

CONFIDENTIAL Report

TO: Committee of Council

MEETING DATE: 15 June 2022

TITLE: Award of Contract - New Animal Shelter Building

PRESENTED BY: Bryce Hosking, Group Manager - Property

APPROVED BY: Sarah Sinclair, Chief Infrastructure Officer

It is recommended that this report be considered with the public excluded, as permitted by the Local Government Official Information and Meetings Act 1987 under clause:

s7(2)(i) Negotiations - The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)

RECOMMENDATION FOR PUBLIC RELEASE

Upon Execution of the contract.

RECOMMENDATION(S) TO COUNCIL

- 1. That Council award and enter a contract with Lee Building Maintenance 2011 Limited (trading as Lee Builders) for \$5,183,974 + GST for the construction of the new animal shelter facility in Totara Road, Palmerston North.**
- 2. That Council delegate to the Chief Executive authority to vary the contract sum by a maximum of 15% of the GST exclusive contract sum within the Programme Budget, to be used as a contingency should it be required for the successful delivery of Contract.**
- 3. That the recommendations and the report be released to the public, upon signing of the contract.**

SUMMARY OF OPTIONS ANALYSIS FOR

<p>Problem or Opportunity</p>	<p>In order to meet the Code of Welfare for the Temporary Housing of Companion Animals, a competitive tender process has been undertaken for the construction of the new animal shelter at Totara Road.</p> <p>As the contract value to undertake this work is above the Chief Executive's delegated authority, this report seeks approval to accept the preferred tender and enter a contract to deliver the project.</p>
<p>Community Views</p>	<ul style="list-style-type: none"> • Not applicable
<p>OPTION 1:</p>	<p>Award and enter a contract with Lee Building Maintenance 2011 Limited (trading as Lee Builders) for the construction of the new animal shelter facility.</p>
<p>Benefits</p>	<ul style="list-style-type: none"> • Council will have a new facility that will fully comply with new Code of Welfare requirements in 2023. This is consistent with the agreement in principle with Ministry of Primary Industries. • The financial risk of the project has been reduced as price certainty has been locked in now that the tender tags have been worked through.
<p>Risks</p>	<ul style="list-style-type: none"> • There are ongoing financial and programme risks associated with COVID19. These have been mitigated through fixing contract prices, and a contingency sum of 15% is also recommended.
<p>Financial</p>	<ul style="list-style-type: none"> • Council awards and enters a contract with Lee Building Maintenance 2011 Limited (trading as Lee Builders) for \$5,183,974 + GST for the construction of the new animal shelter facility in Totara Road, Palmerston North. • Council will need to increase the overall budget from \$4,525,440 + GST to \$7,326,178 + GST, an increase of \$2,800,738 + GST. This is elaborated on in the report titled 'New Animal Shelter – Increase to Budget'.
<p>OPTION 2:</p>	<p>Do not award the contract for the construction of the new Animal Shelter building.</p>
<p>Benefits</p>	<ul style="list-style-type: none"> • None – the existing animal shelter does not meet the legislative requirements of the Code of Welfare for the Temporary Housing of Companion Animals and cannot be easily upgraded to meet these standards. Without building a new animal shelter, Council will remain non-compliant.

Risks	<ul style="list-style-type: none"> • If the contract is not awarded, and Council decides to progress with the project, then the project will have to be re-tendered. • Given current construction market conditions, the overall cost to deliver the project will increase significantly should the project have to be re-tendered. • Given the constrained construction market and feedback from many potential tenderers that they had no capacity, there is a risk of not receiving any tenders if the project was to be re-tendered. • Council may incur breach notices and incur a financial fine for operating a facility that does not meet the code of welfare standards. • There is a reputational risk to Council if council does not proceed with the new facility at this time as the non-compliant facility would continue to be operated.
Financial	<ul style="list-style-type: none"> • Whilst there is no direct cost associated with this option as no tender is being awarded, there would be a cost associated with staff time through the next tender process, along with 'lost' staff time from the tender process just undertaken. • Given current construction market conditions, the overall cost to deliver the project will increase significantly should the project have to be re-tendered. • The planned debt for this project would not be incurred in the 2022/23 financial year. • A financial penalty for operating a facility that does not meet the code of welfare standards will likely be imposed on Council.

RATIONALE FOR THE RECOMMENDATIONS

1. OVERVIEW OF THE PROBLEM OR OPPORTUNITY

- 1.1 The existing animal shelter on Totara Road does not meet the requirements of the Code of Welfare for the Temporary Housing of Companion Animals.
- 1.2 As a result, Council resolved to build a new animal shelter adjacent to the existing facility on Totara Road.
- 1.3 A competitive tender process has been undertaken for the construction of the new facility.

- 1.4 As the contract value to undertake this work is above the Chief Executive's delegated authority, this report seeks approval to accept the preferred tender and enter a contract to deliver the project.
- 1.5 Please note – There are two interrelated reports being presented to the Committee of Council on 15 June 2022 titled:
 1. New Animal Shelter Building – Increase to Budget; and
 2. Award of Contract – New Animal Shelter Building.

2. BACKGROUND AND PREVIOUS COUNCIL DECISIONS

- 2.1 The background, previous decisions and capacity needs of a new facility is discussed in the report titled 'New Animal Shelter – Increase to Budget' which is being presented in Part I of the Committee of Council on 15 June 2022.
- 2.2 Please refer to the attachments to the 'New Animal Shelter Building – Increase to Budget' report for the site plan and elevation render and layout plan of the animal shelter.

3. PROCUREMENT OVERVIEW AND METHODOLOGY

- 3.1 A request for tender (RFT) was advised through GETS in March 2022 and the tender closed in late April 2022. The evaluation panel met on 3 May 2022 to evaluate the tenders.
- 3.2 Advanced notice was given to the contractor marketplace of this tender so to ensure this opportunity was not missed by the contractors with the capability and capacity to deliver the project.

Evaluation Methodology

- 3.3 There are several factors that were considered when determining the weighting of the non-priced and priced criteria prior to tendering. These include, but are not limited to:
 - Project outcomes and requirements;
 - Project risks, consequences and impacts;
 - Methodology, including the duration of the project;
 - Skills and experience required to complete the project; and
 - Cost of the works to be undertaken and project budgets.
- 3.4 There are significant pressures on both the availability and pricing of materials at present and it is anticipated that this will continue for the duration of the construction, leading to price escalation.
- 3.5 However, this is balanced to some degree by a robust building contractor marketplace in this area meaning contractors need to be price competitive

to win business. The project team defined 50% of the overall consideration be given to price to ensure the most cost-effective solution is achieved.

3.6 In addition to pricing there was also a strong weighting put on:

- Contractor capacity – including the skills and previous experience of the contractor; and
- Methodology and resources – ensuring their ability to not only deliver the project on time and to budget but also their management systems for sub-contractors and risks.

3.7 A tender review panel was created to evaluate the tender submissions using the weighted attributes method in a two-envelope process. This process involves evaluation of the quality of the suppliers' submissions, before opening the prices, so as not to influence perceptions of quality.

3.8 The criterion and weightings used were:

Criterion	Weighting
Non-Price Criterion	50%
<i>Contractor Capacity</i>	20%
<i>Methodology and Resources</i>	20%
<i>Local Impact</i>	10%
Price Evaluation	50%
Total	100%

3.9 This procurement along with the evaluation of the tenders received is in accordance with the current Council procurement policy. Council's procurement policy provides consideration towards using local contractors where appropriate.

3.10 As such a 'Local Impact' criterion was included in the non-price criterion. The tenderers were required to provide commentary on whether they were locally based and the skills of the key team members who will be involved in the project and whether these staff were local or not. Extra consideration was also given to their contribution to the local community, economy and growing the local workforce.

4. PROCUREMENT EVALUATION

Evaluation Results

4.1 Although there was a high level of interest expressed in the project, many of the potential tenderers did not tender, citing current capacity limitations.

4.2 The result of this was Council received two (2) tenders from:

- **s7(2)(h) Commercial Activities** [redacted];
and
- Lee Building Maintenance 2011 Limited (Lee Builders).

4.3 Below is a summary of the attribute scores for the non-price criterion:

Criterion	Weight (%)	s7(2)(h) Commercial Activities [redacted]	Lee Builders
Contractor Capacity	20%	s7(2)(h) Commer [redacted]	s7(2)(h) Commer [redacted]
Methodology and Resources	20%	s7(2)(h) Commer [redacted]	s7(2)(h) Commer [redacted]
Local Impact	10%	s7(2)(h) Commer [redacted]	s7(2)(h) Commer [redacted]
Non-Price Score	50%	s7(2)(h) Commercial [redacted]	s7(2)(h) Commercial [redacted]

4.4 Both tenderers highlighted the difficult construction environment at present, the constraints in material supply chains and the availability and capacity of sub-contractors. This resulted in both tenders having to provide a longer than expected construction programme and include a degree of uncertainty in their tenders, which downwardly affected their scores.

4.5 Both tenders signalled a construction completion date of December 2023.

4.6 However, despite the lower scores, Council Officers are confident that both tenderers can deliver the project successfully. Both demonstrated experience, capability and a thorough understanding of the project and key elements and both are well-known local contractors in the marketplace.

4.7 Below is a summary of the tender pricing and associated scoring:

Criterion	Weight (%)	s7(2)(b)(i) Third Party Commercial [redacted]	Lee Builders
Tender Price		s7(2)(b)(ii) Third Party Commercial [redacted]	s7(2)(b)(ii) Third Party Commercial [redacted]
Price Score	50%	s7(2)(b)(i) 10% [redacted]	s7(2)(b)(i) 10% [redacted]

4.8 The combined scoring after considering both the price and non-price criterion is summarised as follows:

Criterion	Weight (%)	s7(2)(b)(ii) Third Party Commercial [redacted]	Lee Builders
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Non-Price Score	50%	(b)(7)(D)(i) %	(b)(7)(D)(i) %
Price Score	50%	(b)(7)(D)(i) %	(b)(7)(D)(i) %
Total Score	100%	(b)(7)(D)(i) %	(b)(7)(D)(i) %

Tender Tags and Clarifications

- 4.9 Both tenders received included a several tender tags or clarifications that needed to be worked through and confirmed before awarding a contract as they create risk for Council through price uncertainty.
- 4.10 For clarity many of the tags were allowed for as provisional sums within the tender price, however, some items that needed to be clarified were not priced for and were over and above the tender price.
- 4.11 Council Officers worked through the tender tags with both contractors and both were invited to revise and fix their pricing of these items. This process was completed along with a robust value engineering process, covered in Clause 5.8 of this report.
- 4.12 The revised pricing after working through the tender tags and completing the value engineering is as follows:

	(b)(7)(2)(b)(ii) Third Party Commercial	Lee Builders
Original Tender Price	\$(b)(7)(2)(b)(i) Third Party Co	\$(b)(7)(2)(b)(i) Third Party Co
Price Movement	\$(b)(7)(2)(b)(i) Third Part	\$(b)(7)(2)(b)(i) Third Part
Revised Tender Price	\$(b)(7)(2)(b)(ii) Third Party Commercial	\$5,183,974 + GST

- 4.13 Despite the revised pricing for both tenderers increasing, Council Officers are now confident of the pricing as the uncertainty risk has been reduced and the pricing above is now a fixed price tender (noting officers still recommend a contingency budget sum). This price is valid until 30 June 2022.

5. FINANCIAL CONSIDERATIONS

- 5.1 The available budgets, the budget required, and value engineering undertaken is discussed in the report titled 'New Animal Shelter Building – Increase to Budget' which is being presented in Part I to the Committee of Council on 15 June 2022.
- 5.2 In addition, to value engineering in both the design and tender phase saving approximately \$1.45m, Council Officers have worked through all tender tags with both contractors which has enabled them to revise and lock in their pricing for the project through a fixed price contract price. Noting this does

not cover any unforeseen circumstances or events, such that a contingency sum of 15% is also recommended for the project budget.

6. CONCLUSION

6.1 Council Officers are now confident that the contract price being recommended in this report is the best price that can be achieved for the project, and the preferred contractor, Lee Builders, will be able to deliver the project successfully.

7. NEXT ACTIONS

7.1 Award and enter a contract with Lee Building Maintenance 2011 Limited (trading as Lee Builders) for the construction of the new animal shelter facility.

7.2 Begin the construction phase of the project.

8. OUTLINE OF COMMUNITY ENGAGEMENT PROCESS

8.1 No specific consultation has been undertaken with the public to determine their preferred option; however, the Safe Community Plan provides clear direction that Council will:

'Plan and implement upgrade of the City Pound to comply with requirements of MPI Code of Welfare Temporary Housing of Companion Animals, including necessary security improvements.'

COMPLIANCE AND ADMINISTRATION

Does the Committee have delegated authority to decide? If Yes quote relevant clause(s) from Delegations Manual <Enter text>	No
Are the decisions significant?	No
If they are significant do, they affect land or a body of water?	No
Can this decision only be made through a 10 Year Plan?	No
Does this decision require consultation through the Special Consultative procedure?	No
Is there funding in the current Annual Plan for these actions?	Yes
Are the recommendations inconsistent with any of Council's policies or plans?	No
The recommendations contribute to Goal 3: A Connected and Safe Community	
The recommendations contribute to the achievement of action/actions in Connected Communities	
The action is: Design and implement upgrade of the City Pound to comply with requirements of MPI Code of Welfare Temporary Housing of Companion Animals,	

including necessary security improvements.

Contribution to strategic direction and to social, economic, environmental and cultural well-being

The construction of a new Animal Shelter facility will ensure:

- The facility complies with the requirements of the MPI Code of Welfare for Temporary Housing of Companion Animals under the Animal Welfare Act 1999;
- There are suitable facilities to adequately provide for the animals during their stay;
- Staff have appropriate facilities to undertake the services being provided; and
- The opportunities to rehome animals can be maximised through more appropriate facilities.

ATTACHMENTS

NIL