



11 December 2018

Dear Sir or Madam,

Re: SOH-1119 Concert Hall HAZMAT Removal

The Sydney Opera House Trust (SOHT) invites the lodgement of a response to the Request For Tender (RFT) for contract SOH-1119 Concert Hall HAZMAT Removal. The RFT contemplates two stages to these works; a "Pre-Construction phase" and a "Construction phase" (refer to the Project Brief). Please note that if a Contract is awarded following this RFT process, it will only be for the "Pre-Construction Phase". The Principal may, at its sole discretion, issue an instruction extending the Contract to include the "Construction Phase".

SOHT requires an experienced contractor with a Class A licence to undertake these works under a NSW Government Minor Works Conditions of Contract (MW21). Relevant documents will be made available from the NSW eTendering website at tenders.nsw.gov.au.

Prior to issue of some of the confidential tender documentation, the tenderers must sign and return the attached Confidentiality Agreement. Please sign and send the document to Melanie Reid on buildingtenders@sydneyoperahouse.com and the relevant documents will be issued promptly thereafter via a secure site for confidential documentation.

Tenders will close on Monday 21 January 2019 promptly at 10:00 AM (AEDT).

In late 2018, Hibbs and Associates, a consultant of SOHT, undertook hazardous materials sampling within the Concert Hall project area. As a result of the sampling process, SOHT is seeking to engage a suitably qualified contractor to undertake wipe down and various remediation works to the Concert Hall Project site as part of the Pre-Construction Phase, prior to the planned venue closure and commencement of the Construction works in February 2020.

It is important to note that **there is a mandatory in person tender briefing and project introduction scheduled at the Sydney Opera House for Thursday 20 December 2018 at 08:00 AM sharp**. Please attend the Stage Door (located under the monumental stairs) approximately fifteen minutes earlier than the starting time for registration.

Due to space restrictions, tenderers must limit their delegation to a maximum of two attendees. Those attending are advised that there are a number of stairs and ladders to climb in order to access the Concert Hall ceiling space. Attendees must be of suitable health and fitness to access such spaces and wear appropriate foot wear and clothing (i.e. tradespersons attire).

Please complete and return the attached nomination form, confirming the names of those whom will attend, no later than close of business on Tuesday 18 December 2018. Tenderers who fail to confirm attendance by the required date will not be granted access to the mandatory site inspection.

Please be advised that some of the tender documentation will be provided as an addendum; these will be issued to the tenderers prior to the mandatory site inspection. The documents to be provided as an addendum are; MW21 General Conditions of Contract and Contract Information, SOHT Special Conditions of Contract and the Hazardous Materials Register.

Requests for information received within five business days of the tender closing may not be accepted.

Should you have any questions, please refer to the NSW eTendering website for contact details of the nominated Tender Contact Officer.

Yours sincerely,

Ziggy Napier
Principal's Authorised Person

Attachments:

1. Confidentiality Agreement
2. Attendance at Mandatory Project Briefing



Confidentiality Deed

THIS DEED is made on the _____ day of _____ 20____.

PARTIES

THE SYDNEY OPERA HOUSE TRUST ABN 69 712 101 035, Bennelong Point, Sydney, New South Wales (**SOHT**)

The person whose name and particulars are set out in Part 1 of the Schedule (**Recipient**)

RECITALS

- A. It is necessary for SOHT to disclose Confidential Information to the Recipient so that the Recipient can pursue the Express Purpose.
- B. The recipient has agreed to keep Confidential Information confidential on the terms of this deed.

OPERATIVE PROVISIONS

1. Definitions

In this deed:

Confidential Information means all Information, regardless of Form:

- (a) disclosed or communicated to the Recipient; or
- (b) learnt or accessed by the Recipient, from SOHT or any Representative of SOHT, or otherwise obtained by the Recipient or any Representative of the Recipient, whether obtained by the Recipient or the Representative of the Recipient before or after the execution of this deed, being Information in connection with the Express Purpose or SOHT in any way;

Express Purpose means the purpose described in Part 2 of the Schedule;

Form in relation to Confidential Information includes any form (whether visible or not) of storage from which the Confidential Information can be reproduced, and any form in which the Confidential Information is embodied or encoded;

Information means all business information, financial information and any other information, and all data, intellectual property, know how, trade secrets, ideas, methods, technology (including computer software and systems), documents, records, product specifications, forecasts and processes directly or indirectly concerning, related to, used or owned by, or licensed to, SOHT. It includes:

- (a) the fact of the Express Purpose and that the Confidential Information may be or has been provided;

- (b) the terms of this deed; and

- (c) any transaction in which SOHT may be or may have been concerned or interested in; and

Representative includes any person acting for or on behalf of a party, including any of that party's directors, officers, employees, contractors or professional advisers.



2. Interpretation

In this deed, unless the context otherwise requires:

- (a) a reference to a document includes any computer program, circuit, circuit layout, drawing, specification, material, record and any other means by which the Confidential Information may be stored or reproduced;
- (b) a reference to anything (including any right) includes a part of that thing; and
- (c) words importing the singular include the plural and vice versa; and
- (d) words of limitation do not limit what else might be included – for example, the word “including” means “including without limitation”.

3. Confidentiality

- 3.1 The Recipient acknowledges that the Confidential Information is secret, confidential and valuable to SOHT. The Recipient must keep the Confidential Information secret and preserve its confidential nature.
- 3.2 The Recipient must not, directly or indirectly without the prior written consent of SOHT, use, disclose, publish or permit the use, disclosure or publication of the Confidential Information to any person, other than in accordance with this deed.
- 3.3 The Recipient must not reverse engineer, decompile or disassemble any Confidential Information.
- 3.4 The Recipient must notify SOHT immediately in writing if it becomes aware of a suspected, possible or actual breach of this deed or any unauthorised access to, use or disclosure of the Confidential Information and must do the following:
 - (i) provide details of the suspected, possible or actual breach, or unauthorised access, use or disclosure;
 - (ii) do anything reasonably required by SOHT to restrain or remedy the unauthorised access to, use or disclosure of the Confidential Information, or to prevent the suspected, possible or actual breach of this deed;
 - (iii) comply with all written directions from SOHT in relation to the suspected, possible or actual breach, or unauthorised access, use or disclosure; and
 - (iv) give SOHT all assistance required in connection with proceedings that SOHT may institute against any person for breach of confidence or otherwise.

4. Permitted use and disclosure of Confidential Information

- 4.1 The Recipient may only use the Confidential Information for the Express Purpose.
- 4.2 The Recipient may prepare documents incorporating part of the Confidential Information only for the Express Purpose.
- 4.3 The Recipient may disclose the Confidential Information to only those Representatives of the Recipient who have a specific need to have access to the Confidential Information for the Express Purpose and who have an obligation to keep the Confidential Information confidential. The Recipient must ensure that those persons do not do or fail to do anything that, if done or not done by the Recipient, would amount to a breach of the Recipient's obligations under this deed. The Recipient must at all times maintain an up to date register of all persons to whom the Confidential Information has been disclosed. On request, the Recipient must promptly provide a copy of the register to SOHT.



- 4.4 The Recipient is liable for and indemnifies SOHT in respect of any claim, action, damage, loss, liability, cost, expense or payment (including legal costs on a full indemnity basis) that SOHT suffers or incurs directly or indirectly or is liable for as a result of or in respect of any of the following:
- (a) a breach of this deed by the Recipient;
 - (b) any infringement of SOHT's rights in respect of the Confidential Information by the Recipient;
 - (c) anything done or not done by any person referred to in clause 4.3 that, if done or not done by the Recipient, would be in breach of this deed;
 - (d) an unauthorised disclosure by a person who received the Confidential Information from the Recipient or any person referred to in clause 4.3.

5. Operation of this deed

- 5.1 The obligations in this deed continue but do not apply to any part of the Confidential Information that:
- (a) subject to clause 5.2, the Recipient is required to disclose by any applicable law or court order; or
 - (b) is in, or subsequently enters into, the public domain other than as a result of a breach of confidentiality.
- 5.2 If the Recipient must make a disclosure as described in clause 5.1(a), it must:
- (a) immediately notify and consult with SOHT before making the disclosure; and
 - (b) assist and co-operate with SOHT if SOHT seeks to limit or resist the requirement to disclose the Confidential Information.

6. Return of documents

- 6.1 If requested by SOHT, the Recipient must immediately:
- (a) cease using the Confidential Information;
 - (b) return to SOHT, or destroy as SOHT directs, all original documents containing any Confidential Information in the possession, power or control of the Recipient or any person referred to in clause 4.3 and any copies of those documents and any documents (including any copies) of a kind referred to in clause 4.2; and
 - (c) give SOHT a written statement confirming that all material containing the Confidential Information has been returned to SOHT or destroyed in accordance with this deed.
- 6.2 The return or destruction of the Confidential Information by the Recipient does not release the Recipient from its obligations under this deed.

7. Remedy for disclosure

The Recipient acknowledges that damages may be inadequate compensation for breach of this deed and SOHT may seek to restrain, by an injunction or similar remedy, any conduct or threatened conduct which is or will be a breach of this deed.

8. Ownership of Confidential Information

The Recipient acknowledges that the Confidential Information remains the property of SOHT at all times.



9. No warranty

- 9.1 SOHT makes no representations or warranties in relation to the Confidential Information including, without limitation, the accuracy, completeness or currency of the Confidential Information.
- 9.2 The Recipient must rely on its own analysis and assessment of the Confidential Information and must satisfy itself as to the accuracy and completeness of the Confidential Information and must rely on its own enquiries relating to the Express Purpose.
- 9.3 To the maximum extent permitted by law, the SOHT disclaims all liability for any loss or damage suffered by any person using, disclosing, relying or acting on any information disclosed by SOHT or any of its Representative and the Recipient releases SOHT from any claim, action, damage, loss, liability, cost, expense or payment which the Recipient suffers or incurs or is liable for as a result of the Recipient relying on the Confidential Information.

10. Governing law and jurisdiction

This deed is governed by the laws of New South Wales. The parties submit to the non-exclusive jurisdiction of the courts of New South Wales.

8. Waiver

- 11.1 Waiver of any right arising from a breach of this deed or of any right, power, authority, discretion or remedy arising upon default under this deed must be in writing and signed by the party granting the waiver.
- 11.2 A failure or delay in exercise, or partial exercise, of:
 - (a) a right arising from a breach of this deed; or
 - (b) a right, power, authority, discretion or remedy created or arising upon default under this deed,does not result in a waiver of that right, power, authority, discretion or remedy.
- 11.3 A party is not entitled to rely on a delay in the exercise or non-exercise of a right, power, authority, discretion or remedy arising from a breach of this deed or on a default under this deed as constituting a waiver of that right, power, authority, discretion or remedy.
- 11.4 A party may not rely on any conduct of another party as a defence to exercise of a right, power, authority, discretion or remedy by that other party.
- 11.5 This clause may not itself be waived except by writing.



SCHEDULE

Part 1 (Recipient's details)

Name:

Representative:

ABN:

Address:

Part 2 (Express Purpose)

The purpose of:

- (a) Undertaking hazardous materials removalist works for The Sydney Opera House Trust which includes receiving documentation of a confidential nature; and
- (b) any ancillary purpose reasonably needed to give effect to these purposes.

EXECUTED as a deed

EXECUTED by [RECIPIENT])
in accordance with section 127(1) of the)
Corporations Act 2001 (Cth) by authority of)
its directors:)

Director
Print name:

Director/Secretary
Print name:



CONTRACT SYDNEY OPERA HOUSE
CONTRACT No: Concert Hall HAZMAT Removal
SOH-1119

NOTICE TO ALL APPLICANTS

Please complete and return the acknowledgment below to Melanie Reid, **via email** (by scanning an original or by providing an authorised electronic signature where required) to buildingtenders@sydneyoperahouse.com **no later than 5:00PM Tuesday, 18 December 2018**.

ATTENDANCE AT MANDATORY PROJECT BRIEFING

CONTRACT SYDNEY OPERA HOUSE
CONTRACT No: Concert Hall HAZMAT Removal
SOH-1119

Name (and position) of Attendees
at Mandatory Site Inspection

Name of Applicant/Company:
(in block letters)

Date:

Signed for the
Applicant by:

(Authorised Officer)

Position of
Authorised Officer:

Name
(in block letters):
