

NOTICE OF MEETING

TENDERS SUBCOMMITTEE

I hereby give notice that an Ordinary Meeting will be held on:-

DATE: **Friday** **15 March 2002** **TIME:** **9.00 am**

VENUE: **Civic Centre, 6 Waipareira Avenue, Lincoln, Waitakere City**

to consider the business as set out herein and to take any necessary action connected therewith.

12 March 2002

Sharon Simiona
COMMITTEE SECRETARY

Telephone (09) 836 8000 extn 8820

MEMBERSHIP:

Councillors JM Clews, QSO, JP (Chairperson)
 GB Presland (Deputy Chairperson)

Chief Executive

Director: City Services

Director: Corporate & Civic Services

Director: Strategic Projects

Director: Strategic Group

Director: Finance

Director: City Enterprises

Maori Issues Manager

Mayor, Bob Harvey, QSO, JP (ex officio)

Deputy Mayor, CA Stone (ex officio)

(Quorum 4 members)

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(The reports and recommendations contained in all agendas are reports and recommendations only and are not to be construed, in any way, as Council policy until adopted.)

**AGENDA FOR AN ORDINARY MEETING OF THE TENDERS SUBCOMMITTEE
TO BE HELD IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN,
WAITAKERE CITY, ON FRIDAY, 15 MARCH 2002,
COMMENCING AT 9.00 AM.**

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1 APOLOGIES



2 URGENT BUSINESS

Section 46A(7) and (7A) of the Local Government Official Information Act and Meetings Act 1987 provides that where an item of business is not on the agenda, it may only be dealt with at the meeting if:

- (i) the item is a minor matter; and
- (ii) the Chairperson has explained at the beginning of the meeting (when open to the public) that the item will be raised for discussion, why the item is not on the agenda, and why it cannot be delayed until a subsequent meeting; and
- (iii) the Committee resolves to deal with the item.

No resolution, decision, or recommendation may be made in respect of the item except to refer the item to a subsequent meeting for further discussion.

NOTE: Urgent Business need not be dealt with now and may be delayed until later in the meeting.



3 CONFIRMATION OF MINUTES

Ordinary - 1 March 2002

RECOMMENDATION

That the minutes of the Ordinary Meeting of the Tenders Subcommittee held on Friday, 1 March 2002, as circulated, be taken as read and now be confirmed.



4 CITY WIDE ARBORICULTURAL MAINTENANCE CONTRACT

PURPOSE OF THE REPORT

Permission is sought to tender for a one year contract with options for extension for the provision of arboricultural maintenance services throughout the City.

BACKGROUND

The tender is required to fulfil programmed and reactive arboricultural works citywide. The contract will also involve tree removal, tree renewal and planting of new trees in streets and parks. The contract will ensure the safety, integrity and longevity of the City's tree asset.

ISSUES

The proposed physical works contract period will be for an initial 12 months and is scheduled to commence 1st July 2002 with options for extension of contract for a further two plus two years if the performance of the Contractor is satisfactory.

Cyclical programmed work will be undertaken on all mature trees over a four year period throughout the city to ensure the growth and form of these larger trees is maintained and safety is not compromised.

The proposed physical works will involve committing of approximately \$580,000 per annum.

The Engineers Estimate and escalation for this contract is:

Year 1	2002/2003	\$580,000
Year 2 and 3	2003/2004	\$595,000
	2004/2005	\$600,000
Year 4 and 5	2005/2006	\$605,000
	2006/2007	\$605,000

CONCLUSION

A one year contract is needed to ensure correct management of the City's tree asset in 2002 and 2003. The options for a further 2 plus 2 years will provide the opportunity for contractors to prove that they have the ability, technical skills, management systems and methodology to carry out the works in future years and also give the Council flexibility to release a poor contractor from the contract.

The City will also benefit in the retention of a proven contractor.

RECOMMENDATIONS

1. That the information be received.
2. That approval is given for the tender of a one plus two plus two year contract for the supply of arboricultural maintenance services throughout the City.

Report prepared by: Roscoe Webb, Parks Project Manager: Arboriculture and Quality Assurance.



5 PK02006.2 TE ATATU PENINSULA WALKWAY CONSTRUCTION

PURPOSE OF THE REPORT

The purpose of this report is to seek approval to award Contract PK02006.2 Te Atatu Peninsula Walkway Construction.

BACKGROUND

This contract forms part of Council's parks asset creation programme as provided for in the 2001/2002 Annual Budget.

SCOPE OF WORK

The scope of works includes the construction of a walkway linking existing walkways between Chapman Strand to Dawnhaven Strand and Dawnhaven Strand to Kelvin Strand on the North Eastern end of the Te Atatu Peninsula. The work involves the construction of gravel tracks, steps, boardwalks and a bridge through coastal mangroves and swampy ground. Tenders were advertised after receiving the preliminary consent conditions from the Auckland Regional Council, with final consent due to be issued shortly.

TENDERS RECEIVED

Tenders were publicly advertised with eleven sets of documents being uplifted. Seven tenders were received by the closing date of Tuesday, 26 February 2002. These are summarised in Table 1 below:

TENDERER	REG OFFICE	TENDER PRICE (excl.GST)
Nick Liewing Contractors Limited	Pukekohe	\$108,724.00
Brett Garea Environments Limited	Auckland	\$120,041.17
Auckland Civil Limited	Auckland	\$122,644.18
Civil Construction Group Limited	Auckland	\$132,817.00
A.J.Callis Limited	Penrose	\$150,988.50
Te Ngahere Limited	Auckland	\$205,625.82
Shotcrete NZ Limited	Auckland	\$236,414.00
Pre-tender contract estimate		\$139,457.00

Table 1 - Summary of Tender Prices

TENDER EVALUATION

In accordance with the conditions of tendering, tenders were evaluated in line with the Weighted Attribute Method contained in Transfund New Zealand's "Competitive Pricing Procedures Manual".

A summary of the evaluation results is shown in Table 2:

Tender Evaluation	Attributes	Exper	Track Record	Tech Skills	Re-source	Man-agement	Method	Price	Total Weight
Tenderer	Weight	5	10	10	5	5	5	60	100
	Tender Sum	Grades							Index
Brett Garea Environments Ltd	\$120,041.17	75	70	75	70	60	65	60	64
Auckland Civil Ltd	\$122,644.18	75	70	75	75	75	60	58	63
Nick Lifting Contractors Ltd	\$108,724.00	65	45	50	55	45	50	68	61
Civil Construction Group Ltd	\$132,817.00	60	55	65	60	60	60	50	54
A.J.Callis Ltd	\$150,988.50	75	75	70	70	75	65	36	51
Te Ngahere Ltd	\$205,625.82	80	80	70	70	75	65	-5	27
Shotcrete NZ Ltd	\$236,414.00	70	65	65	70	70	70	-28	10
Median Tender Price	\$132,817.00								

Table 2 - Summary of Tender Evaluation

The tenderers have been assessed and evaluated on the basis of their past performance, references and on information contained within the tender submissions. Internal reference checks were obtained to ensure consistency in evaluation scores across City Services

Tender prices for this project ranged between \$108,724 and \$236,414 however the median price of \$132,817 is close to the Engineers estimate. The three lowest tender prices are within a \$14,000 range and below the Engineers estimate. Whilst Nick Lifting Contractors Limited has submitted the lowest price tender, Brett Garea Environments Limited has scored the highest index rating based on weighted attributes and Auckland Civil Limited, the second highest index.

Nick Lifting Contractors Limited submitted the lowest tender price and the tender evaluation considered the following points:

- Reference checks highlighted issues regarding contract timeliness and quality of workmanship;
- Recently the company has been issued with two infringement notices by Auckland Regional Council relating to offences under the Resource Management Act 1992.

Brett Garea Environments Limited submitted the second lowest price and the tender evaluation considered the following points:

- Reference checks showed positive responses regarding quality of workmanship, project budgeting and programming.

Auckland Civil Limited submitted the third lowest price and the tender evaluation considered the following points:

- Reference checks identified no issues regarding quality of workmanship, project budgeting and programming;
- An outstanding commitment to company safety was shown in the tender submission.

TAGS, ERRORS OR OMISSIONS

There were no tags, errors or omissions in the tender submissions.

CREDIT CHECK

A credit check on Brett Garea Environments Limited dated 1 December 2001 revealed no adverse information.

SUMMARY

The tenders have been impartially evaluated in accordance with the Weighted Attributes Method of the Transfund New Zealand's "Competitive Pricing Procedures Manual". Brett Garea Environments Limited has achieved the highest evaluation index of 64.

As the work is to be performed within the coastal mangroves and swampy grounds strict adherence to consent conditions and the Resource Management Act is required.

As part of City Services vision "Quality, Health and Safety are not negotiable" all contractors have had this focus reinforced through this tender statement, contract documents and the subsequent pre-start meeting.

JOB COSTS

	Excl. GST
Tender sum - Brett Garea Environments Limited	\$120,041.17
Contingency	\$ 12,004.12
Engineering & Supervision	\$ 31,575.00

Total Job Cost	\$163,620.29

SOURCE OF FUNDING

Budget Description (from Annual Budget line item)	Codes	Budget	Committed to Other Projects	Allocation to This Project	Unallocated Balance
Te Atatu Peninsula Walkway Chapman Strand to Dawnhaven	75-9825-43580	\$85,000.00	\$10,000.00	\$75,000.00	\$0
Te Atatu Peninsula Walkway Kelvin Strand to Dawnhaven	75-9825-43600	\$115,000.00	\$26,379.71	\$88,620.29	\$0
Total		\$200,000		\$163,620.29	

RECOMMENDATIONS

1. That the information be received.
2. That the tender from Brett Garea Environments Limited for Contract PK02006.2 Te Atatu Walkway Construction in the sum of \$120,041.17 plus \$15,005.15 GST, totalling \$135,046.32 be accepted.
3. That the tender for Contract PK02006.2 Te Atatu Walkway Construction be awarded to other than the lowest priced tender, because the weighted attributes tender evaluation method requires the tendering authority to enter into a contract only with the tender that scores the highest overall index.
4. That authority to enter into Contract PK02006.2 Te Atatu Walkway Construction on behalf of Council be delegated to the Director: City Services upon receipt of the final coastal consent from the Auckland Regional Council.

Report prepared by: Kathryn Howard, Parks Asset Environment Co-ordinator.



6 UPDATE ON HENDERSON VALLEY TRUNK SEWER REPLACEMENT CONTRACT NO. 60720

PURPOSE OF THE REPORT

The purpose of this report is to update the Tenders Subcommittee on the present status of the Contractor's variation claims on Contract No. 60720.

BACKGROUND

Contract No. 60720 for Henderson Valley Trunk Sewer Replacement was commenced in May 1999. The contractor, H&H Contractors Limited, was awarded the contract for the amount of \$298,682.00 excluding GST. While carrying out this contract, H&H encountered considerable problems that caused a significant increase in costs and time, such that the contract completion was delayed until 13 July 2000, almost a year later than originally programmed.

Subsequently, the Contractor made substantial claims for additional costs arising from Unforeseen Physical Conditions (UPC), causing the total contract claim to reach a figure of \$1,006,126.49, with an associated Extension of Time claim of 206 days. The Contractor's Final Claim was made on 23 May 2001.

The situation as of 30 June 2001 was that outstanding Contractor's claims amounting to about \$587,000 had still to be finally resolved or paid. In anticipation of some of this amount being decided in the Contractor's favour, EcoWater accrued an amount of \$180,000 at the 30 June 2001 year-end sourced from the budget of a deferred project. It was proposed that should this \$180,000 prove insufficient for the final settlement of the outstanding Henderson Valley Trunk Sewer Replacement contract claims, additional funding (estimated at up to \$440,000) in the 2001/2002 financial year would then need to be acquired through whatever options might be available at the time, after deliberation by Council. This was reported to the Finance, Policy and Property Committee on 9 August 2001.

On 12 November 2001, the current Engineer to the Contract gave his “formal decision” under sub-clause 13.2.4 of the General Conditions of Contract (NZS 3910) with respect to the Contractor’s claims for additional costs. The Engineer determined that the Contractor should be paid a total of \$593,676.95 and be granted an extension of time of 126 days. The Engineer’s decision was considered to be a satisfactory outcome for Council, and so a payment for the balance of \$233,440.11 (inclusive of GST) was made to the Contractor on 28 November 2001.

The Contractor did not accept the Engineer’s decision and, in a letter dated 30 November 2001, served Council notice requesting that the dispute be referred to mediation as provided for under the Contract. Normally, if mediation has not been agreed within 10 working days of the request, either party may refer the matter to arbitration. However, H&H agreed to extend this deadline until 21 December 2001, and on 19 December 2001 their solicitors sent Council a “without prejudice” letter setting out their views on some of the matters in dispute and suggesting that the two parties should meet to try to achieve resolution without the need to resort to arbitration.

Council agreed with the suggestion and a meeting, held without prejudice, took place on 30 January 2002. Arising from this meeting a second meeting was held on 7 February 2002 so that H&H could put to Council their assessment of where they considered there were factual errors in the Engineer’s assessment of H&H’s claim (e.g. where the Engineer may have had inaccurate or incomplete information, or had made computational errors or incorrect assumptions). The Engineer has since reviewed this information and has determined that an additional amount of \$13,242.83 is justifiable.

ISSUES

Council has accepted the Engineer’s formal decision given under the Contract and has paid the Contractor the amount determined by the Engineer. However, the Contractor is disputing the Engineer’s formal decision and is pursuing Council for a further payment of “about \$300,000”.

Council has had several meetings with the Contractor on a “without prejudice” basis, one of which was to correct alleged factual errors in the Engineer’s cost determination. Arising from this latter meeting, the Engineer has agreed that the correction of such errors would result in a further payment to the Contractor of \$13,242.83 (at the date of his formal decision of 12 November 2001). It is considered that Council has a contractual obligation to pay this money now. However, such payment is unlikely to satisfy the Contractor in his pursuit of the wider claim.

Apart from the issue of factual errors detailed above, Council presently has no mandate to agree any further payments to H&H. In order for Council to be able to properly exercise its fiduciary duty, it would need some judgement either by expert determination or arbitration before making further payments, if any.

Some of the disputed issues could probably be resolved by reference to an expert acceptable to both parties. However, it is considered that other issues would probably remain which may still have to go to arbitration, and so the cost saving would be small.

The costs for arbitration could be as high as \$100,000, plus whatever amount of the Contractor’s claim as might be ruled against Council.

CONCLUSION

It is considered that the amount of \$13,242.83 (plus about \$900 for interest accrued to date) for factual errors discovered in the Engineer’s decision of 12 November 2001 needs further clarification and will not be paid at this time.

Further discussions with H&H are unlikely to result in anything useful, and in any event will not yield the form of “judgement” required by Council to effect any further payments under this Contract. The same argument applies to mediation, and so the best course of action would be to let the Contractor take the matter to arbitration. This conforms to advice received from Council’s Corporate Solicitor and is the course of action being taken.

RECOMMENDATION

That the information be received.

Report prepared by: Parkin Low, Contracts Manager: EcoWater.

