

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 22 January 2019
AGENDA BUSINESS ITEM**

PARTIALLY RELEASED 29 JANUARY 2019

Item: 19.1

Originating Officer: Ashley Curtis, Manager Civil Works

Responsible Director: Peter Bice, Director Infrastructure & Operations

Subject: Road Shoulder Renewal Contract

For: Decision

1. Road Shoulder Renewal Contract – Exclusion of the Public

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except:

- CEO, Andrew Aitken
- Director Infrastructure & Operations, Peter Bice
- Director Development & Regulatory Services, Marc Salver
- Director Corporate Services, Terry Crackett
- Director Community Capacity, David Waters
- Executive Manager Governance & Performance, Lachlan Miller
- Manager Civil Works, Ashley Curtis
- Governance & Risk Coordinator, Steven Watson
- Minute Secretary, Pam Williams

be excluded from attendance at the meeting for Agenda Item 19.1 Road Shoulder Renewal Contract in confidence.

The Council is satisfied that it is necessary that the public, with the exception of Council staff in attendance as specified above, be excluded to enable Council to consider the report at the meeting on the following grounds:

Section 90(3) (d) of the *Local Government Act 1999*, that the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person/agency/business who supplied the information by disclosing specific quotes and modelling by the tenderer.

Accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

SUMMARY

As part of the 2018/19 Annual Business Plan and Budget, Council approved [redacted] for the renewal of road shoulders at various locations. The same budget indicated an intended spend of [redacted] in 2019/20 and again in 2020/21.

Council staff seek to engage a suitably qualified contractor to undertake the approved 2018/19 works, and have approached the market via an Open Tender process. This process resulted in five submissions, with Downer EDI being the preferred tenderer.

Given Council intends to undertake road shoulder renewal works in 2019/20 and 2020/21 it is recommended that Council enter into a multi-year contract, allowing works to continue in those years, subject to satisfactory contractor performance and budget approval.

This would result in a contract value of up to [redacted] which exceeds the maximum delegation of [redacted] that applies jointly to the CEO plus one other Council Officer at Director level. As per Council's *Procurement Policy*, this report seeks Council's approval to enter into a three year contract with Downer EDI for the supply of road shoulder renewal services.

RECOMMENDATION

Council resolves:

1. That the report be received and noted
2. To enter into a contract with Downer EDI as the preferred tenderer for the provision of road shoulder renewal services up to the value of [redacted] over 3 years, subject to future approved Annual Business Plan and Budgets
3. To authorise the CEO to sign all necessary documents to give effect to this resolution.

1. GOVERNANCE

➤ Strategic Management Plan/Council Policy

Goal 3 Places for people and nature

Strategy 3.5 We will take a proactive approach, and a long term view, to infrastructure maintenance and renewal.

Council's *Procurement Policy* (GOV-08) covers the required conduct for all procurement activities associated with the acquisition of Goods, Works or Services of any value by the Council. This includes prescribing procurement methodology, as well as detailing delegations that are referenced in this report.

➤ **Legal Implications**

Section 49 of the *Local Government Act 1999* (the Act) requires Council to prepare and adopt policies on contracts and tenders on:

- the contracting out of services; and
- competitive tendering and the use of other measures to ensure that services are delivered cost-effectively; and
- the use of local goods and services.

Furthermore, Section 49 (a1) of the Act requires Council to develop and maintain policies, practices and procedures directed towards:

- obtaining value in the expenditure of public money; and
- providing for ethical and fair treatment of participants; and
- ensuring probity, accountability and transparency in all operations.

➤ **Risk Management Implications**

The renewal of road shoulders will assist in mitigating a number of risks, such as:

- premature failure of the road seal, leading to higher road renewal costs,
- risks associated with road safety, by providing a safer area for errant vehicles that may have left the carriageway.

Inherent Risk	Residual Risk	Target Risk
Medium (3C)	Low (1C)	Low (1C)

➤ **Financial and Resource Implications**

Funds totalling _____ have been approved as part of the 2018/19 Annual Business Plan and Budget for the renewal of road shoulders.

A further _____ has been listed as intended budget for both 2019/20 and 2020/21. Appropriate provisions have been made in the Long Term Financial Plan to accommodate that intended spend, with _____ per year included until 2021, reducing to _____ per year thereafter.

➤ **Customer Service and Community/Cultural Implications**

A number of customers are expecting these works to occur in 2018/19, and will take a negative view of Council's service delivery if Council fails to do so.

➤ **Environmental Implications**

Not Applicable – no vegetation clearance required.

➤ **Engagement/Consultation conducted with Council Committee, Regional Subsidiary, Advisory Group, the Administration and Community**

Consultation on the development of this report was as follows:

Council Committees: Not Applicable

Council Workshops: Not Applicable

Advisory Groups: Not Applicable

*Administration: Director Infrastructure and Operations
Acting Director Corporate Services
Manager Sustainable Assets
Manager Financial Services
Procurement Coordinator*

Community: Not Applicable

2. BACKGROUND

Council's *Asset Management Plan* requires the renewal of assets, including road shoulders, which are the subject of this report. The renewal of road shoulders involved condition assessment, to identify priority segments that are in poor condition or at the end of their useful life. A proposed program of works was then included in the 2018/19 Annual Business Plan and Budget, under Appendix 2 Capital Budget Detail. The approved budget provided for the renewal of road shoulders along five roads, specifically:

- Paracombe Rd, Paracombe (identified priority segments),
- Juers Rd, Charleston (full length),
- Ironbank Rd, Ironbank (identified priority segments),
- Carey Gully Rd, Mount George (identified priority segments),
- Jones Rd, Balhannah (substituted for Morgan Rd, Ironbank, due to priority and condition)

The rolling three year works program also indicated an intended budget of _____ or the renewal of yet to be identified segments of road shoulder in 2019/20 and 2020/21.

Council staff propose to enter into a three year contract for the provision of road shoulder renewal services, for the reasons outlined in the analysis below. The value of this contract is expected to be approximately _____ which is greater than the CEO's delegation (with another Director) of _____. As per Council's *Procurement Policy*, this report seeks Council's approval to enter into the contract.

3. ANALYSIS

Council staff prepared contract documents and technical specification for the renewal of road shoulders. The physical work involves ripping or excavating the existing deteriorated shoulder to a depth of 100 mm, adding material (crushed rock, or cement stabilised rubble), and re-compacting to a width of 1.5 m.

To ensure best value for the community, the following approach was taken to procurement:

1. Procurement was via Open Tender. This is the most transparent form of procurement, allowing all suppliers in the marketplace to tender if they so wish. This highly competitive process ensures the best tendered rates available,
2. All road shoulder works would be offered to one contractor. This increases the value of works, making the contract more appealing to the market. This approach adds to the competitiveness of the tender, resulting in better rates,
3. The contract would be offered as a multi-year contract. Doing so locks in those competitive rates into the future, as well as saving staff from conducting the time consuming procurement process annually.

Council received five tenders, which were reviewed by a Tender Assessment Panel comprising key staff. Please refer to **Appendix 1** for the Tender Evaluation Summary. Downer EDI was identified as the preferred tenderer, due to their competitive rates, and extensive experience in delivering similar services to other local government clients. Due to commercial in confidence, tenderers have been de-identified in **Appendix 1**.

Please note that the contract is written in such a way that there is no guarantee of work from Council. If Council chooses not to approve the proposed 2019/20 or 2020/21 shoulder renewal programs, the proposed works simply do not go ahead and there are no negative contractual implications to Council.

The contract also has a provision for an additional 2 years (1 + 1yrs) extension subject to good contractor performance.

4. OPTIONS

Council has the following options:

- I. Enter into a contract with Downer EDI for the provision of road shoulder renewal services up to the value of _____ over 3 years, subject to future approved Annual Business Plan and Budgets. This option allows immediate commencement of project delivery of the approved 2018/19 program of works, as well as guaranteeing a supplier and rates for 2019/20 and 2020/21's program of works. **(Recommended)**.
- II. Do not enter into a contract with Downer EDI for the provision of road shoulder services. Council staff will need to reapproach the market, this time for each site individually. It is expected this would result in high rates from the contractor due to the lower volume of work, resulting in a higher overall cost for Council. (Not Recommended).

5. APPENDIX

- (1) Tender Evaluation Summary

Appendix 1

Tender Evaluation Summary

Tender Evaluation Summary

Project	Shoulder Renewal
Project #	3711-14
Tender #	10/19
Date	28/12/2018

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		Downer EDI	Tenderer B	Tenderer C	Tenderer D	Tenderer E
Tender Lump Sum Amount (excl. GST)						
<i>Variance from Median</i>						
Composition of Tender						
A	Juers Rd					
B	Jones Rd					
C	Paracombe Rd					
D	Ironbank Rd					
E	Carey Gulley Rd					

Evaluation Matrix												
	Analysis Criteria	Weight	Downer EDI		Tenderer B		Tenderer C		Tenderer D		Tenderer E	
			Weighted	Raw	Weighted	Raw	Weighted	Raw	Weighted	Raw	Weighted	Raw
	Pricing	25%	25.00		9.07		12.90		22.14		11.21	
	Methodology / Approach	10%	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	5.00	5.00
	<i>Evaluator 1</i>			4.00		4.00		4.00		4.00		5.00
	<i>Evaluator 2</i>			4.00		4.00		4.00		4.00		5.00
	0			0.00		0.00		0.00		0.00		0.00
	Previous Experience	20%	7.50	7.50	6.00	6.00	9.00	9.00	4.00	4.00	5.00	5.00
	<i>Evaluator 1</i>			7.00		6.00		9.00		4.00		5.00
	<i>Evaluator 2</i>			8.00		6.00		9.00		4.00		5.00
	0			0.00		0.00		0.00		0.00		0.00
	Capacity / Capability	20%	9.00	9.00	6.50	6.50	9.00	9.00	8.00	8.00	5.00	5.00
	<i>Evaluator 1</i>			9.00		6.00		9.00		8.00		5.00
	<i>Evaluator 2</i>			9.00		7.00		9.00		8.00		5.00
	0			0.00		0.00		0.00		0.00		0.00
	Program	10%	8.00	8.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00
	<i>Evaluator 1</i>			8.00		4.00		4.00		4.00		4.00
	<i>Evaluator 2</i>			8.00		4.00		4.00		4.00		4.00
	0			0.00		0.00		0.00		0.00		0.00
	Proposed personnel	5%	8.00	8.00	4.00	4.00	8.00	8.00	8.00	8.00	4.00	4.00
	<i>Evaluator 1</i>			8.00		4.00		8.00		8.00		4.00
	<i>Evaluator 2</i>			8.00		4.00		8.00		8.00		4.00
	0			0.00		0.00		0.00		0.00		0.00
	Environmental	5%	9.00	9.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00
	<i>Evaluator 1</i>			9.00		7.00		7.00		7.00		7.00
	<i>Evaluator 2</i>			9.00		7.00		7.00		7.00		7.00
	0			0.00		0.00		0.00		0.00		0.00
	Innovation	5%	8.50	8.50	4.00	4.00	5.00	5.00	5.00	5.00	4.00	4.00
	<i>Evaluator 1</i>			8.00		4.00		5.00		5.00		4.00
	<i>Evaluator 2</i>			9.00		4.00		5.00		5.00		4.00
	0			0.00		0.00		0.00		0.00		0.00
Total Tender Score		100%	79.00		44.57		58.90		62.14		45.21	
Rank			1		5		3		2		4	
Score w/o Price		75%	50.00		31.50		42.00		36.00		29.00	
Rank			1		4		2		3		5	

2. Road Shoulder Renewal Contract – Period of Confidentiality

Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter in the performance of the duties and responsibilities of office, Council, having considered Agenda Item 19.1 in confidence under sections 90(2) and 90(3)(d) of the *Local Government Act 1999*, resolves that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* that the value of the successful tenderer submission be retained in confidence until the contract is entered into.

Pursuant to section 91(9)(c) of the *Local Government Act 1999*, Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.