

**ITEM 8. EXEMPTION FROM TENDER - VARIATION TO EXISTING
CONTRACT - ALEXANDRIA PARK AND ERSKINEVILLE OVAL
TOILETS UPGRADE**

FILE NO: X002139

SUMMARY

On 21 November 2016, Council accepted the tender of Matrix Group Co Pty Ltd to undertake works for the Alexandria Park and Erskineville Oval Toilets Upgrade Project (installation of an accessible bathroom at each location within existing building structures and installation of accessible ramps to each bathroom).

Construction works commenced on 16 January 2017. Following site establishment, the following matters were identified:

- hazardous materials within the ceiling of each building. Rather than replace only that component of the ceiling above the work scope area (approximately 10 per cent of the buildings' footprint), consistent with best practice, it was determined to remediate the entire ceiling each building; and
- a previously unknown terracotta sewer line beneath the location for the accessible ramp at Alexandria Park. An engineer's assessment determined the need for replacement of a section of the pipe and encasement to protect the pipe prior to installation of the accessible ramp.

The current project scope does not provide for the undertaking of these additional works. Therefore, this report seeks an exemption from the undertaking of a new tender for these works and an increase in the existing contractor's contract contingency to allow for the undertaking and completion of these additional works.

RECOMMENDATION

It is resolved that:

- (A) Council approve an exemption from tender, in accordance with Section 55(3)(i) of the Local Government Act 1993, for the contract "additional hazardous and contaminated material removal", noting that due to extenuating circumstances, a satisfactory result would not be achieved by inviting tenders;
- (B) authority be delegated to the Chief Executive Officer to negotiate, execute and administer a variation to the existing contract relating to Alexandria Park and Erskineville Oval Toilets Upgrade;
- (C) Council note the reason why a satisfactory outcome would not be achieved by inviting tenders are as follows:
 - (i) a contractor for the construction works has already been appointed in accordance with the City's procurement processes; and

- (ii) the additional costs required to establish another remediation contractor on site is not considered value for money. If the work were separately contracted it is not considered that better value for money or suitable timeframes would be achieved for Council;
- (D) Council approve an increase in the contract contingency to the existing contractor to cover extended construction work as described in confidential Attachment A to the subject report; and
- (E) Council note the financial and contractual implications detailed in confidential Attachment A to the subject report.

ATTACHMENTS

Attachment A: Financial and Contractual Implications (Confidential)

(As Attachment A is confidential, it will be circulated separately from the agenda paper and to Councillors and relevant senior staff only.)

BACKGROUND

1. The contract for the works at Alexandria Park and Erskineville Oval is to install an accessible bathroom at each location within existing building structures and install accessible ramps to each bathroom.
2. The contractor established site and commenced works on 16 January 2017.
3. The contractor has uncovered a latent condition in the ceiling spaces. The materials within the ceilings were subsequently tested and shown to be contaminated.
4. During the demolition phase, the ceiling sheets above the area for the accessible bathrooms at Alexandria Park and Erskineville Oval were identified as hazardous materials. The assessment identified all ceiling sheets in both buildings to be contaminated. The area of ceiling to be replaced as part of the project scope was approximately 10 per cent, however it was determined good practice for the City to remove all hazardous materials and completely replace the ceilings while an opportunity was available.
5. The current scope of works does not include remediation and hazardous material treatment. The remediation works are required to allow the project to continue. The remediation will remove a significant hazard from the buildings.
6. Additionally, a previously unknown terracotta sewer line beneath the location for the accessible ramp at Alexandria Park was identified during excavation. An engineer's assessment determined the need for replacement of a section of the pipe and encasement to protect the pipe prior to installation of the accessible ramp.
7. The current scope of works does not include the required works to the existing sewer line. Additional works as per the engineer's specifications are now required to allow the project to continue and allow the installation of the accessible ramp.

FINANCIAL IMPLICATIONS

8. There are currently sufficient funds within the existing project budget to address the latent conditions. Details of budget status are outlined in confidential Attachment A.

RELEVANT LEGISLATION

9. This exemption from tender is sought in accordance with Section 55 of the Local Government Act 1993.
10. In accordance with Section 55 of the Local Government Act 1993, exemption from tender is required due to extenuating circumstances. Extenuating circumstances exist on this project for the following reasons:
 - (a) a Contractor for the construction works has already been appointed in accordance with the City's procurement processes; and
 - (b) the additional cost required to establish another remediation contractor on site is not considered value for money. If the work were separately contracted, it is not considered that better value for money or suitable timeframes would be achieved for Council.

11. Attachment A contains confidential commercial information regarding Council's contract contingencies which, if disclosed, would confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.
12. Discussion of the matter in an open meeting would, on balance, be contrary to the public interest because it would compromise Council's ability to negotiate fairly and commercially to achieve the best outcome for its ratepayers.

CRITICAL DATES / TIME FRAMES

13. Program Key Milestones:

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| (a) Construction works commenced | 16 January 2017; |
| (b) Endorsed Project Completion Date | 30 March 2017; and |
| (c) New forecast project completion | 12 June 2017. |

AMIT CHANAN

Director City Projects and Property

Glenn Merry – Project Manager