for consideration. Applying a 60% hurdle rate, these three proponents, Proponent 1 at 74.89%, Proponent 6 at 74.39% and Proponent 7 at 60.43% satisfied the short-listing requirements, with the remaining five proponents failing to achieve an acceptable hurdle score. Stantons supports this outcome as being fair and supportable.

#### **5. Notable Events**

Stantons considered that the tendering and evaluation process was conducted in conformity with the EOI and the information provided to the prospective and actual proponents to participate in the process.

The development of a recommended short-list for consideration by Council was endorsed by the Evaluation Panel on 23 September 2022 and was forwarded to Council for consideration on a confidential basis at the Council Meeting on 17 October 2022. Stantons and the project secretariat maintained regular contact during the tendering and evaluation process to identify, discuss, and resolve potential probity matters. On this basis, we consider that the formal process up to the time of the recommendation being made to Council was managed in a manner that was free from any notable events that would require identification in this report.

After consideration by Council and presentations by the short-listed proponents to a quorum of Council Members on 25 October 2022, a small group of councillors presented a paper which questioned the outcome of the evaluation process, particularly the commercial outcomes of the three proposals and proposed a form of due diligence process for application as a checking mechanism at this stage in the process. It raised the concept of forming a Commercial Review Advisory Panel consisting of up to four external nominees and Council representatives to review the report that had been presented to Council before any decision was taken to endorse the advancement of the three short-listed proponents to the second stage RFDP process. This proposal raised serious probity concerns for the writer, particularly relating to the following:

1. The introduction of any form of review panel at this stage of the process was not in accordance with the endorsed evaluation plan, which had been considered by all parties before the EOI was issued and which had been the basis for the submission of proposal and for the conduct of the completed stage one EOI evaluation.
2. It was an implied criticism of the role of Cygnet West and their capabilities, who had been appointed as a result of a public tendering process, to perform their commercial advisory role

and had not been made aware of any likelihood of a third-party review of the outcome of the key deliverable assigned to them.

3. Council had been provided with very clear guidelines applied by the Local Government Association of Western Australia (WALGA) and from myself relating to the separation of the administrative functions of the conduct of the tendering and evaluation process and the approval process which was a Council responsibility.
4. I had concerns that any commercial evaluation or review, at this stage in the overall process, by a group that had not been involved in the process to that point, would inevitably seek to review the qualitative considerations that had been conducted by the Evaluation Panel, which would have been a totally unacceptable outcome from a probity and process perspective.

After consideration of this proposal at a Council workshop held on the evening of 29 November 2022 and my strong representations to the members, it was resolved that some form of commercial review of the strength of the proponents would be justified before Council was required to make a final decision on the preferred proponent and that this would occur once final RFDP responses had been received and evaluated in accordance with the endorsed evaluation plan. It was agreed that this task would be undertaken by an external accounting professional and not by a panel and that there would be a specific exclusion applied to the review of non-quantitative criteria. Steps have now been taken by the secretariat to prepare for this amended approach and we confirm that we consider this change will strengthen the overall process and will not raise unexpected probity issues.

Following the resolution of this situation, we are confident that no significant probity issues remain outstanding which would have the potential to have an impact on the outcome of the process from a probity perspective.

## **6. Recommendations**

No specific recommendations are made as a result of this review.

## **7. Deviations from Normal Procedures**

Other than for the potential to have introduced an additional layer of review into the endorsed process for the first stage of the overall EOI process, this process has been conducted in a manner that has been in accordance with the endorsed evaluation plan and all relevant Local Government and CoV procurement processes.

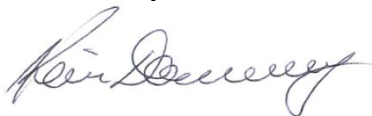
## **8. Conclusion**

SI are satisfied in relation to the following:

- The process applied all relevant Local Government, State and CoV procurement policies;
- It is our opinion that the evaluation process was free from bias and inequity;
- Documentation supporting the evaluation process provides sufficient evidence for third party review and accurately describes the process undertaken; and
- The process was conducted fairly and equitably.

It is our opinion that the process was fair and equitable and in accordance with the requirements of the EOI document. Should you wish to discuss any of the issues raised in this report, please contact the undersigned.

Yours faithfully



**Kevin Donnelly**  
Principal, Probity & Procurement  
STANTONS INTERNATIONAL