

**ADELAIDE HILLS COUNCIL  
ORDINARY COUNCIL MEETING  
Tuesday 23 August 2016  
CONFIDENTIAL AGENDA BUSINESS ITEM**

**Item:** 19.1

**Originating Officer:** Peter Muller, Civil Projects Technical Officer

**Responsible Director:** Peter Bice, Director Engineering & Assets

**Subject:** Supply and Placement of Bituminous Products

**For:** Decision

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**1. Supply and Placement of Bituminous Products – 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, Peter Bice
- Director Strategy & Development, Marc Salver
- Director Corporate Services (Acting), Lachlan Miller
- Director Community & Customer Service, David Waters
- Manager Built and Natural Assets (Acting), Chris Janssan
- Manager Governance & Risk, Andrea Sargent
- Minute Secretary, Pam Williams

Be excluded from attendance at the meeting for Agenda Item 19:1 Supply and placement of Bituminous Products Contract.

The Council is satisfied that, pursuant to section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is that Information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council.

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 information could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the Council.

## **2. Supply and placement of bituminous products – Confidential Item**

### **SUMMARY**

Following the expiration of Council previous 3 year contract for the supply and placement of bituminous products (road sealing with asphalt or spray seals), council staff have undertaken an open tender process in line with its Tendering and Procurement Policy and received four (4) tenders for a new 3 year plus 1 + 1 contract.

One of the tenders submitted was deemed non-conforming as the tenderer could not provide the spray seal component of the works. The non-conformance was considered significant enough to warrant exclusion of that tender from further consideration due to the inability to provide over 50% of the work required

### **2.1 RECOMMENDATION**

**That:**

- (1) Tender 10/16 for Bitumen Products be awarded to Boral Asphalt.**
- (2) Council notes the contract is for a period of three (3) years with 1+1 provision and also rise and fall of the contract rates based on a formula linked to movements in relevant price indices.**
- (3) Council delegate authority for the authorisation of purchase orders under the contract, up to the total nominal contract sum, to the Chief Executive Officer or delegate.**

#### **Supply and Placement of Bituminous Products – Period of Confidentiality**

- 1. That having considered Agenda Item 19.1 in confidence under sections 90(2) and 90(3)(b) of the Local Government Act 1999, that an order be made under the provisions of sections 91(7) and (9) of the Local Government Act 1999 that the report, related attachments and the minutes of Council and the discussion and considerations of the subject matter be retained in confidence until the completion of the contract.**
  - 2. Pursuant to section 91(9)(a) of the Local Government Act 1999, that Council delegates the duty to conduct an annual review of the confidentiality order to the Chief Executive Officer, or his sub-delegate.**
  - 3. Pursuant to section 91(9)(c) of the Local Government Act 1999, that Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.**
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## 1. GOVERNANCE

### ➤ Strategic Management Plan/Council Policy

Goal 4	A Recognised Leading Performers
Key Issue 4.2	Managing Risk and Responsibility
Key Action 4.2.7	Procure goods and services that provides value for money

### ➤ Legal Implications

The Local Government Act 1999, Part 4—Contracts and tenders policies, Section 49 prescribes the required elements of policies relating to contracts and tenders.

### ➤ Risk Management Implications

Awarding the Supply and Placement Bituminous Products to Boral Asphalt before the warmer months will assist in mitigating the risk of:

*Undertaking works in a planned and timely manner  
Avoiding additional cost's caused by inclement weather  
Contractor delays due works scheduling with the other companies*

Inherent Risk	Residual Risk	Target Risk
Medium (3C)	Medium (3D)	Low (2D)

### ➤ Financial and Resource Implications

The 2016/17 budget for road sealing works is approximately \$1.34 million.

### ➤ Customer Service and Community/Cultural Implications

Awarding this contract early (before September) will ensure that the programmed road works will be delivered to a high, consistent standard and delivered in the anticipated timeframes, subject to weather conditions.

### ➤ Environmental Implications

As part of the original tender evaluation process, consideration was given to the tenderer's environmental management systems. Fulton Hogan has AS/NZS ISO 14001 Environmental Management Systems certification.

### ➤ Engagement/Consultation with Committee, Regional Subsidiary, Advisory Group and Community

Not applicable

## 2. BACKGROUND

The Council undertakes annual asphalt and spray seal road surface renewals to maintain the life of the underlying road pavements and provide a suitable ride quality for road users.

Historically the Council has had one (1) year contracts (or multiple year contracts with annual rights of renewal) for the supply and placement of bituminous products. However, the previous contract was awarded on a 3 year term. This proved beneficial and provided the following benefits:

- Lower overall cost to the Council due to a guarantee of 3 years' work for contractor.
- Improved working relationships and better customer service with contractor with a longer term contract.
- Reduced administration costs for the Council by not re-tendering every year.
- Predictability in budgeting for a longer period.

Given the term of the contract and the variability of crude oil prices, the contract has provision for increase or decrease of rates every six (6) months in line with the published Australian Bureau of Statistics (ABS) figures.

The linkage to the ABS figures provides an independent quantified system for defining the increases, meaning less risk for Council and the contractor. This is an improvement on previous contracting practices, where annual increases were based on negotiated increases.

The Contract also includes strict requirements for the completion of the works within Council defined timeframes, and for the quality of the product supplied (thickness, air voids, binder content, etc).

### **3. ANALYSIS**

The overall indicative estimate for the value of works (in the first year of the contract) was based on the approved roads list in the adopted 2016/17 capital works renewal budget. Based on these roads, square metre areas were calculated for the following components of the tendered works:

- Supply and place of light/medium/heavy duty asphalt (hotmix)
- Supply and place of spray seal
- Profiling to 30/50/100mm depth (excavation of existing bitumen)
- Edge Planning (profiling of edge of roads before hotmix renewals)

The square metre areas were multiplied by the tendered rates to provide nominal annual contract prices and an overall cost comparison between tenderers.

In total the nominal cost of the works (in the first year of the contract) were:

Boral	\$1,441,073
Fulton Hogan	\$1,808,814
Downer EDI	\$2,398,675

A reference check was undertaken on Boral Asphalt for the work they have done for Playford Council over 8 years and City of Murray Bridge over the previous years and positive feedback was received for workmanship, timeliness and quality of product.

**4. OPTIONS**

Tender 10/16 for Bituminous Products be awarded to Boral Asphalt.

**5. APPENDIX**

(1) Bituminous Products - Tender Evaluation matrix

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# **Appendix 1**

*Bituminous Products - Tender Evaluation Matrix*

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