

Item 15.**Tender - T-2024-1259 - Services - Annette Kellerman Murals Conservation and Restoration Project****File No: S065512.001****Tender No: T-2024-1259****Summary**

This report provides details of the tenders received for Services - Annette Kellerman Murals Conservation and Restoration Project.

The Kellerman Murals, painted by highly acclaimed Australian contemporary artist Wendy Sharpe AM FRSN, consist of eight large acrylic paintings that tell the life story of Australian champion swimmer, aquatic performer and actress, Annette Kellermann. The paintings were installed between concrete columns, over the water body, on the western side of the Cook and Phillip Park Aquatic Centre, in 1999.

Due to a hanging point failure on one panel in mid-2023, all eight murals were removed and are now stored at the City of Sydney's Wattle Street Depot.

The scope of works for the murals includes restoration of the frames, redesign of the hanging system, conservation of the paintings, and reinstatement of the works at Cook + Phillip Park Aquatic Centre. The service provider team includes specialisation in the following areas: metals corrosion, structural engineering and paint conservation.

This report recommends that Council decline to accept the tender offer/s received for Services - Annette Kellerman Murals Conservation and Restoration Project and enter into negotiations with suitable vendors for Services - Annette Kellerman Murals Conservation and Restoration Project.

Recommendation

It is resolved that:

- (A) Council decline to accept the tender offers for Services - Annette Kellerman Murals Conservation and Restoration Project for the reasons set out in Confidential Attachment A to the subject report;
- (B) Council does not invite fresh tenders, as it is considered that inviting fresh tenders would not attract additional suitable vendors over and above those that have responded to this tender;
- (C) authority be delegated to the Chief Executive Officer to enter into negotiations with any person with a view to entering into a contract on terms that are appropriate in relation to the subject matter of the tender;
- (D) authority be delegated to the Chief Executive Officer to negotiate, execute and administer the contracts relating to the tender; and
- (E) Council be informed of the successful vendor via the CEO Update.

Attachments

- Attachment A.** Tender Evaluation Summary (Confidential)
- Attachment B.** Pricing (Confidential)
- Attachment C.** Quantity Surveyor's Check Estimate (Confidential)

Background

1. The Kellerman Murals comprise 8 large painted murals that celebrate the life of Annette Kellermann who overcame childhood illness to become a champion swimmer.
2. The murals were commissioned especially for the Cook and Philip Park Aquatic Centre (CPPAC) and were painted by Wendy Sharpe AM FRSN. The murals measure approximately 3.10m (H) x 4.90m (W) x 105mm (D) and weigh approximately 200kg. Each mural fits between concrete frames that span the main pool. The murals were installed for the opening of the award-winning building in 1999.
3. The murals consist of a rigid plastic face on which the artwork is painted fixed to an aluminium frame. Insulation was placed into the back of the frame and was covered with a perforated aluminium backing. A simple hinge was made using metal angles to allow the murals to move back and forth.
4. The southernmost hinge failed in mid-2023. All of the murals were then removed from the pool area as a precautionary measure and stored at the City of Sydney's depot at 10A Wattle Street.
5. Once removed, it was apparent that the murals needed conservation to the paintwork, restoration of the frames, and a redesigned fixing system, after nearly 25 years in the semi open and corrosive environment of the pool.
6. The purpose of the tender was to engage services to remediate the artwork and frames and rehang the murals in their former location.
7. The intention of the reject and negotiate process is to achieve a better outcome as further described in Confidential Attachment A.

Invitation to Tender

8. The tender was advertised through Tenderlink for five weeks from 9 September until 17 October 2024.
9. The Request for Tender was also available on the Supply Nation and NSW Indigenous Chamber of Commerce (NSW ICC) websites via their member opportunity boards.

Tender Submissions

10. Three submissions were received from the following organisations:
 - International Conservation Services P/L (ABN 64 052 402 981)
 - O'Sullivan Conservation Services P/L (ACN 633 006 434)
 - Project W P/L (ABN 63 166 336 858)
11. No late submissions were received.

Tender Evaluation

12. All members of the Tender Evaluation Panel have signed Pecuniary Interest Declarations. No pecuniary interests were noted.
13. The relative ranking of tenders as determined from the total weighted score is provided in the Confidential Tender Evaluation Summary – Confidential Attachment A to the subject report.
14. All submissions were assessed in accordance with the approved evaluation criteria being:
 - (a) The lump sum price and schedule of prices.
 - (b) Company Capacity: Company profile, history of work with art in the public domain, Quality Management Systems, environmental programs, circular economy, social procurement, Modern Slavery Act compliance and Aboriginal and Indigenous involvement.
 - (c) Personnel Capability: The team including all sub-contractors, their % allocation on the project, qualifications, technical ability and demonstrated personal experience as it relates to the specified scope. Technical expertise to include (but not be limited to) paint conservation of artworks located in corrosive environments, structural engineering, and metals conservation services for artworks in the public domain.
 - (d) Proposed Methodology: Project Approach: Demonstrate understanding of the key risks, challenges, deliverables, objectives to deliver the project and a program that considers timely delivery and possible impacts.
 - (e) Program for Project: provide a draft program that identifies duration, sequencing, and appropriately detailed breakdown of work tasks; and consideration of contract requirements including hold/witness points and milestones.
 - (f) Relevant Experience: Provide 3 examples of completed projects of a similar size and nature. Projects that demonstrate the direct capacity and capability to deliver a project as described in the project specification.
 - (g) Modern Slavery Risk Management.
 - (h) Financial and commercial trading integrity.
 - (i) Insurances are compliant with the City's standard insurance requirements, as confirmed by the Risk office.
 - (j) Material Acceptance of the City's Standard Form Contract.

Risks

15. Renewal and reinstallation of the Kellerman Murals is consistent with the City's Risk Appetite Statement for Infrastructure, Technology, Assets and Property. In particular, the recognition of the intrinsic value of culture and heritage assets and the importance of their preservation. The City takes a cautious approach to risk taking, focusing on the protection, conservation and restoration of significant cultural and heritage resources to ensure their long-term viability and integrity.

16. Works will be undertaken in such a way as to reflect Council's minimal appetite for disruption to community services and encouragement of public spaces that prioritise health and safety.

Financial Implications

17. There are sufficient funds allocated for this project within the following year's capital works budget and future years' forward estimates.
18. The total contract sum and contingency for Services - Kellerman Murals Conservation is detailed in Confidential Attachment A to the subject report.

Relevant Legislation

19. The tender has been conducted in accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2021 and the City's Procurement and Contract Management Policy.
20. Local Government Act 1993 - Section 10A provides that a council may close to the public so much of its meeting as comprises the discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.
21. Attachments A and B contain confidential commercial information of the tenderers and details of Council's tender evaluation and contingencies which, if disclosed, would:
 - (a) confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business; and
 - (b) prejudice the commercial position of the person who supplied it.
22. 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

23. Award contract late 2025.
24. Install Murals: anticipated to be by 30 June 2026 subject to timing of remedial works to main pool structure.

Options

25. An alternative option is to readvertise the tender. This option is not recommended as it is unlikely to attract additional suitable vendors over and above those who responded.
26. Another option is to accept the highest ranked tender following the process. This is not recommended as it is considered that a better outcome can be obtained for the City by undertaking a reject and negotiate process for the reasons set out in Confidential Attachment A.

Public Consultation

27. No public consultation has been undertaken, as the murals are internal features of the pool facility. Upon completion of restoration works, the murals will be reinstated in their original locations within the building.

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Chief Operating Officer

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