

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 28 October 2014
CONFIDENTIAL AGENDA BUSINESS ITEM**

Item: 18.1

Originating Officer: Deb Richardson

Responsible Director: Deb Richardson

Subject: Award of Contract 24/14 – Road Reconstruction for three (3) years with an option to extend for a further two (2) years and one (1) year

1. Award of Contract 24/14 – Road Reconstruction for three (3) years with an option to extend for a further two (2) years and one (1) year – 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 Engineering & Assets, Deb Richardson
- Director Strategy & Development, Marc Salver
- Director Corporate Services, Tim Piper
- Director Community & Customer Service, David Waters
- Manager Governance & Risk, Lachlan Miller
- Minute Secretary, Pam Williams

be excluded from attendance at the meeting for Agenda Item 18.1.

The Council is satisfied that, pursuant to section 90(3)(d) of the Act, 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 who supplied the information; and/or convey a commercial advantage on a third person due to the pricing details provided by tenderers.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of the information may be detrimental to the companies that tendered.

2. Award of Contract 24/14 – Road Reconstruction for three (3) years with an option to extend for a further two (2) years and one (1) year – Confidential Item

SUMMARY

A tender process has been conducted seeking a multi-year contract for the reconstruction of road pavements (the rubble base underlying the seal and adjoin shoulders). A multi-year contract will achieve cost savings and improved planning and continuity in project and service delivery

The tendered prices represent significant cost savings over the period of the contract, and it is recommended the contract be awarded to Schwarz Excavations and Civil for the unit rates tendered.

The proposed contract included key performance indicators which will be closely monitored to ensure the contract delivers the desired efficiencies and service levels required.

RECOMMENDATION

That Council resolves:

1. The report be received and noted.
2. To award the contract 24/14 for the reconstruction of Council's sealed road pavements for a three (3) year period to Schwarz Excavations and Civil.
3. To delegate to the Chief Executive Officer to authorise the extensions of the contract (a further two (2) years followed by one (1) year) upon satisfactory completion of the three year term of contract and any contingent subsequent term.

1. GOVERNANCE

➤ **Strategic Management Plan/Council Policy**

Goal 4 A recognised leading performer

Key Issue 4.2 Managing Risk and Responsibility

Key Action 4.2.6 Manage and maintain the sustainable financial position of Council

The contract secures unit rate prices in the current economic climate that are favourable to Council for a period of three years with an option to extend for a further three years, meaning significant savings over the short to medium term.

There is no requirement to extend the contract beyond three years.

➤ **Legal Implications**

The successful tender will be required to enter a contract with Council. The contract was prepared by legal advisors.

Caretaker provisions allow Council to enter prescribed contracts while operating in caretaker mode during an election period. A prescribed contract “*means a contract entered into by the Council for the purpose of undertaking road construction or road maintenance or drainage works.*” It is therefore possible for Council to enter this contract at this time.

➤ **Risk Management Implications**

The three year contract minimises risk to Council of increasing costs in coming years. A defined rate for road reconstruction (approximately 20% of the annual capital works budget) over a short to medium term, allows more accurate financial planning and less risk related to market forces for contractor pricing.

The provision of a requirement for the contractor to supply an unconditional bank guarantee to the value of 5% of the total project cost for the works ensures that any defects will be rectified or failing that, ensures Council will have the financial means to undertake the works at the contractor’s expense by accessing the bank guarantee.

The contractor is also required to provide as a minimum \$20,000,000 public liability insurance throughout the entire of the contract period.

➤ **Financial and Resource Implications**

Funds are included in the 2014/15 capital works budget of \$1.64m for pavement and shoulder reconstruction. Based on the forecast quantities considered as part of the tender assessment the winning tender would represent savings of up to \$370,000.

The contract does not include a commitment to a specific volume of work so the normal budget process for Council to consider allocating funds to road reconstruction will apply throughout the life on the contract.

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

Awarding a multi-year contract should improve customer service as it will allow Council to work with the contractor to schedule road reconstructions a year in advance and better notify residents and the community of the start and finish dates of work.

➤ **Environmental Implications**

Not applicable

➤ **Community Engagement/Consultation**

Community Engagement is not required for this decision. Relevant community engagement would be conducted for individual road reconstruction projects.

2. BACKGROUND

Historically Council has undertaken design work for road reconstruction at the commencement of a financial year and tendered for and commenced construction within the same year. This process is not always the most efficient use of administrative resources and increases the risk of construction as it requires the completion of the design and tender phase within a suitable time to undertaken construction during the drier months.

Recently the process was improved so that design is undertaken in the preceding financial year to eliminate the risk of delays and allow improved notification and consultation on the proposed designs with the community.

The current extremely competitive market provides an opportunity to realise the benefits of an effective design process, forecast quantities in advance and maximise the use of Council's financial resources. Entering a medium-long term contract will 'lock in' agreed rates while the market average rate is low and also achieve greater savings rates by providing some surety for the contractor of the expected projects and timelines.

3. ANALYSIS

Typically the complexity of tendering for a road reconstruction project is quite low, and involves rates (on a square metre basis) for the pavement reconstruction sub base and base, kerbing, and any stormwater work.

Currently Council undertakes the sealing (bitumen) of the roads as part of its 3-year bituminous products tender to achieve a low cost rate.

A tender was sought for square metre rates for reconstruction on the basis of the estimated quantities for road reconstruction in the 2014/15 financial year (as the designs were already completed).

The tender was for road reconstruction for a period of three (3) years, and if satisfactory workmanship and service over that period was achieved, the option to extend the contract for an additional two (2) years, and one (1) year after that.

Each road reconstruction project would be a separate stand-alone agreement in accordance with the contract documents and be between Council and the contractor taking into account the contractor's performance and ability to complete the project.

The addition of the clause to extend the contract for a further 3 years maximum provides Council with the flexibility to secure a contractor for the long term at a preferable rate, however if quality or the contract rate versus market forces become unfavourable to the contract could be terminated at 3 years. The ultimate discretion for the right to extend the contract is with Council not the contractor and provides the option to not extending based on any number of factors including price or quality.

Tenderers were directly compared on their rates using the forecast quantities so all were considered on an even platform in terms of cost based on rate multiplied by quantity. The estimated cost of pavement and shoulder reconstruction works for the 2014/15 financial year using the rates from the asset management database was:

- \$1,636,000

The lowest tenderer has previously undertaken work with Council, and due to having their own quarry within the district meant their price was extremely competitive and below the average total.

The lowest tenderer (using the forecast quantities) was:

- \$1,265,822

Allowing an increase of 10% to factor in contingencies and unexpected issues on site still presents an immediate cost saving to Council of an estimated \$243,600 in the first year, with similar expected savings over the three to six year period.

Other (indirect) savings could then be achieved by allowing Council to update its unit rates in the asset management system to reflect the tendered rates and reduced depreciation.

In addition to price, the tender assessment considered the tenderers based on their experience, references, management and service provided. Schwarz Excavations was identified as the preferred tenderer, with a score 15% higher than the next competitor.

It was acknowledged that there had been some recent quality issues with roads built by Schwarz Excavations including Checker Hill Rd and Cold Store Road. This is attributed to difficulties with compaction of the pavement in unexpected wet weather rather than the contractor. In contrast Stage 1 of Checker Hill Rd completed nearly two years ago in summer by the same contractor has had no quality issues.

4. OPTIONS

Council has two options:

- 1) To award Contract 24/14 to Schwarz Excavations and Civil for the reconstruction of Council roads for a period of three (3) years with an option to extend for a further two (2) years and one (1) year beyond that based on quality and the contract rate versus the market.
- 2) To not award the contract and continue with tendering for road reconstruction projects on a case by case basis.

Not awarding the contract at this time will result in changes to the road reconstruction program for 2014/15 and require the carry forward (or cancelling) of numerous projects.

Tenders for individual projects would commence. This is administratively inefficient, is likely to result in increased unit prices (as compared to the longer term contract) and will delay numerous projects. This options is therefore not recommended.

5. APPENDICES

- (1) Contract 24/14 tender assessment (contractors names omitted)

Appendix 1

Contract 24/14 tender assessment (contractors
names omitted)

3. **Award of Contract 24/14 – Road Reconstruction for three (3) years with an option to extend for a further two (2) years and one (1) year – Period of Confidentiality**

That having considered Agenda Item 18.1 in confidence under section 90(2) and 90(3)(d) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act, orders that the documents, reports and minutes pertaining to this matter, including discussions and considerations, be retained in confidence until the contract has been executed but not longer than six months.

Tender Selection Criteria																					Total
Reliability			Business Capability			Quality of Service			OH&S			References			Price			Total			
<i>Ability to supply required services, Ability to complete works on time, Adequate resources.</i>			<i>Management skills, Technical experience, Provision of required tender data, Satisfactory credit rating, Financial stability, Proven experience in this service.</i>			<i>Principles of Quality Assurance, Customer satisfaction.</i>			<i>Commitment, Programmes & Procedures.</i>			<i>Quality references for similar projects</i>									
Criteria Weighting (%)			10			10			10			10			50			100			
	Point Score	Weighting	Weighted Score	Point Score	Weighting	Weighted Score	Point Score	Weighting	Weighted Score	Point Score	Weighting	Weighted Score	Point Score	Weighting	Weighted Score	Price	Point Score	Weighting	Weighted Score		
Tenderer																					
Schwarz Excavations	4	10	50	4	10	40	5	10	40	3.5	10	40	4	10	45	\$1,265,822	4.4937	50	224.7	440	
Contractor 2	3	10	30	4	10	40	2	10	20	3	10	30	3	10	30	\$1,497,051	3.9445	50	197.2	347	
Contractor 3	4	10	40	4	10	40	4	10	40	4	10	40	4.5	10	45	\$1,664,599	3.5466	50	177.3	382	
Contractor 4	5	10	50	4	10	40	5	10	50	4	10	40	5	10	50	\$1,819,681	3.1782	50	158.9	389	
Contractor 5	4	10	40	4	10	40	4	10	40	4	10	40	4	10	40	\$2,038,346	2.6589	50	132.9	333	
Contractor 6	4	10	40	4	10	40	4	10	40	4	10	40	4	10	40	\$2,075,344	2.571	50	128.6	329	
Contractor 7	4	10	40	4	10	40	5	10	50	5	10	50	3	10	30	\$2,140,055	2.4173	50	120.9	331	
Contractor 8	5	10	50	4	10	40	5	10	50	4	10	40	5	10	50	\$2,149,347	2.3953	50	119.8	350	
Contractor 9	4	10	40	4	10	40	4	10	40	4	10	40	4	10	40	\$2,169,131	2.3483	50	117.4	317	
Contractor 10	4	10	40	4	10	40	3	10	30	3	10	30	4	10	40	\$2,256,405	2.141	50	107.1	287	
Contractor 11	5	10	50	4	10	40	4	10	40	4	10	40	5	10	50	\$2,312,421	2.008	50	100.4	320	
Contractor 12	4	10	40	4	10	40	5	10	50	4	10	40	2	10	20	\$2,662,020	1.1777	50	58.9	249	
Contractor 13	4	10	40	4	10	40	4	10	40	4	10	40	4	10	40	\$2,677,856	1.1401	50	57.0	257	
Contractor 14	5	10	50	5	10	50	4	10	40	4	10	40	4	10	40	\$2,745,492	0.9794	50	49.0	269	
MEAN																\$2,105,255					

PREFERRED

The Tender Selection System is a weighted point score system which allows both price and non-price attributes to be taken into account in the selection of the preferred tender.

The following criteria will form the basis for the comparative evaluation of Tenders: Reliability of Tenderer; Business Capability of Tenderer; Quality of Service; Technological Applications; Occupational Health & Safety; References; Price.

During the evaluation process, each tender will be evaluated on the criteria nominated in the Tender.

Point scores will be allocated in the range 0 to 5 on the following basis:

Points	Description
5	Excellent
4	Very Good
3	Good or better than average
2	Acceptable
1	Marginally adequate; or success li
0	will fail to satisfy required standard

\$T = tender price

\$M = mean price