

CT5515 ANNUAL SUPPLY OF WORKS, SERVICES & PRODUCTS - EXTENSION OF CONTRACT

Report Author: Senior Contracts Coordinator
Responsible Officer: Director Built Environment & Infrastructure
Ward(s) affected: (All Wards);

The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.

CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public.

SUMMARY

The purpose of this report is to seek approval for an extension of the following Contract CT5515, Annual Supply of Works, Services and Products currently held by numerous entities, until 30 June 2024:

The contractors provide essential work and services on Council assets to ensure that the assets are maintained appropriately and continue to deliver an acceptable level of service to the community. This report outlines the current contract arrangements, financial and service delivery responsibilities and principles for the proposed new contract should the extension be approved.

The contracts are scheduled to conclude on 30 June 2023.

RECOMMENDATION

That Council

- 1. In accordance with Council's Procurement Policy and the existing Terms and Conditions of Contract CT5515 Annual Supply of Works, Services and Products approves and delegates to the Director Built Environment and Infrastructure authority to negotiate an extension to the contract to 30 June 2024 with the existing Contractors:***

Plant and Equipment

- Anterior Civil (ABN: 41 078 779 469)***
- Bells Civil Excavations Pty Ltd (ABN: 62 169 307 939)***
- CA & JK Dargie Contracting Pty Ltd (ABN: 41 141 618 724)***
- D & L Excavations Pty Ltd (ABN: 83 093 289 528)***

- ***Dallum Constructions (ABN: 85 364 980 639)***
- ***Downer Edi Works Pty Ltd (ABN: 66 008 709 608)***
- ***Fern Earthmoving Pty Ltd (ABN: 28 081 358 796)***
- ***Taylor Northgate Lodge Pty Ltd (ABN: 94 050 462 345)***
- ***Jotomex Civil Contracting Pty Ltd (ABN: 72 161 928 436)***
- ***Kalow Holdings Pty Ltd (ABN: 51 006 811 641)***
- ***R & J KENT & CO PTY LTD (ABN: 30 006 592 490)***
- ***Michael L Beard & Bronwyn L Carr (ABN: 54 725 195 735)***
- ***State Plant Hire Pty Ltd (ABN: 48 071 212 292)***
- ***Yarra Ranges Fire Management (ABN: 97 140 738 996)***

Asphalting

- ***Jotomex Civil Contracting Pty Ltd (ABN: 72 161 928 436)***
- ***Prestige Paving Pty Ltd (ABN: 84 140 970 912)***
- ***The Trustee For M May Family Trust t/a May Asphalting Group Pty Ltd (ABN: 72 450 624 025)***
- ***M May Family Trust t/a Pro Pave Asphalt Services (ABN: 17 276 185 439)***

Asphalt Supply

- ***Boral Construction Materials Group (ABN: 15 000 028 080)***
- ***Downer Edi Works Pty Ltd (ABN: 66 008 709 608)***

Quarry Products

- ***Boral Construction Materials Group (ABN: 15 000 028 080)***
- ***Casacir Pty Ltd (ABN: 41 090 245 284)***
- ***Castella Quarries Pty Ltd (ABN: 97 138 449 316)***
- ***Dandy Premix Quarries t/as Yarra Valley Quarries (ABN: 57 125 332 989)***

Concrete Products

- ***A&V Creative Concrete Pty Ltd (ABN: 98 947 414 573)***
- ***Foley Services Pty Ltd (ABN: 96 102 222 579)***
- ***G & E & M D'Alessandro Concreting Pty Ltd (ABN: 12 093 355 581)***
- ***Jotomex Civil Contracting Pty Ltd (ABN: 72 161 928 436)***
- ***Prestige Paving Pty Ltd (ABN: 84 140 970 912)***
- ***Ultimate Group Australia Pty Ltd (ABN: 86 132 170 622)***

Turf Services

- ***Amgrow Pty Ltd (ABN: 81 100 684 786)***
- ***Globe Growing Solutions (ABN: 75 001 429 714)***

- **State Wide Turf Services (ABN: 49 529 929 272)**
- **AJ & RM UHR Henry t/as Turf, Drainage & Irrigation (ABN: 73 389 665 389)**

Sports Ground Drainage and Irrigation

- **Aquatek Sports Field Drainage Pty Ltd (ABN: 18 005 811 585)**
- **Chapman & Rivett (Vic) Pty Ltd t/as Century Rain (ABN: 95 008 083 592)**
- **EJs Plumbing Pty Ltd (ABN: 83 088 398 770)**

Plumbing Services

- **EJs Plumbing Pty Ltd (ABN: 83 088 398 770)**
- **New Plumbing Solutions (ABN: 79 261 981 649)**

Drainage

- **Anterior Civil (ABN: 41 078 779 469)**
- **Black Hole Enterprises Pty Ltd (ABN: 52 108 875 350)**
- **CSA Specialised Services Pty Ltd (ABN: 11 757 908 807)**
- **Dallum Constructions (ABN: 85 364 980 639)**
- **Foley Services Pty Ltd (ABN: 96 102 222 579)**
- **ITS Pipetech (ABN: 49 115 288 527)**
- **Jotomex Civil Contracting Pty Ltd (ABN: 72 161 928 436)**
- **M Tucker & Sons Pty Ltd (ABN: 14 007 193 811)**
- **Toxfree Australia Ltd (ABN: 31 127 853 561)**
- **Veolia Water Network Services Pty Ltd (ABN: 21 124 372 050)**
- **Environmental Services Group Pty Ltd (ABN: 43 145 149 971)**
- **Interflow Pty Ltd (ABN: 3400563208)**

Pit Lids

- **R & R Grating (ABN: 34 000 563 208)**
- **SVC Products Pty Ltd (ABN: 96 004 279 458)**

Supply of Pipes

- **Cadia Group Pty Ltd (ABN: 36 165 578 156)**

2. **Authorise the Chief Executive Officer to sign the extension contracts on behalf of Council.**

RELATED COUNCIL DECISIONS

There are no related Council decisions relevant to this item.

DISCUSSION

Purpose

The purpose of this report is to seek approval for an extension of Contract CT5515, Annual Supply of Works, Services and Products currently held by numerous entities, until 30 June 2024:

This report outlines the current contract arrangements, financial and service delivery responsibilities and principles for the proposed new contract should the extension be approved.

The contracts are scheduled to conclude on 30 June 2023.

Background

Council is responsible for maintaining a wide range of road, paths, facilities and opens space. Delivery of the necessary maintenance in a complex urban, semi-rural and rural environment requires many diverse maintenance activities to have these assets at an acceptable standard.

Council's assets are currently maintained by a mix of Council officers and many Contractors through the CT5515 Annual Supply of Works. The Contract commenced on 21 October 2017 for approximately 6 years and expires on 30 June 2023.

Services provided in the current contract CT5515 include:

- Plant and Equipment;
- Asphalt Works;
- Supply of Asphalt and Related Products;
- Quarry Products;
- Concrete Works;
- Turf Services;
- Sports Ground Drainage Irrigation Works;
- Plumbing Services;
- Drainage Works;
- Supply of Pit Lids and Frames; and
- Supply of Pipes

The contracts and associated services categories are likely to be streamlined in the new contract to have the current Contractors and potentially attract a new cohort of Contractors to tender for the works. The envisaged redefined categories are based

on the review of the existing Contract, Council officer understanding of the current market, opportunities for Contractor efficiencies and increasing the scope of works in the categories.

During the past 6 years management of the Contract and delivery of the maintenance activities have been challenging for Council and the Contractors. Increasing community expectations, COVID 19, regulatory changes, severe weather events, availability of materials, price of materials, unforeseen demand on Contractor resources and the overall demand for works to maintain the assets.

Since awarding the service contract in 2017, the Service Providers have successfully performed the obligations under the contracts to procure goods, works and services.

In recommending the extension of these known service providers, it is understood there are always risks associated with whether the provider can sustainably deliver the required performance. The service and contract monitoring by Council Officers includes extensive quality monitoring, joint inspections with contractors, regular meetings, reporting and management via Council's integrated systems.

Any non-performance will require the contractor to rectify within defined timelines. The contract terms also allow for liquidated damages to the equivalent of Council arranging rectification of any breaches. Non-conformances that are continually not addressed may initiate the Defaults and Termination clauses in the Contract. Ideally though, regular reporting and contract monitoring will facilitate a pro-active attention to delivering on service level and performance measures.

Existing in-house contract management and on-site project management resources are engaged to systematically review the effectiveness of the procurement activities associated with this process.

The Annual Supply Contracts are Schedule of Rates with no guarantee for the quantity or exclusivity to works. In accordance with Council's procurement policy Council Officers may engage Contractor outside of the Panel arrangements.

The proposed extension will allow for the completion of the review of the existing services, confirmation/amendment of service standards and service delivery, procurement process, implementation, and transition to the provision of all deliverables under the new contract specification for Annual Supply of Works, Services and Products Contract. The draft specifications for the new contract will be finalised in the coming weeks.

Options considered

Council has an established and effective panel service delivery model that complements the Councils existing in-house resources and service arrangements.

In accordance with Council's Procurement Policy, Officers could engage the services of suppliers via a purchase order or quotation process for each project, however, once aggregated expenditure exceeds particular procurement thresholds and cumulative total spend of \$250,000 an Expression of Interest or Tender Process would be required.

In accordance with Section 9.2 of Council's Procurement Policy, Officers could consider utilising other panel supply and delivery contracts via Government entity /approved third party arrangements such as Municipal Association of Victoria (MAV) or Procurement Australia, however, key disadvantage of this option is the potential extra cost and risk as historically the financial Schedule of Rates are not as competitive and service providers are limited and may not be locally based with the understanding of Councils unique environment.

In terms of the total cost and of the importance that the community attributes to the services, the Panel Service Contract CT5515 is a significant contract that Council administers. It is recommended to continue to engage multiple contractors for the various separable portions of the Contract.

Recommended option and justification

It is recommended to extend the Contract CT5515, Annual Supply of Works, Services and Products to 30 June 2024.

FINANCIAL ANALYSIS

The budget allocation for the various contracted panel services CT5515 within the 2023/24 Operations and Capital Budget is approximately \$12 M, (excluding GST).

Over the past 6 years of the original contract the total expenditure was approximately \$60M with a significant increase over the past 18 – 24 months in Specialist Tree and Emergency related services. Plant and equipment hire, and Asphalt/Concrete related activities have also experienced increased expenditure for the reinstatement / renewal of roads and footpaths, supported by external grant funding.

Contract CT5515 are Schedule of Rates contracts. The existing Schedule of Rates may require adjustment during the period of the Contract extension because of current direct cost pressures associated with labour availability, material supply costs and lease arrangements for plant and equipment. Council officers will, however, as far as practicable ensure the activities undertaken during the proposed extension of the Contract are within the Council's budget allocations.

The Contract is based on a Schedule of Rates with no guarantee of any specific quantity of works or exclusivity of works.

APPLICABLE PLANS AND POLICIES

Contract CT5515 is a key component of enabling Council to meet its obligations outlined in the endorsed Asset Management Policy, Strategy and Plans. It is envisaged that the proposed Contracts will facilitate Council's assets continuing to be maintained to a standard that has had stakeholder input and provides an acceptable level of service for the community.

A new contractual partnership with contractors will provide Council with flexibility in delivery of maintenance services and potentially improved value for money through strategic planning of programmed maintenance and reduce the amount of reactive unplanned maintenance.

RELEVANT LAW

The contract is based on a specification for the service together with contract terms and conditions that ensure the contract is enforceable and provides protocols for managing the contract.

Council's Procurement Policy 2021-2025, Section 9.2 Exemptions from Competitive Procurement Processes, allows Council to extend an existing contract where the procurement process to replace the contract has commenced, and where the Tender Process or negotiations will take or are taking longer than expected.

This exemption may be used when the establishment of an interim short-term arrangement with an alternative supplier is considered not to be in the public interest, as it may be cost prohibitive and/or present a risk in the delivery of critical public services to the municipality.

SUSTAINABILITY IMPLICATIONS

Economic Implications

The economic ramifications of selecting the most appropriate contract models and service levels cannot be underestimated. The outlay for the Panel Contract Services is a significant component of Council's annual expenditure and decisions on how the Annual Supply contracts are awarded will have multiple-year budget impacts. The recommendations made in this report are designed to optimise the balance between financial cost and appropriate levels and quality of service, whilst minimising economic, reputational and other risks across the components of the services.

Social Implications

A key criteria for the recruitment of staff for the outsourced services will be policies that encourage local employment opportunity and traineeships. Whilst contractors indicate that they are dedicated to engaging the best person for the job, the intent is to raise awareness and continue to develop a partnership relationship with the Contractor to encourage social procurement opportunities.

Environmental Implications

The Panel Contractors must be provided safely and in accordance with the relevant environmental protection regulations, Council policies and industrial best practice.

Waste management plays a significant part of sustainable delivery of Council Services. Panel Contractors are required to operate with a Waste Management Plan (WMP) based on a hierarchy of avoid, reduce, reuse and recycle which is a critical part of its service delivery ethos. The sustainability outcomes are established to effectively manage natural and human resources by:

- Minimising waste generation
- Managing waste through procedures for recycling reuse and disposal
- Training and awareness building for staff / subcontractors and client staff

- Monitoring and measuring to drive continual improvements driven from the Waste Management Plan (WMP) and the Environmental Management Plan (EMP).

In addition, following waste minimization initiatives are incorporated in the Contract:

- Contract Specification 407 / VicRoads Code of Practise RC500.01 specifies that up to:
 - 15% by mass of reclaimed Asphalt Pavement (RAP) may be used in new asphalt (type N/H).
 - 15 to 30 % by mass of reclaimed Asphalt Pavement (RAP) may be used for Structural Integrity (SI) reinstatements.
 - Asphalt spray seals use 20 parts recycled crumbed rubber
- Council standards specify the use of recycle crushed rock product as a base for footpath construction in asphalt or concrete pavements.

COMMUNITY ENGAGEMENT

There was no community engagement undertaken in relation to this recommendation.

COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

Innovation and continuous improvement attributes are inherent in many aspects of the qualitative evaluation criteria, especially in the areas of technical capability, capacity, provision of services, customer service, quality management system and sustainability. Contract Managers with the Service Providers also explore what innovation opportunities that they would bring to the services over the next 12 months.

All Council officers involved in managing Contract CT5515 are involved in the review of the existing Contract and preparation of the revised contract specification. Council officers will consult and negotiate with the Contractors to come to a mutually agreeable solution to both parties under the current Schedule of Rates contract and Council's budget to enable the effective extension of the Contract CT5515.

Council officers have effective working relationships with the existing Contractors that will continue during the period of the Contract extension and using the existing comprehensive auditing program ensure that during the final transition period all works are completed to the standards required by the existing Contract.

The extension of the contract to 30 June 2024 allows for suitable time to perform a comprehensive Tender Evaluation and Assessment process and provide for the successful Tenderers to transition into the service.

RISK ASSESSMENT

The Risk Plan prepared at the start of the Tender process for the proposed contract identified as a High Risk the need to review the service levels of Contract CT5515. An on-going business challenge for Council is to maintain current minimum acceptable service standards and meet stakeholder expectations still within the constraints of the annual budget and the Long Term Financial Plan (LTFP).

The current LTFP has a budget allocation that meets current contract expenditure with capacity to increase expenditure associated with maintenance services being limited. Council officers have reviewed the service levels and propose to make adjustments to the delivery model to potentially improve service delivery and minimise costs.

CONFLICTS OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

ATTACHMENTS TO THE REPORT

Nil