

CT5391 ANNUAL SUPPLY - MOWING, TRACTOR SLASHING & BRUSH CUTTING

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

This report seeks approval for an extension of Contract CT5391, Annual Supply - Mowing, Tractor Slashing & Brush Cutting by three companies, until 30 June 2024:

The contractors provide essential work and services on Council open space 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 CT5391 Annual Supply - Mowing, Tractor Slashing & Brush Cutting, 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:***
 - Yarra Ranges Fire Management (ABN: 97 140 738 996)***
 - Yarra Ranges Contracting (ABN: 73 075 330 077)***
 - Land Management Systems Pty Ltd (ABN: 33 082 231 481)***
- 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 CT5391, Annual Supply - Mowing, Tractor Slashing & Brush Cutting 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 1 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 Contract CT5391, Annual Supply - Mowing, Tractor Slashing & Brush Cutting.

Contract CT5391, Annual Supply - Mowing, Tractor Slashing & Brush Cutting, commenced on 1 July 2017 for a 5-year period with a further extension of 12 months and expires on 30 June 2023.

Services provided in the current contract CT5391 include:

- Mowing;
- Tractor Slashing; and
- Brush Cutting

Both these 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.

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

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, Officer 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 is 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 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 Contracts CT5391 is a significant contract that Council administers. It is recommended to continue to engage multiple contractors for the various separable portions of the Contracts.

Recommended option and justification

It is recommended to extend the Contract CT5391, Annual Supply - Mowing, Tractor Slashing & Brush Cutting, to 30 June 2024.

FINANCIAL ANALYSIS

The budget allocation for the various contracted panel services CT 5391 within the 2023/24 Operations Budget is approximately \$300,000 (excluding GST).

Over the past 5 years of the original contract the total expenditure was approximately \$1.2 M however, there has been a significant increase over the past 18 – 24 months in due to weather conditions and increased service demands.

The existing Contract CT5391 Schedule of Rates may require adjustment during the period of the Contract extension due to 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 Contracts are based on a Schedule of Rates with no guarantee of any specific quantity of works.

APPLICABLE PLANS AND POLICIES

Contracts CT5319 is 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 Contract 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; and
- Monitoring and measuring to drive continual improvements driven from the Waste Management Plan (WMP) and the Environmental Management Plan (EMP).

COMMUNITY ENGAGEMENT

There are no Community Engagement implications arising from this contract.

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.

Council officers involved in managing CT5391 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 CT5391.

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 the need to review the service levels of CT5391. 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