

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 27 October 2015
CONFIDENTIAL AGENDA BUSINESS ITEM**

Item: 19.1

Originating Officer: Mark Buckerfield

Responsible Director: Deb Richardson

Subject: Supply and Placement of Bituminous Products

For: Decision

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, Deb Richardson
- Acting Director Strategy & Development, Lachlan Miller
- Director Corporate Services, Tim Piper
- Director Community & Customer Service, David Waters
- Manager Governance & Risk,
- Minute Secretary, Pam Williams
- Manager Built and Natural Assets, Mark Buckerfield

be excluded from attendance at the meeting for Agenda Item 17.1 : Supply and placement of Bituminous Products Contract Extension.

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.

➤ **Financial and Resource Implications**

The 2015/16 budget for road sealing works is approximately \$1.83 million which includes the carry forward project of Heathfield Road, Heathfield (approximately \$229,000). Another two road reconstruction projects delayed from 2014/15 are Churinga Road at Aldgate and Swamp Road at Lenswood. These were originally programmed to be completed in autumn of 2015 but were delayed due to wet weather and will be the subject of the Budget Review Process with the recommendation that the allocated budget be brought forward into 2015/16. The road seal components of the projects are approximately \$140,000.

The total value of the one year contract extension is approximately \$1.95 million.

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

The continuation of the existing contract 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 existing contract for the supply and placement of bituminous products commenced on the 31st August 2012 with a three year term concluding on 30 June 2015. Fulton Hogan was awarded the contract after an open tender process that included the assessment of financial, technical, quality and customer service criteria.

The contractor has provided high quality works and products that have met the required standards. The contractor has been able to meet project time frames but unfortunately due to inclement weather some projects were delayed.

The unit rates provided at the time of tendering and through the contract period are very competitive.

The contract did not have an automatic right of renewal. Fulton Hogan approached Council seeking to extend and continue their existing contract on a performance based three year extension term. Their offer contained a number of proposed service enhancements and initiatives including the use of 10% Reclaimed Asphalt Pavement that could lead to savings over the three extension term.

Due to the value of the contract it is not recommended that the contract be extended by a further three years without testing the market but rather a one year extension be provided to allow Council time to quantify the likely expenditure over the next three years, following a detailed condition assessment of the sealed road network.

A counter offer, subject to Council approval, was put to Fulton Hogan for a one year extension. The company's response to the possible extension was: "I can confirm that we have reviewed the 15/16 program and assessed our contract rates against this and would be in a position to hold our current contract rates for 12 months until June 30th 2016. The normal rise and fall allowance for bitumen is expected to continue in accordance with the contract."

Tender documents have been prepared in anticipation of open tender process occurring either immediately or in early 2016 (as is being recommended) once a future projection of likely expenditure is available to improve our commercial position.

3. ANALYSIS

Council is undertaking a condition assessment of its entire sealed road network this summer and will be able to quantify the likely volume of bituminous products to be consumed over the next five years, subject to Council's normal budget considerations.

Having this information prior to re-tendering a new contract would be advantageous as tenderers would then be better informed and likely to offer more competitive rates.

The existing rates provided by Fulton Hogan's are very competitive and are lower than many other Council's as confirmed by an independent consultant engaged to review our infrastructure unit rates for accounting purposes. Fulton Hogan has agreed to extend the contract on the same contract terms, and rise and fall provisions.

Delaying the tender process for a new contract will enable Council to review other procurement options such as 'piggy backing' on to existing Local or State Government contracts or exploring joint tender opportunities with other Councils.

4. OPTIONS

Option 1: The recommended option is to extend the existing contract with Fulton Hogan for the supply and placement of bituminous products for a one year period expiring 30 June 2016. The contract would be extended through an exchange of letters after being provided with evidence of continuity of insurance and the extension of the security bond and/or bank guarantee.

Option 2: To extend the contract on a monthly basis and immediately commence a public tender process. The month by month extension would allow the program of works to proceed without delay and would provide a volume of work in the next two months (whilst the tender process was conducted) equal to the approximate value of works delayed from last financial year and anticipated by the contractor when the contract was let.

The second option is not recommended because the volume of work over the next three to five years has not been quantified nor have the investigations taken place as to the opportunities to access other local or state government contracts.

3. Supply and placement of bituminous products – Period of Confidentiality

That having considered Agenda Item 17.1 in confidence under section 90(2) and 90 (3) (b) 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 extensions are signed, but not longer than 30 June 2016, pursuant to section 91(9).