

ITEM 10. EXEMPTION FROM TENDER – VARIATION TO EXISTING CONTRACT - BENLEDI HOUSE ROOF AND STORMWATER UPGRADE**FILE NO: X006299****SUMMARY**

This report seeks Council approval to increase the contract contingency to manage additional remediation works being undertaken at Benledi House not foreseen in the original scope of works.

On 24 October 2016, Council resolved to accept the tender of Murphy's Construction Group Pty Ltd to complete the works for the roof and stormwater upgrade works at Benledi House in Glebe.

Construction works commenced on 30 January 2017. Site establishment has been undertaken and scaffolding erected at the site.

Following site establishment, it was identified that hazardous materials within the main ceiling space and in the balcony roofing would be disturbed by workers. This report seeks exemption from a new tender and to increase the existing head contractor's contract contingency due to the required treatment of latent conditions.

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 "additional hazardous and contaminated material removal", noting that, due to extenuating circumstances, a satisfactory result would not be achieved by inviting tenders;
- (B) Council note the reason why a satisfactory outcome would not be achieved by inviting tenders are:
 - (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;
- (C) Council approve an increased contract contingency to the existing Head Contractor to cover extended construction work as described in confidential Attachment A to the subject report; and
- (D) Council note the financial and contractual implications detailed in confidential Attachment A.

ATTACHMENTS

Attachment A: Financial and Contractual Implications (Confidential)

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

BACKGROUND

1. The contract for the works at Benledi House is to replace the deteriorating roof of the building and other works including upgrades to storm water drainage off the roof of the building.
2. The contractor established site and commenced work at Benledi House on 30 January 2017.
3. Scaffolding was erected to provide safe access for detailed roof inspection and upon review of work methodologies for the project, it was identified that latent lead dust may be disturbed through work processes. Testing was undertaken which confirmed the presence of lead dust in concentrations above recommended safe levels. Additionally, material in the corrugated bull nose roofing above the front balcony was found to contain asbestos.
4. The current contract for works did not allow for remediation and hazardous material treatment. Remediation works are now required to allow the project to continue. The remediation will remove a significant hazard from the building.

FINANCIAL IMPLICATIONS

5. There are currently insufficient funds within the existing project budget for the latent conditions. Details of the additional funding are outlined in confidential Attachment A.

RELEVANT LEGISLATION

6. This exemption from tender is in accordance with section 55 of the Local Government Act 1993.
7. 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;
 - (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.
8. Attachment A contains confidential commercial information of 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.
9. 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

10. Program Key Milestones:

- | | |
|--------------------------------------|-----------------|
| (a) Construction works commenced | 30 January 2017 |
| (b) Endorsed Project Completion Date | 30 April 2017 |
| (c) New forecast project completion | 26 May 2017 |

11. The remediation works will add approximately 26 days to the endorsed project completion date.

OPTIONS

12. The impact of not proceeding with the proposal is that site works can go no further. Works to replace the roof at Benledi House cannot continue without the required remediation works.

AMIT CHANAN

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