

ITEM NUMBER: 17.1

CONFIDENTIAL REPORT

BRIGHTON OVAL COMPLEX – REDEVELOPMENT CONTRACT APPROVAL (REPORT NO: 294/18)

Pursuant to Section 83(5) of the Local Government Act 1999 the Report attached to this agenda and the accompanying documentation is delivered to the Council Members upon the basis that the Council consider the Report and the documents in confidence under Part 3 of the Act, specifically on the basis that Council will receive, discuss or consider:

- b. Information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and would, on balance, be contrary to the public interest.
- d. commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and would, on balance, be contrary to the public interest.

Recommendation – Exclusion of the Public – Section 90(3)(b and d) Order

1. That pursuant to Section 90(2) of the *Local Government Act 1999* Council hereby orders that the public be excluded from attendance at this meeting with the exception of the Chief Executive Officer and Staff in attendance at the meeting in order to consider Report No: 294/18 Brighton Oval Complex – Redevelopment Contract Approval in confidence.
2. That in accordance with Section 90(3) of the *Local Government Act 1999* Council is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 294/18 Brighton Oval Complex – Redevelopment Contract Approval on the following grounds:
 - b. pursuant to section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which could reasonably be expected to confer a commercial advantage on persons with whom the Council is proposing to conduct

business and would prejudice the commercial position of the Council in negotiation of the tender and contract.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.

- d. pursuant to section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information in that it would disclose commercial pricing information about a tender and would confer a commercial advantage on a third party.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.

3. The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.
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Attachment 4

Project Governance Arrangement

Brighton Oval Redevelopment Project Steering Committee

Project Delivery Team

Additional
Projects

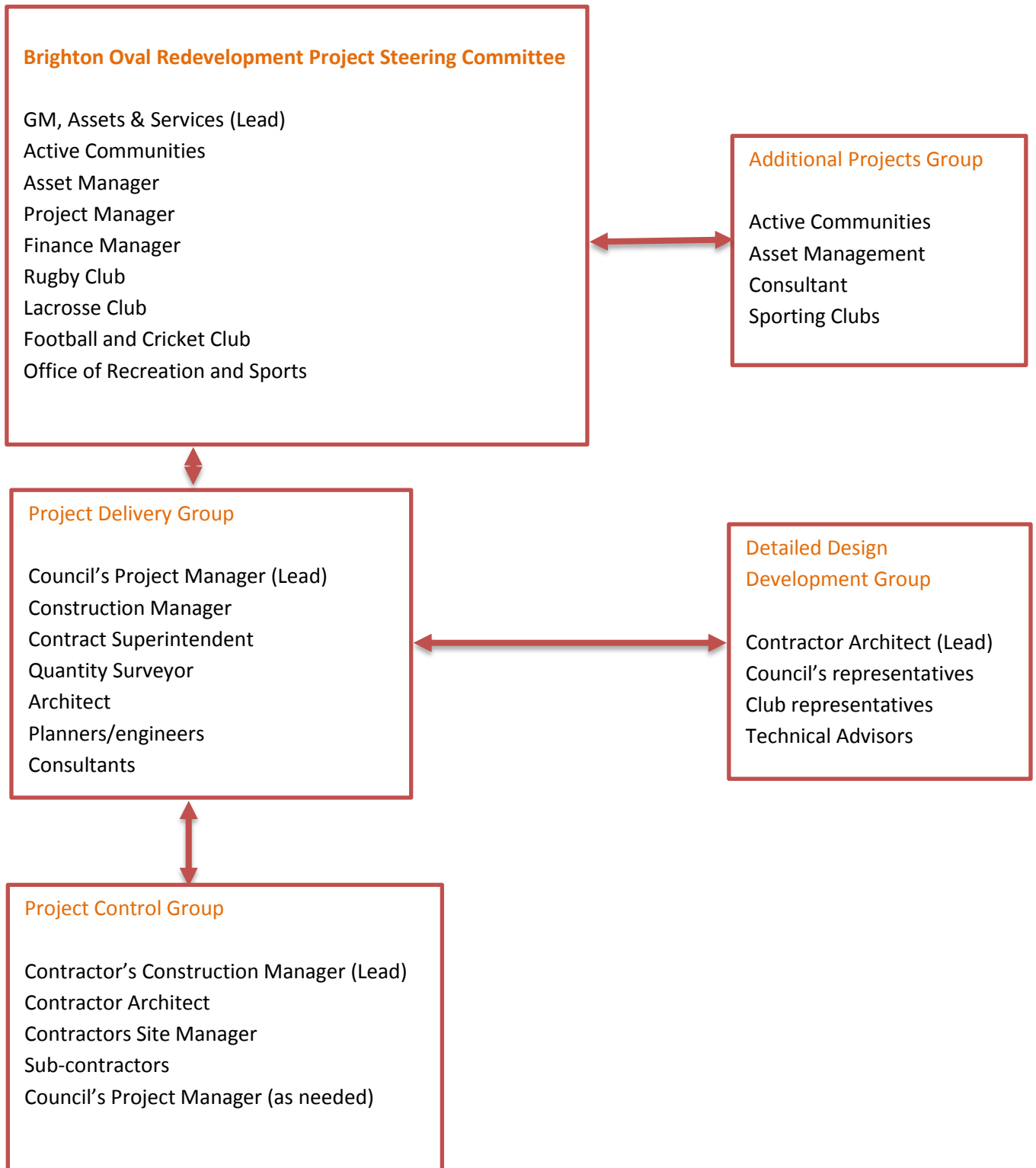
Project Control
Group

Design
Development
Group

Civil Works
Team

See Membership and Reporting Lines Below

Membership and Reporting Lines



Attachment 5

Attachment 6





LED OPTION

PHILIPS BVP525 SERIES

PROJECT NAME

BRIGHTON LACROSSE CLUB




SPORTSLIGHTING

STEVE TANNER
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E. STANNER@SPORTSLIGHTINGSA.COM.AU

DATE: 25/07/2017

SCALE: NTS

REV: Page 1 of 2

Luminaire Schedule						
Symbol	Qty	Label	Total Lamp Lumens	LLF	Description	Lum. Watts
	8	ANB-LO	183011	0.900	BVP525 OUT T30 50K A-NB/30 +LO	1301.52
	14	ANB	193662.5	0.900	BVP525 OUT T30 50K A-NB/30	1392
	1	AMB-LO	183011	0.900	BVP525 OUT T30 50K A-MB/30 +LO	1301.52

Calculation Summary						
Project: Project_1						
Label	Units	Avg	Max	Min	Min/Avg	Min/Max
MAIN PITCH	Lux	207.05	329	128	0.62	0.39
PRACTICE PITCH	Lux	111.67	195	31	0.28	0.16

Calculation Summary			
Project: SPILL			
Label	CalcType	Units	Max
FENCELINE EAST_III_Seg1	Obtrusive Light - III	Lux	10
FENCELINE North Bndry_III_Seg1	Obtrusive Light - III	Lux	7
FENCELINE North Bndry_III_Seg2	Obtrusive Light - III	Lux	2
FENCELINE North Bndry_III_Seg3	Obtrusive Light - III	Lux	10
FENCELINE OPPOSITE_III_Seg1	Obtrusive Light - III	Lux	9

Obtrusive Light - Compliance Report

AS 4282-1997, Pre-Curfew, Residential - Dark Surrounds
Filename: Brighton Lacrosse PRACTISE2
25/07/2017 10:53:45 AM

Illuminance

Maximum Allowable Value: 10 Lux

Calculations Tested (5):

Calculation Label	Test Results	Max. Illum.
FENCELINE North Bndry_III_Seg1	PASS	7
FENCELINE North Bndry_III_Seg2	PASS	2
FENCELINE North Bndry_III_Seg3	PASS	10
FENCELINE EAST_III_Seg1	PASS	10
FENCELINE OPPOSITE_III_Seg1	PASS	9

PHILIPS



Luminaire Location Summary						
LumNo	Label	X	Y	Z	Orient	Tilt
1	ANB	-58.755	-38.706	25.25	41.061	37
2	ANB	-58.755	-38.606	24.75	42.071	37
3	ANB	-58.755	-37.706	25.25	44.695	36
4	ANB	-58.755	-37.606	24.75	45.518	36
5	ANB-LO	54.155	-37.176	24.75	147.033	37
6	ANB-LO	54.155	-37.076	25.25	147.756	37
7	ANB-LO	54.155	-36.176	24.75	148.182	37
8	ANB	54.155	-36.076	25.25	148.668	37
9	ANB	-57.255	31.706	25.25	319.165	35
10	ANB	-57.255	31.806	24.75	317.554	35
11	ANB	-57.255	32.706	25.25	327.051	36
12	ANB	-57.255	32.806	24.75	326.037	36
13	ANB	-57.155	33.294	25.25	35.344	37
14	ANB	54.155	31.706	25.25	211.332	37
15	ANB	54.155	31.806	24.75	211.818	37
16	ANB-LO	-57.155	34.294	25.25	35.011	37
17	ANB-LO	54.155	32.706	25.25	212.244	37
18	ANB-LO	54.155	32.806	24.75	212.967	37
19	ANB	54.155	33.294	25.25	144.656	37
20	ANB-LO	54.155	34.294	25.25	144.989	37
21	ANB	-33.75	99.25	18	270	35
22	AMB-LO	-0.5	99.25	18	270	32
23	ANB-LO	33.5	98.75	18	270	30



Confidential Minutes of the Ordinary Meeting of Council of the City of Holdfast Bay held in the Council Chamber, Glenelg Town Hall, Moseley Square, Glenelg, on Tuesday 28 August 2018.

17. ITEMS IN CONFIDENCE

11.4 Motion on Notice – Appointment to the Alwyndor Management Committee – Councillor Clancy (Report No: 301/18)

Motion

C280818/1272

Recommendation – Exclusion of the Public – Section 90(3)(a) Order

- 1. That pursuant to Section 90(2) of the *Local Government Act 1999* Council hereby orders that the public be excluded from attendance at this meeting with the exception of the Chief Executive Officer and Staff in attendance at the meeting in order to consider Report No: 301/18 Motion on Notice – Appointment to the Alwyndor Management Committee – Councillor Clancy in confidence.**
- 2. That in accordance with Section 90(3) of the *Local Government Act 1999* Council is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 301/18 Motion on Notice – Appointment to the Alwyndor Management Committee – Councillor Clancy on the following grounds:**
 - a. pursuant to section 90(3)(a) of the Act, the information to be received, discussed or considered in relation to Report No: 301/18 Motion on Notice – Appointment to the Alwyndor Management Committee – Councillor Clancy is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead), because it is of a sensitive nature.**
- 3. The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.**

Moved Councillor Lonie, Seconded Councillor Yates

Carried

Motion on Notice – Appointment to the Alwyndor Management Committee – Councillor Clancy (Report No: 301/18)

It was my understanding and that of others that her appointment was linked with her appointment as a Council employee and ends at the end of her contract with Council.

Ms Aukett did not go through the selection process which was recently done for the new appointments to the committee. It would be beneficial to the committee for the

chair to be independent with excellent credentials in chairing and preferably knowledge of the industry and show that proper processes have been done.

Probity was raised in the advice of Michael Kelliedy and his advice should not be taken lightly. A fresh approach is needed.

Council's governance officer could attend the meetings as an observer and provide governance advice as needed.

ADMINISTRATION COMMENT

- The advice from Mr Kelliedy specifically indicates that "to date, all of the steps that have been taken to both appoint the GM to the Committee and to appoint her to the position of Chairperson, have been entirely consistent with the adopted Terms of Reference. That is, the Council determined and knowingly appointed her to the Committee (it would appear, as a result of her expertise in matters of governance) as is evidenced by the minute of the relevant Council meeting at which this occurred". He goes on to further state: "In all of these circumstances, there is no 'error' with or otherwise any concern under the Terms of Reference, about either the Council appointment of the GM to the Committee or the Committee's appointment of the GM (as a member of the Committee) to be the Chairperson of the Committee."
- Mr Kelliedy did raise an issue of Probity where he stated "I have probity concerns about the appointment of a Council officer to a position as a member of a Council committee because of the fiduciary duties that attach to members of the Committee and to the conflict of roles that inevitably arises when such appointments are made". It is therefore accepted that some concerns exist based on Ms Aukett's GM position however these concerns are essentially mute and will be so formally when she ceases as an employee of Council.
- The proposed motion is potentially contrary to the legal advice of Mr Kelliedy where he states: "the Council may not arbitrarily remove a person it has appointed. That is, such persons are entitled to procedural fairness if the Council is considering removing them as a member of a Council committee and the Council is bound to articulate reasons for a decision which reverses its earlier decision to appoint".

In summary although Mr Kelliedy has indicated some probity issues with the original appointment of Ms Aukett to the Committee in September 2017 he makes it clear that as this has been done in accordance with the relevant terms of reference, the removal of Ms Aukett without appropriate grounds could create further issues in regards to procedural fairness.

As per the last Council meeting the CEO has discussed with Ms Aukett regarding not chairing the meetings until her employment ceases, which she has acquiesced to do.

Motion**That:**

1. Council rescind the appointment in 2017 by Council of Trish Aukett to ensure governance compliance to the Alwyndor Committee.
2. Ms Aukett be encouraged to apply for one of the Committee vacancies.

Short Term Suspension of the *Local Government (Procedures at Meetings) Regulations 2013*

Her Worship the Acting Mayor, with the approval of two-thirds of the members present suspended the meeting procedures pursuant to Regulation 20(1) of the *Local Government (Procedures at Meetings) Regulations 2013* for a period of 10 minutes (or for a period sufficient to facilitate informal discussion and will resume at the end of this time (or at the discretion of Her Worship the Acting Mayor).

The meeting procedures were suspended at 8.32pm.

The meeting resumed at 8.42pm.

Moved Councillor Clancy, Seconded Councillor Bouchee

Lost**Division called**

A division was called and the previous decision was set aside:

Those voting for: Councillors Bouchee, Clancy, Shewin and Yates (4)

Those voting against: Councillors Aust, Bradshaw, Charlick, Lonie, Patton, and Smedley (6)

Her Worship the Acting Mayor declared the motion

Lost**RETAIN IN CONFIDENCE - Section 91(7) Order****C280818/1273**

That having considered Agenda Item 11.4 Motion on Notice – Appointment to the Alwyndor Management Committee – Councillor Clancy in confidence under section 90(2) and (3)(a) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report, attachments and minutes be retained in confidence for a period of 24 months and that this order be reviewed every 12 months.

Moved Councillor Lonie, Seconded Councillor Aust

Carried

17.1 Brighton Oval Complex – Redevelopment Contract Approval (Report No: 294/18)**Motion****C280818/1274****Recommendation – Exclusion of the Public – Section 90(3)(b and d) Order**

1. That pursuant to Section 90(2) of the *Local Government Act 1999* Council hereby orders that the public be excluded from attendance at this meeting with the exception of the Chief Executive Officer and Staff in attendance at the meeting in order to consider Report No: 294/18 Brighton Oval Complex – Redevelopment Contract Approval in confidence.
2. That in accordance with Section 90(3) of the *Local Government Act 1999* Council is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 294/18 Brighton Oval Complex – Redevelopment Contract Approval on the following grounds:

- b. pursuant to section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which could reasonably be expected to confer a commercial advantage on persons with whom the Council is proposing to conduct business and would prejudice the commercial position of the Council in negotiation of the tender and contract.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.

- d. pursuant to section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information in that it would disclose commercial pricing information about a tender and would confer a commercial advantage on a third party.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the

information outweighs the benefit to it of disclosure of the information.

- 3. The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.**

Moved Councillor Lonie, Seconded Councillor Bouchee

Carried

Brighton Oval Complex – Redevelopment Contract Approval (Report No: 294/18)

At its meeting on 10 July 2018, Council approved the calling of tenders for a Managing Contractor to manage the design and construction of the three (3) new clubrooms under the Brighton Oval Building Redevelopment. A Request for Tender was subsequently issued to four short-listed companies with tenders closing at 5.00pm on 10 August 2018.

An evaluation panel was established which reviewed the four written tenders. A subsequent interview was conducted with the two preferred tenderers to assist with final selection. On the basis of the evaluation, Administration recommends that Cook Building be awarded the contract to undertake the role of Managing Contractor for the proposed Brighton Oval Building Redevelopment.

The contract price and delivery programs are aligned with the available budget (\$8.17m) over the two financial years (commencing in 2018/19). The RFT did not seek, and the tender did not provide, a price for the actual construction. Instead the RFT sought the price for the managing Contractor to undertake the detailed design and to manage the overall construction activities. A price for the actual construction will be negotiated with the contractor once the detailed design reaches the 30% design stage.

This paper provides details of the tender evaluation for the Managing Contractor, the recommendation to appoint Cook Building and summary of the contract approach, risk management, planning approval process and the project budget.

A range of processes are in place to ensure the direct construction costs remain within the budget target including negotiating a Guaranteed Maximum Price for construction of the three (3) buildings, a program of design and cost reviews and an open book partnership with the Managing Contractor to facilitate value engineering and resolution of design issues.

Note that the lighting replacement at the Lacrosse club is a separate project and not part of this recommended construction contract.

Motion**C280818/1275****That Council:**

1. Authorise the Brighton Oval Building Redevelopment Project (including upgrading sports lighting to one (1) Lacrosse pitch) to proceed to construction based on a total project budget of \$8,170,000 subject to successful Development Approval;
2. Note the attached tender evaluation report for the Brighton Oval Building Redevelopment and award the Managing Contractor contract to Cook Building at a contract price of \$7,350,000 (excl GST) comprising:
 - (a) Managing Contractor costs of \$899,610 (excl GST)
 - (b) direct construction costs of \$6,450,390 (excl GST)
3. Authorise the Chief Executive Officer to execute the contract with Cook Building for the delivery of Brighton Oval Building Redevelopment subject to any necessary minor amendments; and
4. Grant landlord consent to install the proposed lighting upgrade for the Lacrosse club, subject to satisfactory design and Development Approval.
5. That Administration bring the following matters to Council for approval:
 - 30%, 70% and 100% designs
 - Guaranteed maximum price
 - Any major variations or changes outside delegations (or 5% of project budget)

Moved Councillor Lonie, Seconded Councillor Bouchee

Carried**Division called**

A division was called and the previous decision was set aside:

Those voting for: Councillors Aust, Bouchee, Bradshaw, Charlick, Clancy, Lonie, Patton, Smedley, Snewin and Yates (10)

Those voting against: Nil (0)

Her Worship the Acting Mayor declared the motion

Carried**RETAIN IN CONFIDENCE - Section 91(7) Order****C280818/1276**

5. That having considered Agenda Item 17.1 Brighton Oval Complex – Redevelopment Contract Approval (Report No: 294/18) in confidence under section 90(2) and (3)(b and d) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that:

- (a) the discussion, report, attachments, minutes, tender and contract documents be retained in confidence until execution of the contract and/or the Chief Executive Officer is authorised to release the documents when such release would no longer confer a commercial advantage and/or prejudice the commercial position of the person who supplied the information and that this order be reviewed every 12 months; and
- (b) the report, attachments, minutes, tender and/or contract documents be made available in confidence to the Audit Committee for review as necessary.

Moved Councillor Lonie, Seconded Councillor Bouchee

Carried

CONFIRMED **Tuesday 11 September 2018**

ACTING MAYOR

CONFIDENTIAL