



REQUEST FOR TENDER

TENDER 07/19

SUPPLY OF BITUMEN SEALS

Request for Tender (RFT)	Supply and Spray hot bitumen/Supply of a 'Full Service' supply and spray hot bitumen seal and spread Principal supplied aggregate for the purpose of Prime, Primer seals, second coat seals and reseals
Deadline:	2.00 pm (AWST) Monday 20 January 2020
Address for Delivery:	THE TENDER BOX Shire of Jerramungup 8 Vasey Street JERRAMUNGUP WA 6337
Email Address:	Or tenders@jerramungup.wa.gov.au
RFT Number:	07/19

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1 PRINCIPAL'S REQUEST

CONTRACT REQUIREMENTS IN BRIEF

This document is an invitation to tender for the 'full service' Supply and spray hot bitumen seal and spread aggregate for the purpose of Prime, primer seals, second coat seals and reseals.

The areas, expressed in square metres, of each project are listed later in this document from which volumes of materials required can be calculated, however, the Principal reserves the right to change the scope of any project subject to this tender.

The Principal expects to require in the order of Full Service, Prime 11,000m² and Primer Seal/Reseal 129,000m² through the duration of the contract however this is subject to increase or decrease at the sole discretion of the Principal.

The contract will commence in mid to late February 2020 as advised in the letter of acceptance issued to the successful Tenderer and will run for the period until the contract concludes being 31 January 2021. The principal will consider as set out in this contract, two (2), one (1) year options to extend the term of the contract.

The Contractor will:

- Provide all Occupation Health and Safety documentation;
- Complete pre-qualification OHS induction;
- Complete site induction with principal representative;
- A full statement of the goods and/or services required under the proposed contract appears in the Specification; and
- The successful Tenderer will be required to enter into a Contract with the Principal.

TENDER DOCUMENTS

This Request for Tender is comprised of the following parts:

- a) Part 1 – Principal's Request (read and keep this part);
- b) Part 2 – Specification and/or plans/drawings (read and keep this part);
- c) Part 3 – Tenderer's Offer (complete and return this part);
- d) Part 4 – Appendix A – Special Conditions of Contract (read and keep this part);
- e) Part 5 – Appendix B – Technical Clauses (read and keep this part);
- f) Part 6 – Appendix C – Project Job Sign Off Proforma (read and keep this part);
- g) Part 7 – Appendix D – Site Inspection Report (read and keep this part); and
- h) Part 8 – Appendix E – General Conditions of Contract (read and keep this part).

DEFINITIONS

Below is a summary of some of the important defined terms used in this Request:

Attachments: The documents you attach as part of your Tender.

Contractor: Means the person or persons, corporation or corporations whose Tender is accepted by the Principal, and includes the executors or administrators, successors and assigns of such person or persons, corporation or corporations.

Deadline: The deadline for lodgement of your Tender.

General Conditions of Contract: Means the General Conditions of Contract nominated in Part 5.

Offer: Your offer to be selected to supply the Requirements.

Principal: Shire of Jerramungup.

Request: This document.

Requirements: The goods and/or services requested by the Principal.

Selection Criteria: The criteria used by the Principal in evaluating your Tender.

Special Conditions: The additional contractual terms nominated in Part 4.

Specification: The statement of Requirements that the Principal requests you to provide if selected.

Tender: Completed Offer form, response to the Selection Criteria and Attachments.

Tenderer: Someone who has or intends to submit an Offer to the Principal.

HOW TO PREPARE YOUR TENDER

- (a) Carefully read all parts of this document.
- (b) Ensure you understand the Requirements.
- (c) Complete and return the Offer (Part 3) in all respects and include all Attachments.
- (d) Make sure you have signed the Offer Form and responded to all of the Selection Criteria.
- (e) Lodge your Tender before the Deadline.

CONTACT PERSONS

Tenderers should not rely on any information provided by any person(s) other than those listed below:

Contract and Specifications Enquiries

Name:	Murray Flett
Title:	Manager of Works
Telephone:	(08) 9835 1022
Mobile:	0400 219 073
Facsimile:	(08) 9835 1161

Email: worksmanager@jerramungup.wa.gov.au

1.6 PRE QUALIFICATION REQUIREMENTS

Minimum five years' experience in the bitumen industry.

TENDER BRIEFING/SITE INSPECTION

Not applicable.

EVALUATION PROCESS

This is a Request for Tender (RFT).

Your Tender will be evaluated using information provided in your Tender.

The following evaluation methodology will be used in respect of this Request:

- (a) Tenders are checked for completeness and compliance. Tenders that do not contain all information requested (e.g. completed Offer Form and Attachments) may be excluded from evaluation.
- (b) Tenders are assessed against the Selection Criteria. Contract costs are evaluated (e.g. tendered prices and other relevant whole of life costs are considered).
- (c) The most suitable Tenderers may be short listed and may also be required to clarify their Tender, make a presentation, demonstrate the product/solution offered and/or open premises for inspection. Referees may also be contacted prior to the selection of the successful Tenderer.

A contract may then be awarded to the Tenderer whose Tender is considered the most advantageous Tender to the Principal.

SELECTION CRITERIA

The Contract may be awarded to a sole Tenderer who best demonstrates the ability to provide quality products and/or services at a competitive price. The tendered prices will be assessed together with qualitative and compliance criteria to determine the most advantageous outcome to the Principal.

The Principal has adopted a best value for money approach to this Request.

This means that, although price is considered, the tender containing the lowest price will not necessarily be accepted, nor will the Tender ranked the highest on the qualitative criteria.

A scoring system will be used as part of the assessment of the qualitative criteria. Unless otherwise stated, a Tender that provides all the information requested will be assessed as satisfactory. The extent to which a Tender demonstrates greater satisfaction of each of these criteria will result in a greater score. The aggregate score of each Tender will be used as one of the factors in the final assessment of the qualitative criteria and in the overall assessment of value for money.

COMPLIANCE CRITERIA

These criteria are detailed within Part 3 of this document and will not be point scored. Each Tender will be assessed on a "Yes"/"No" basis as to whether the criterion is satisfactorily met. An assessment of "No" against any criterion may eliminate the Tender from consideration.

QUALITATIVE CRITERIA

In determining the most advantageous Tender, the Evaluation Panel will score each Tenderer against the qualitative criteria as detailed within Part 3 of this document. Each criterion will be weighted to indicate the relative degree of importance that the Principal places on the technical aspects of the goods or services being purchased.

NOTE: It is essential that Tenderers address each qualitative criterion. Information that you provide addressing each qualitative criterion will be point scored by the Evaluation Panel.

Failure to provide the specified information may result in elimination from the Tender evaluation process or a low score.

PRICE CONSIDERATIONS

CLAUSE A: WEIGHTED COST CRITERIA

The weighted price method is used where price is considered to be crucial to the outcome of the contract. The price is then assessed with quality.

Criteria	Weighting
Tendered price	50%

CLAUSE B: NON WEIGHTED COST CRITERIA

Not applicable.

PRICE BASIS

OPTION A: FIXED PRICES

Prices will be fixed for the duration of the contract.

OPTION B: VARIABLE PRICES

Not used.

THE PRINCIPAL'S POLICIES THAT MAY AFFECT SELECTION

The following policies may affect this Tender:

- FP6 – Procurement of Goods and Services Policy
- AP3 – Regional Price Preference Policy
- OSH1 – Occupational Safety and Health Policy
- OSH7 – Contractors Policy

CONDITIONS OF TENDERING

1.15.1 LODGEMENT OF TENDERS AND DELIVERY METHOD

The Tender must be lodged by the Deadline. The Deadline for this Request is **2:00 pm Monday 20 January 2020** in Australian Western Standard Time.

The Tender is to be:

- (a) Placed in a sealed envelope clearly endorsed with the Tender number and title as shown on the front cover of this Request; and
- (b) Delivered by hand and placed in the Tender Box at the Shire of Jerramungup Administration Office, 8 Vasey Street, Jerramungup (by the Tenderer or the Tenderer's private agent) or sent via email to:

tenders@jerramungup.wa.gov.au

Tenders submitted by facsimile will not be accepted.

Tenderers must ensure that they have provided **two (2)** signed copies of their Tender (one to be marked "ORIGINAL", the other to be marked "COPY"). Any brochures or pamphlets must be attached to both the original and the copies.

Where a hard copy is requested, all copies must be bound, and the original must be unbound and clipped (not stapled). All pages must be numbered consecutively and the Response must include an index.

1.15.2 REJECTION OF TENDERS

A Tender will be rejected without consideration of its merits in the event that:

- (a) It is not submitted before the Deadline; or
- (b) It is not submitted at the place specified in the Request; or
- (c) If it fails to comply with any other requirements of the Request.

1.15.3 LATE TENDERS

Tenders received:

- (a) after the Deadline; or
- (b) in a place other than that stipulated in this request

will not be accepted for evaluation.

1.15.4 ACCEPTANCE OF TENDERS

Unless otherwise stated in this Request, Tenders may be for all or part of the Requirements and may be accepted by the Principal either wholly or in part. The Principal is not bound to accept the lowest Tender and may reject any or all Tenders submitted.

1.15.5 DISCLOSURE OF CONTRACT INFORMATION

Documents and other information relevant to the contract may be disclosed when required by law under the *Freedom of Information Act 1992* or under a Court order.

All Tenderers will be given particulars of the successful Tenderer(s) or advising that no Tender was accepted. The principal will not provide details of tendered offers.

1.15.6 ALTERNATIVE TENDERS

All Alternative Tenders MUST be accompanied by a Conforming Tender

Tenders submitted as Alternative Tenders or made subject to conditions other than the General and Special Conditions of Contract must in all cases arising be clearly marked "ALTERNATIVE TENDER".

The Principal may in its absolute discretion reject any Alternative Tender as invalid.

Any printed "General Conditions of Contract" shown on the reverse of a Tenderer's letter or form will not be binding on the Principal in the event of a Contract being awarded unless the Tender is marked as an Alternative Tender.

1.15.7 TENDER VALIDITY PERIOD

All Tenders will remain valid and open for acceptance for a minimum period of ninety (90) days from the Deadline or forty-five (45) days from the Council's resolution for determining the Tender, whichever is the later unless extended on mutual agreement between the Principal and the Tenderer in writing.

1.15.8 GENERAL CONDITIONS OF CONTRACT

Tenders will be deemed to have been made on the basis of and to incorporate the General Conditions of Contract for the Supply of Goods and Provision of General Services – refer to Part 5.

1.15.9 PRECEDENCE OF DOCUMENTS

In the event of there being any conflict or inconsistency between the terms and conditions in this Request and those in the General Conditions of Contract, the terms and conditions appearing in this Request will have precedence.

1.15.10 TENDERERS TO INFORM THEMSELVES

Tenderers will be deemed to have:

- (a) examined the Request and any other information available in writing to Tenderers for the purpose of tendering;
- (b) examined all further information relevant to the risks, contingencies, and other circumstances having an effect on their Tender which is obtainable by the making of reasonable enquires;
- (c) satisfied themselves as to the correctness and sufficiency of their Tenders including tendered prices which will be deemed to cover the cost of complying with all the Conditions of Tendering and of all matters and things necessary for the due and proper performance and completion of the work described therein;
- (d) acknowledged that the Principal may enter into negotiations with a chosen Tenderer and that negotiations are to be carried out in good faith; and
- (e) Satisfied themselves they have a full set of the Request documents and all relevant attachments.

1.15.11 ALTERATIONS

The Tenderer must not alter or add to the Request documents unless required by these Conditions of Tendering.

The Principal will issue an addendum to all registered Tenderers where matters of significance make it necessary to amend or supplement the issued Request documents before the Deadline.

1.15.12 RISK ASSESSMENT

The Principal may have access to and give consideration to:

- (a) any risk assessment undertaken by any credit rating agency; and

- (b) any information produced by the Bank, financial institution, or accountant of a Tenderer so as to assess that Tender and may consider such materials as tools in the Tender assessment process.

1.15.13 OWNERSHIP OF TENDERS

All documents, materials, articles and information submitted by the Tenderer as part of or in support of a Tender will become, upon submission, the absolute property of the Principal and will not be returned to the Tenderer at the conclusion of the Tender process PROVIDED that the Tenderer shall be entitled to retain copyright and other intellectual property rights therein, unless otherwise provided by the Contract.

1.15.14 CANVASSING OF OFFICIALS

If a Tenderer, whether personally or by an agent, canvasses any of the Principal's Commissioners; Councillors (as the case may be) or Officers with a view to influencing the acceptance of any Tender made by it or any other Tenderer then, regardless of such canvassing having any influence on the acceptance of such Tender, the Principal may at its absolute discretion omit the Tenderer from consideration.

1.15.15 IDENTITY OF THE TENDERER

The identity of the Tenderer and the Contractor is fundamental to the Principal. The Tenderer will be the person, persons, corporation or corporations named as the Tenderer in Part 3 and whose execution appears on the Offer Form in Part 3 of this Request. Upon acceptance of the Tender, the Tenderer will become the Contractor.

1.15.16 TENDER OPENING

Tenders will be opened in the Principal's offices, following the advertised Deadline. All Tenderers and members of the public may attend or be represented at the opening of Tenders.

The names of the persons who submitted a Tender by the due Deadline will be read out at the Tender opening. No discussions will be entered into between Tenderers and the Principal's officers present or otherwise, concerning the Tenders submitted.

The Tender opening will be held at **2.00 pm on Monday 20 January 2020 (AWST)** or as soon as practicable thereafter at the Shire of Jerramungup Administration Offices, 8 Vasey Street, Jerramungup.

1.15.17 IN-HOUSE TENDERS

Prospective Tenderers are advised that the Shire will not be submitting a Tender in this instance.

2 SPECIFICATION

INTRODUCTION

This Specification shall be read in conjunction with the General Condition of Tender, technical clauses, special conditions of contract and the General Conditions of Contract for the Supply of Goods and the Provision of General Services.

The contract will commence 1 February 2020 as advised in the letter of acceptance issued to the successful Tenderer and will run for the period until the contract conclude being 31 January 2021. The principal will consider as set out in this contract two (2), one (1) year options to extend the term of the contract.

REQUIREMENTS

The service to be carried out under this contract will be:

(Typically for full service for primer-seals)

- engineering seal design service,
- supply and spray of hot bitumen
- preparation of existing seal surface (sweep and water as necessary)
- Traffic management including after care,

Supply, Spray and Cover (full service typically for primer-seals, second coat/reseal)

- engineering seal design service
- supply and spray hot bitumen
- pre-coating of aggregate
- preparation of existing seal surface (sweep and water as necessary)
- loading and spread aggregate to design application rate,
- Traffic management including after care,
- Supply applicable management plans including but not limited to public safety and environmental management,
- sweeping of excess aggregate between 1 to 2 weeks after reseal,
- all services necessary to satisfactorily perform the Shire of Jerramungup annual reseal program.

(Principal will supply all Aggregate materials):

The Principal expects to require approximately **6,600 litres** of bitumen in prime (50/50) and **208,000 litres** in primer-seals, second coat and reseals. Tenderers shall submit a cost based on this estimate however the principal reserves the right to vary this figure.

The successful contractor will be supplied a schedule of works including a list of aggregate stockpile sites, prime, primer seals, second coat and reseal sections with all sections marked on site with road marking paint, with a line and arrow on the edge of bitumen at start of each section, then line and arrow on the edge of bitumen at the end of each section.

Should the tenderer require clarification or inspection of these sections prior to submitting a tender they should contact the Manager of Works, at the Shire of Jerramungup, prior to submission of their tender. A one off joint inspection to ensure the tenderer has a good understanding of the works can be arranged upon request.

The contractor to undertake and complete the subject second coat and resealing work by **the last day in March 2020** notwithstanding any projects that are dependent on the completion of works by other parties.

SITE INSPECTION REPORT

Please note the principle has conducted a Site Inspection Report as per Appendix D, which is to be used as a guide for the Safety Management Plan. The identified hazards listed are to be used as a guide only. The hazards noted are those that have been identified when inspected, and the Shire of Jerramungup takes no responsibility for any hazards that have not been recorded. The contractor must still take responsibility and conduct a thorough site inspection and risk assessment as required under *Occupational Safety and Health Act 1984* before any work can commence onsite.

PERFORMANCE OF CONTRACT

The successful contractor shall be suitably qualified and accredited to provide bitumen spraying, plant and labour to undertake this request.

This contract includes the supply of plant, equipment, labour, materials, Traffic Management and applicable management plans to complete the works described in Item 2.2 Requirements.

PURCHASE ORDERS

The Contractor will pre-order material according to its schedule, upon receipt of a written purchase order supplied by the Principal. The Contractor shall be entitled only to such extensions of time for compliance with the Contract, upon the written application of the Contractor, the Principal may in its absolute discretion grant in writing.

Order numbers may be issued by telephone, facsimile, email or paper copy.

DISRUPTION TO PROGRAMME

The Contractor shall advise the Principal's Representative of any known breakdown which may affect the scheduled work. Breakdowns which occur during the day shall be reported as soon as possible.

The Contractor shall liaise with the Principal's Representative for a suitable time period to recover lost ground.

No payment will be made for breakdown time.

SCHEDULE OF RATES

The Schedule of Rates (Part 3) is directly related to the works associated with the Shire of Jerramungup 2019/2020 Annual Seal/Reseals Program.

For tender assessment purposes of the supply and spray Prime (50/50 only) the Principal has nominated a BAR of **(0.6 litres m²) Bitumen @ 15 deg unless otherwise stated.**

For tender assessment purposes of the bitumen Primer Seal, second coat and reseals the Principal has nominated a BAR of **(1.6 litres m²) Bitumen @ 15 deg unless otherwise stated.**

The tenderer shall supply a m² price rate as detailed in Part 3/3.5 PRICE SCHEDULE – Schedule of Rates.

The successful contractor will upon award supply an engineering reseal design schedule to the Principal for approval, and any adjusted rate shall be calculated by using the variation rate as specified in the Schedule of Rates.

The contractor shall supply written notification of the reseal design and the approximate quantity of bitumen it will require to complete the works. The contracted price will be adjusted in relation to the quantity required and the tendered prices in the Schedule of Rates.

PRODUCT SPECIFICATION

2.8.1 MATERIALS

Definitions

2.8.1.1 HOT SPRAYED BITUMEN BINDER

Bitumen shall be Class 170 conforming to 'AS2008: Residual Bitumen for Pavements'. The proportion of medium curing cutting oil ('AS2157 Cutback Bitumen') to be added to the binder is dependent on the anticipated road temperature at the time of spraying but shall not exceed 6% with adhesion agent of 0.5% by volume and 2% flux (heavy oil such as furnace oil).

The Principal supplied aggregate shall consist of crushed granite stone of 10mm nominal size.

Hot Sprayed Bitumen Binder Application

The contractor shall carry out a seal application design that includes visiting each site and supplying the design to the Principal for approval prior to commencing works. The design shall include the bitumen application spray rate (l/m^2), the bitumen specification, and the aggregate application rate (m^2/t).

The application shall be designed and carried out in accordance with 'Bituminous Surfacing Volume 1 Sprayed Work (Austroads, 1989).4.10.2'.

Where applicable under this contract the contractor shall insure that the surface is lightly swept free of all loose, dust, dirt and foreign material. Any sections of the surface which are loose or damaged shall be repaired.

The binder shall be applied by an approved mechanical sprayer which has been tested in accordance with 'Testing of Mechanical Sprayers of Bituminous Material' (Austroads).

Where the direct use of a mechanical spray is impracticable the binder may be sprayed using a hand lance supplied from the mechanical sprayer.

Spray runs shall start and finish on tar-paper that shall be provided by the contractor. Disposal of papers shall be the responsibility of the contractor. Spraying equipment shall not be permitted to stand on any pavement areas.

Kerbing shall be protected from bitumen splashes by using splashboards on the end of the spray bar.

2.8.1.2 AGGREGATE

The Principal supplied granite aggregate is nominal size 10mm and a list of the stockpile sites will be supplied to the successful contractor with the schedule of works.

The aggregate shall be dry and free from dust and other deleterious material and be spread by means of an approved aggregate spreader capable of spreading a uniform layer of aggregate.

The aggregate is to applied as soon as practicably possible after the bitumen has been sprayed to achieve maximum bonding of the stone.

The rate of application shall be determined by design but shall not exceed 150 square metres per cubic metre of metal, controlled so that only a sufficient amount is applied to give a uniform dense mat one stone thick. Additional aggregate may be added by hand spreading to any bare or insufficiently covered areas to produce the required uniform cover.

Within 5 minutes of the application of the aggregate, rolling shall commence using self-propelled steel wheel and pneumatic tyred rollers and continue until the aggregate is well embedded in the binder and a uniform surface obtained.

2.8.1.3 BITUMEN EMULSION

N/A

Medium Curing Cutting Oil

Medium cutting curing oil shall be a petroleum product conforming to the following requirements.

PROPERTY	EQUIREMENT
Distillation	
Initial Boiling Point	132°C – 160°C
Final Boiling Point Temperature at 50%	265°C max 220°C max 35°C min
Recovery Flash Point Open	
Relative Density At 25°C	0.78 – 0.92 kg/l
Miscibility With Equal Parts of Class 160 Bitumen	Complete
% Aromatics (% Vol) Water Content Viscosity at 40°C	No Precipitation 15% min 0.05% max 1.0 – 1.4mm ² /s

MEDIUM CUTTING CURING OIL SPECIFICATIONS TABLE 2.8.1.2.3

Fluxing Oil

Flux oil shall be the recognised petroleum products furnace fuel oil conforming to the following requirements.

Property Requirements

The distillation properties are shown in table 3.16 below.

Property	Value
Distillation	
Initial Boiling Point Temperature at 50%	190°C min 320°C min
Recovery Viscosity at 50°C Flashpoint	50 – 100mm ² /s 65°C min Complete
Miscibility with equal parts of class 170 bitumen	No Precipitation 0.5% max 3.5% max
Water Content Sulphur Content Sediment Content Pour Point	0.15% max 65°C max

PROPERTY REQUIREMENT TABLE 2.8.1.2.4

General

This specification is to be read in conjunction with the following documents.

- AS 2008: Residual Bitumen for Pavements.
- AS 2734: Asphalt (Hot Mixed) Paving – Guide to Good Practice.

- Main Roads Western Australia, Methods for Sampling and Testing of Asphalt.
- Technical Specification, Tender Form and Schedule for Supply and Laying of Hot Bitumen.

GENERAL

Provision shall be made to minimise delays and inconvenience to road users and adequate provision made for the safety of road users during the course of the work.

After bitumen sealing 'Loose Stones' signs (symbolic T3-9A or T3-9B) shall be placed at both ends of the job, and left in place until the road has been swept. The road shall be swept between 1 to 2 weeks after sealing. Sweepings on kerbed roads shall be picked up and disposed of by the contractor. Sweepings on un-kerbed roads may be swept off the shoulder and into side drains, but shall not be left as small windrows on the shoulder. Tenderers shall include a cost for this sweeping in the schedule of rates.

PRODUCT STANDARD

The product will be to a standard commensurate with all relevant specifications and standards currently in place in Western Australia. At the request of the Principal the contractor will supply appropriate test results to confirm and verify the product standard in accordance with those specifications.

2.10.1 ASPHALT (HOTMIX) SURFACING

N/A

NON – CONFORMANCE

2.11.1 NON-CONFORMANCE OF MATERIAL

Conformance of the material at the source of supply shall be construed only as authorising the Contractor to deliver the material.

Material which has been delivered but does not conform to the Specification shall be removed from the site by the Contractor immediately after notification of non-conformance. Failure by the Contractor to remove the non-conforming material shall permit the Principal to make alternative arrangements for its removal and to recover all costs incurred by these alternative arrangements from the Contractor.

The Contractor will not be paid for the non-conforming material or its cartage. Contamination of the material during cartage shall render the material as non-conforming.

Should the second coat or reseal show signs of in excess of 20% surface failure (aggregate stripping or bleeding) within 18 months of this contract, the contractor shall be called to site for a review of the application and seal design. Should the design or application be at fault, the Contractor shall carry out any remedial works.

LICENSING OF EQUIPMENT

All mobile equipment shall be licensed for operation, including on roads or verges where necessary and shall have a valid roadworthiness inspection certificate for the period of the Contract.

Operators shall hold all relevant and current licences for the safe operation of all equipment.

No responsibility will be accepted by the Principal for any plant or materials left unattended by the Contractor (or any sub-contractors).

NON-CONFORMANCE OF PLANT, EQUIPMENT AND STAFF

Should the plant, equipment or staff be deemed non-conforming the Principal reserves the right to reject the supply until such time as the non-conforming aspects are rectified. The Principal also reserves the right to recover all costs involved in this rejection, including those incurred by other Contractors, and the Principal itself, unless it can be proved that the non-conformance resulted through the actions of the Principal or his representatives.

The Contractor shall do everything necessary to ensure that plant and equipment are delivered to site in good working order so that the possibility of breakdowns are minimised. Should the Contractor supply plant or equipment, which is sub-standard, unsuitable for the specified task or faulty the Principal may reject the plant or equipment as above.

All staff used by the Contractor for the completion of the works under this contract shall be competent and fully trained in all aspects of the operation of the plant and equipment. Should it be apparent that the operator(s) of the plant or equipment are not competent, the Principal may call for a replacement operator or reject the operator as above.

PERFORMANCE

The Contractor shall perform the works under this contract in an expert, efficient and courteous manner. The Contractor shall at all times, refer any comments or discrepancies to the Principal or his representative for resolution. The Contractor is expected to carry out the requirements of this contract with a high degree of personal and public safety at all times.

The Principal's representative on the basis of the following shall assess the Contractor's performance under this contract:

- Contractor and their Staff conduct themselves in a safe, professional manner
- The supply delivery and application services provided in a timely and efficient manner.
- Product conforms to all relevant standards and specifications
- Product and service meets the needs and requirements of the Principal
- Minimal re-works (i.e. non-conforming material, cleaning or damage of worksites, etc.)

COMPLIANCE WITH ACTS, REGULATIONS AND LOCAL LAWS

The contractor (and any sub-contractors) are reminded that it is their responsibility to conform to, among others:

- *Health Act 1911;*
- *Road Traffic Act 1974;*
- *Motor Vehicle (Third Party Insurance) Act 1943;*
- *Transport Act 1966;*
- *Occupational Safety and Health Act 1984;*
- *Environmental Protection Act 1986;* and
- *Mines Safety and Inspection Act 1995.*

All Acts are deemed to include Amendments, Regulations, Codes of Practice and Guidelines.

OCCUPATIONAL HEALTH AND SAFETY

The Contractor (and any sub-contractors engaged by the Contractor) shall observe all requirements of the *Occupational Safety and Health Act 1984* and Regulations with respect to providing a safe workplace. This includes plant and equipment, clothing, safety training for supervisors and employees and protection of the public.

All Contractor representatives must hold a current Construction Safety Awareness Training Card (Blue/ White Card).

The Contractor shall have an Occupational Safety and Health Management System, OSH Policy Statement, roles and responsibilities, General OSH procedures documented-Safe Operating Procedures, Public safety procedures, Induction and training procedures which all Contractor representatives adhere to. This documentation shall be provided to the Manager of Works or his authorised representative prior to pre-qualification induction and also be reviewed by the Contractor annually and provided to the Manager of Works or his authorised representative.

All Contractor representatives are required to undertake a Shire Pre-Qualification Occupational Safety and Health induction course at their own expense at the Shire Depot or other venue as may be nominated by the Principals Representative, prior to commencing this service.

All Contractor representatives shall complete a site induction prior to the nominated start date by the Principals Representative

It is the responsibility of the Contractor to inform the Principal of any new Contractor representatives that have not undertaken the Shire induction course and to arrange at their own expense for these new representatives to attend an induction prior to commencing any works for the Shire.

TRAFFIC MANAGEMENT

The Contractor shall be responsible for all necessary Traffic Management, signage and all other works associated with the sealing works and shall comply with the requirements of AS1742 and the Main Roads of Western Australia, Traffic Management for Works on Roads, Code of Practice.

The successful contractor shall supply an approved Traffic Management Plan to the Principal prior to commencing works.

APPLICABLE SPECIFICATIONS

All material and workmanship supplied under this contract shall conform to the following specifications:

- MRWA Aggregate Specification 7700/13/01
- MRWA Bitumen Specification 7700/13/03
- MRWA Sprayed Bitumen Surfacing Specification 7700/13/28
- IPWEA Module No. 8 Construction Guidelines
- AS Water and Volatile Oils Content AS 2891.10
- AS Degree of Particle Coating AS 2891.11
- AS Residual Bitumen for Pavements AS 2008

ENVIRONMENTAL PROTECTION

The Contractor shall comply with the *Environmental Protection Act 1986* and Codes of Practice, Guidelines and Regulations and any Amendments. Wherever practicable, environmentally friendly products shall be used.

The key requirements listed below shall be complied with such that Contractors assist in providing a service that is in harmony with the environment and operates in accordance with the principals of ecologically sustainable development.

An obligation is also implicit that the Contractor promotes conservation of the natural and built environment.

Key environmental requirements are:

1. Minimise disturbance and clearance of flora and fauna;
2. Prevent weed infestation especially into native areas;
3. Avoid unnecessary interruption or modification of natural or pre-existing drainage paths;
4. Minimise removal or lopping of trees;
5. Protect soil and water from contamination;
6. Minimise and control soil erosion;
7. Avoid unnecessary soil compaction;
8. Protect native fauna habitats;
9. Provide appropriate tools and properly maintained plant and equipment;
10. Protect sites of cultural and natural heritage significance;
11. Maintain the aesthetics of the area;
12. Use waste minimisation management techniques; and
13. Any other relevant environmental issue that is applicable to each individual work site.

LOCAL CONTENT

Council encourages tenderers to inform themselves as to the availability of Local Services and to **make use of those services** where possible.

INSURANCES

Refer to: Part 4 Special Conditions of Contract

3 TENDERER'S OFFER

OFFER FORM

The Chief Executive Officer
Shire of Jerramungup
8 Vasey Street
JERRAMUNGUP WA 6337

I/We _____
(BLOCK LETTERS)

of _____
(ADDRESS)

ABN/GST Status: _____ ACN (if any): _____

Telephone No: _____ Facsimile No: _____

E-mail (if any): _____

In response to RFT 07/19 SUPPLY OF BITUMEN SEALS

I/We agree that I am/We are bound by, and will comply with this Request and its associated schedules, attachments, all in accordance with the Conditions of Tendering contained in this Request signed and completed.

The tendered price is valid up to ninety (90) calendar days from the date of the Tender closing or forty-five (45) days from the Council's resolution for determining the Tender, whichever is the later unless extended on mutual agreement between the Principal and the Tenderer in writing.

I/We agree that there will be no cost payable by the Principal towards the preparation or submission of this Tender irrespective of its outcome.

The tendered consideration is as provided under the schedule of rates of prices in the prescribed format and submitted with this Tender.

Dated this _____ day of _____ 2020.

Signature of authorised signatory of Tenderer: _____

Name of authorised signatory (BLOCK LETTERS): _____

Position: _____

Address: _____

Witness Signature: _____

Name of witness: (BLOCK LETTERS): _____

Address: _____

TENDERER'S RESPONSE

The following checklist has been provided to assist you with your submission. Where it is necessary to provide additional information please ensure that all documents are clearly marked with the relevant attachment title to assist the evaluation panel with their assessment.

NOTE: All pages within Part 3 are to be completed and returned to the Principal as they form part of your Tender submission.

3.2.1 ORGANISATIONAL PROFILE

Attach a copy of your organisation structure and provide background information on your company and label it "Organisation Structure" .	"Organisation Structure" Attachment 1 Tick if attached <input type="checkbox"/>
If companies are involved, attach their current ASIC company extracts search including latest annual return and label it "ASIC Company Extracts" .	"ASIC Company Extracts" Attachment 2 Tick if attached <input type="checkbox"/>

3.2.2 REFEREES

Attach details of your referees, and label it "Referees" . You should give examples of similar work provided for your referees where possible.	"Referees" Attachment 3 Tick if attached <input type="checkbox"/>
---	---

3.2.3 AGENTS

Are you acting as an agent for another party?	Yes / No
If Yes, attach details (including name and address) of your principal and label it "Agents" .	"Agents" Attachment 4 Tick if attached <input type="checkbox"/>

3.2.4 TRUSTS

Are you acting as a trustee of a trust?	Yes / No
If Yes, in an attachment labelled "Trusts" : (a) give the name of the trust and include a copy of the trust deed (and any related documents); and (b) if there is no trust deed, provide the names and addresses of beneficiaries.	"Trusts" Attachment 5 Tick if attached <input type="checkbox"/>

3.2.5 SUBCONTRACTORS

Do you intend to subcontract any of the Requirements?	Yes / No
If Yes, in an attachment labelled "Subcontractors" , provide details of the subcontractor(s) including: (a) the name, address and the number of people employed; and (b) the Requirements that will be subcontracted.	"Subcontractors" Attachment 6 Tick if attached <input type="checkbox"/>

3.2.6 CONFLICTS OF INTEREST

Will any actual or potential conflict of interest in the performance of your obligations under the Contract exist if you are awarded the Contract, or are any such conflicts of interest likely to arise during the Contract?	Yes / No
If Yes, please supply in an attachment details of any actual or potential conflict of interest and the way in which any conflict will be dealt with and label it “Conflicts of Interest” .	“Conflicts of Interest” Attachment 7 Tick if attached <input type="checkbox"/>

3.2.7 FINANCIAL POSITION

Are you presently able to pay all your debts in full as and when they fall due?	Yes / No
Are you currently engaged in litigation as a result of which you may be liable for \$50,000 or more?	Yes / No
If you are awarded the Contract, will you be able to fulfil the Requirements from your own resources or from resources readily available to you and remain able to pay all of your debts in full as and when they fall due?	Yes / No
In order to demonstrate your financial ability to undertake this contract, in an attachment labelled “Financial Position” include a profit and loss statement and the latest financial return for you and each of the other proposed contracting entities, together with a list of financial referees from your bank and/or accountant.	“Financial Position” Attachment 8 Tick if attached <input type="checkbox"/>

3.2.8 QUALITY ASSURANCE

The Tenderer should have internal quality assurance systems in place, ideally conforming to ISO 9001. Does your organisation have any quality assurance or quality management systems in place?	Yes / No
If you propose to subcontract, does your subcontractor have a “third party” quality management system in place?	Yes / No
Supply evidence or details of your quality assurance position and where relevant of your supplier’s or subcontractor’s position, in an attachment labelled “Quality Assurance” .	“Quality Assurance” Attachment 9 Tick if attached <input type="checkbox"/>

3.2.9 INSURANCE COVERAGE

The insurance requirements for this Request are stipulated in the Special Conditions. Tenderers are to supply evidence of their insurance coverage in a format as outlined below or in an attachment labelled “Insurance Coverage” . A copy of the Certificate of Currency is to be provided with this Tender response.				“Insurance Coverage” Attachment 10 Tick if attached <input type="checkbox"/>
Type	Insurer – Broker	Policy Number	Value (\$)	Expiry Date
Public Liability				
Professional Indemnity				
Workers Compensation and Rehabilitation (WCA)				
Motor Vehicle Insurance				

SELECTION CRITERIA**3.3.1 COMPLIANCE CRITERIA**

Please select with a Yes or No whether you have complied with the following compliance criteria:

Description of Compliance Criteria	
(a) Compliance with the Specification contained in the Request.	Yes / No
(b) Compliance with the Conditions of Responding contained in this Request.	Yes / No
(c) Compliance with all necessary Licences and Registrations.	Yes / No
(d) Compliance with the Delivery Date.	Yes / No
(e) Compliance with and completion of the Price Schedule.	Yes / No

3.3.2 QUALITATIVE CRITERIA

Before responding to the following qualitative criteria, Tenderers must note the following:

- All information relevant to your answers to each criterion are to be contained within your Tender;
- Tenderers are to assume that the Evaluation Panel has no previous knowledge of your organisation, its activities or experience;
- Tenderers are to provide full details for any claims, statements or examples used to address the qualitative criteria; and
- Tenderers are to address each issue outlined within a qualitative criterion.

<p>A. RELEVANT EXPERIENCE</p> <p>Describe your experience in completing/ supplying similar requirements. Tenderers must, as a minimum, address the following information in an attachment and label it “Relevant Experience”:</p> <ul style="list-style-type: none"> a) Provide details of similar work; b) Provide the scope of the Tenderer’s involvement including details of outcomes; c) Provide details of issues that arose during the project and how these were managed by the Tenderer; d) Demonstrate sound judgement and discretion; and e) Demonstrate competency and proven track record of achieving outcomes. 	<p style="text-align: center;">Weighting 25%</p> <hr/> <p style="text-align: center;">“Relevant Experience” Attachment 11</p> <p>Tick if attached <input type="checkbox"/></p>
<p>B. TENDERER’S RESOURCES</p> <p>Tenderers should demonstrate their ability to supply and sustain the necessary:</p> <ul style="list-style-type: none"> a) Plant, equipment and materials; b) Quality control; and c) Any contingency measures or back up of resources including plant and personnel (where applicable). <p>As a minimum, Tenderers should provide a statement detailing their ability to supply the material in accordance with the Principal’s request, a current commitment schedule, plant/ equipment schedule and details of quality control procedures in an attachment and label it “Tenderer’s Resources”.</p>	<p style="text-align: center;">Weighting 25%</p> <hr/> <p style="text-align: center;">“Tenderer’s Resources” Attachment 12</p> <p>Tick if attached <input type="checkbox"/></p>

PRICE INFORMATION

Tenderers **must** complete the following “Price Schedule”. Before completing the Price Schedule, Tenderers should ensure they have read this entire Request.

DISCOUNTS

Are you prepared to allow a discount for prompt settlement of accounts?	Yes / No
If you are offering different discounts for different periods, or other discounts such as volume discounts, detail them in an attachment labelled “Discounts” .	<p style="text-align: center;">“Discounts” Attachment 13</p> <p>Tick if attached <input type="checkbox"/></p>

PRICE SCHEDULE

SCHEDULE OF RATES

Note: The Principal expects to require in the order of Full Service, Prime (50/50) 11,000m², Primer Seal/Reseal 129,000m² through the duration of the contract however this is subject to increase or decrease at the sole discretion of the Principal.

SUPPLY AND SPRAY BITUMEN (FOR PRIMER-SEALS)			
ITEM	GST Exclusive	GST Component	Total Cost
BITUMEN APPLICATION (Prime 50/50)	<i>Rate/m²</i>	<i>Rate/m²</i>	<i>Rate/m²</i>
Price /m ² (based on 0.54 L / m ² at 15°)		\$	\$
Including:			
a) Seal design			
b) Bitumen and application of bitumen			
c) Pre-coating of aggregate			
d) Preparation – sweep and water			
e) Application of bitumen and aggregate			
f) Rolling			
g) Traffic Management			
Variation Rate /L	\$	\$	\$

SUPPLY, SPRAY HOT BITUMEN AND COVER (SECOND COATS AND RESEALS)			
ITEM	GST Exclusive	GST Component	Total Cost
HOT BITUMEN, AGGREGATE AND APPLICATION	<i>Rate/m²</i>	<i>Rate/m²</i>	<i>Rate/m²</i>
Price /m ² (based on 1.6 L/ m ² at 15°) Including: a) Seal design b) Bitumen c) Pre-coating of aggregate d) Preparation – sweep and water e) Application of bitumen and aggregate f) Rolling g) Traffic Management	\$	\$	\$
Variation rate /L	\$	\$	\$
	GST Exclusive	GST Component	Total Cost
SWEEPING	<i>Lump Sum</i>	<i>Lump Sum</i>	<i>Lump Sum</i>
Price for sweeping (1 to 2 weeks after seal application)	\$	\$	\$
MOB/DEMOB	<i>Lump Sum</i>	<i>Lump Sum</i>	<i>Lump Sum</i>
Price for mob/demob (total cost assuming all works completed in one visit)	\$	\$	\$

Company Name _____

(Signature of Submitter) _____

(Title) _____

(Phone Number) _____ (Fax No) _____

(Signature of Witness) _____

4 APPENDIX A – SPECIAL CONDITIONS OF CONTRACT

SPECIAL CONDITIONS

4.1.1 PERIOD OF CONTRACT AND TERMINATION

The Contract will be in force for the period commencing as soon as practical as advised in the letter of acceptance issued to the successful Tenderer and will run for the period until the contract concludes being 31 January 2021.

The Contractor shall have two (2), one (1) year options to extend the term, commencing on 1 February 2021 and subsequently the anniversary of the first extension of the contract. The ability of the Contractor to exercise the option shall be conditional upon the Contractor not having breached this contract in any respect during the contract period. The Contractor will have no option to extend the contract at either the end of the initial contract period or the subsequent one year extension unless an extension to the contract is offered in writing by the Principal. The Contractor shall forward a request in writing to the Principal requesting that the Principal consider a request to extend the contract by the prevailing extension. The contract review process shall commence no later than two months prior to the contract termination date so that the Principal has sufficient time to review the proposal to extend the contract.

Provided that an extension of the contract or any change in the rates Payable shall occur at the sole, absolute discretion of the Principal.

4.1.2 FINANCIAL OBLIGATION

4.1.2.1 For the first term of the contract providing the Contractor observes and performs the Contractor's obligations under this contract the Principal shall pay rates to the contractor as set out in the Price Schedule of the contract for prescribed works under the contract.

4.1.2.2 The rates Payable by the Principal to the Contractor (Price Schedule) shall be reviewed as part of the Contractor's option to extend the term of the contract (refer to Period of Contract and Termination 4.1.1).

The review may take into account price adjustment events:

- (a) Any increase or decrease in the Perth Consumer Price Index in the financial year prior to the review date
- (b) Material cost increase or decrease
- (c) Any additions or deletions in respect of the services undertaken by the Contractor pursuant to this Contract
- (d) Any increase or decrease in the volume of works in any given year.

The contractor must provide written notice to the Shire representative if it reasonably considers that a Price Adjustment should be considered. The written notice will form part of the request to extend the contract (refer to Period of Contract and Termination 4.1.1).

Provided that an extension of the contract or any change in the rates Payable shall occur at the sole, absolute discretion of the Principal.

4.1.3 INSURANCES

The Contractor and its subcontractor(s) (if any) will be required to effect and maintain:

- (e) Public liability insurance in the sum of at least \$20,000,000 (twenty million dollars) in respect of any one occurrence and for an unlimited number of claims.
- (f) Workers Compensation or Personal Accident Insurance cover as required by law (whichever may apply).

- (g) Motor Vehicle insurance in the sum of full replacement of the vehicle including all accessories, service agreements and warranties, to be supplied in respect of any one occurrence and for an unlimited number of claims.
- (h) Professional Indemnity – Where the contract involves the provision of professional services and/or advise, the contractor is to take out a Professional Indemnity insurance policy with an insurer approved by the Australian Prudential Regulation Authority (APRA) as per their list of insurers Authority to Conduct new or renew Insurance Business in Australia. The limit of Liability will not be less than \$2,000,000 (two million dollars).

Or satisfy the Shire of Jerramungup of its ability to meet obligations arising from the indemnity provisions of the contract. The successful respondent shall provide evidence of insurance with an insurance company to be approved by the Shire; such approval shall not be unreasonably withheld.

Indemnity

The successful contractor shall indemnify and keep indemnified the Local Government against:

- Any liability under the *Workers' Compensation and Injury Management Act 1981*, and its subsequent amendments;
- Any other law in force or which during the term of this Contract may come into force, under which any person is entitled to claim or sue for compensation or recover any damages from the local government.
- Further to these Special Conditions, *All engagements will be subject to the Shire of Jerramungup General Conditions of Contract for Provision of Minor Works and Services*. A copy of these Conditions may be viewed upon request.

4.1.4 PRICE

Prices tendered are to be on a per m2 basis. All prices for goods and/or services offered are to be fixed for the term of the Contract. Tendered prices must include Goods and Services Tax (GST). Unless otherwise indicated prices tendered must include delivery unloading, packing, marking and all applicable levies, duties, taxes and charges. Any charge not stated in the tender as being additional will not be allowed as a charge for any transaction under any resultant Contract.

4.1.5 COMPLIANCE WITH LEGISLATION ETC

- For as long as the Contractor shall continue to perform the Services hereunder the Contractor shall at all times at its own cost and expense observe, perform and comply with all Acts of both Federal and State Parliaments and all regulations, local laws, ordinances or orders made thereunder and the lawful requirements of any public municipal or other authority so far as the same may affect or apply to the Consultant or the Services and the Consultant shall indemnify and keep indemnified the Principal from and against all actions, suits, costs, charges, claims and demands in respect thereof.
- With respect to all work done in Western Australia under the Contract, the Contractor shall observe, perform and comply in all material respects with all relevant Industrial Awards, Industrial Agreements and orders of Competent Courts or Industrial Tribunals applicable to the work to be done in the performance of the Services.

4.1.6 SITE INSPECTION REPORT

Please note the principle has conducted a Site Inspection Report as per Appendix D, which is to be used as a guide for the Safety Management Plan. The identified hazards listed are to be used as a guide only. The hazards noted are those that have been identified when inspected, and the Shire of Jerramungup takes no responsibility for any hazards that have not been recorded. The contractor must still take responsibility and conduct a thorough site inspection and risk assessment as required under *Occupational Safety and Health Act 1984* before any work can commence onsite.

5 APPENDIX B – TECHNICAL CLAUSES

PRELIMINARIES

5.1.1 DESCRIPTION OF WORKS

This specification covers the supply and application of hot bitumen seal surfacing within the Shire of Jerramungup. The work is to be carried out during the period from award and run for the duration of works as specified unless extensions of time are approved by the Principal.

The works shall include but not limited to:

- Supply of labour plant and materials.
- Sweeping and cleaning of areas to be surfaced.
- Supply and spray bitumen.
- Joint preparation – placing bitumen paper.
- Protection of the works and public.
- Final clean up.
- Traffic control.

The Contractor shall be responsible for the design of all works within relevant guidelines, standards and the specification. The Contractor shall provide the Superintendent with the design for approval before use.

The Contractor shall allow for the implementation of all works and shall further allow for complying with any instructions issued by the Superintendent.

5.1.2 SUPERVISION AND INSPECTION OF WORKS

The Contractor shall provide a Supervisor, experienced in the type of works to be constructed, to be in charge at all times and who is authorised to receive and act upon instructions from the Shire representative.

Where the works are to be inspected by stages, the Contractor shall notify the Shire representative or other relevant inspecting authority at least twenty-four (24) hours prior to the time that the inspection is required.

The Principal will require inspections at the following stages.

- Completion of set-out and prior to surfacing.
- Completion of surfacing and clean up.

5.1.3 SAFETY

The Contractor shall conduct the construction of the Works in accordance with all current statutory requirements, Local Government By-laws and the provisions of Australian Standard AS1470, together with any other Code relating specifically to type of machine, process, handling procedures or materials. The Contractor shall provide employees with all necessary equipment and protective clothing to allow the safe construction of the Works and shall ensure maintenance to all plant and machinery allows for their safe operation.

On notification from the Shire representative in respect to any operation, machine or structure being, in the opinion of the Shire representative, unsafe, the Contractor shall cease use immediately of such operation, machine or structure and shall conduct remedial work to the satisfaction of the Shire representative before continuing to use the operation, machine or structure in the Works. Where no remedial action can ensure continued safe use of an operation, machine or structure, the Contractor shall, in the case of an operation, cease such operation, and, in the

case of a machine or structure, shall dismantle and remove such machine or structure from the Site.

Where the general safety of the Public is concerned and time of notification of the Contractor further jeopardises this safety, the Superintendent may order immediate remedial works to be conducted at the Contractor's expense.

5.1.4 FIRE PREVENTION

The Contractor shall provide and maintain adequate, approved fire-fighting equipment on site. The Contractor shall observe the provisions of the *WA Bushfires Act 1954*, Local Authority regulations, WA Fire Brigades Board regulations and any other regulation in respect to fire prevention.

The Contractor shall observe any instruction to cease works from a recognised Area Fire Warden if a Total Fire Ban and movement of vehicles/harvest ban is imposed under the provisions of the WA Bushfires Act 1954 or Local Authority Regulations. The Shire will not be liable for any costs incurred by the Contractor to comply with this direction.

Burning shall not take place at any time.

The Contractor shall ensure that all flammable materials are used and stored in accordance with the *Dangerous Goods Safety Act 2004* and any other statute or regulation governing storage and use of such materials, and shall obtain such permits and licenses and pay all relevant fees and charges.

5.1.5 VANDALISM

The Contractor shall allow for all reasonable measures to protect the Works and the operations therein from acts of vandalism. The Contractor shall allow for any remedial action required as a consequence of such acts. Vandalism shall not be an Excepted Risk.

5.1.6 HOURS OF WORK

Unless with prior approval in writing from the Shire representative, the Contractor shall not conduct works on Sundays, Public Holidays or between the hours of 6.00 pm on any day and 7.00 am on the following day except those works required in respect to safety or maintenance of Site conditions, such as dewatering activities.

5.1.7 CODES AND AUSTRALIAN STANDARDS

Where an Australian Standard is specified, the Contractor shall construct and conduct the Works in accordance with the provisions of that standard. Where an Australian Standard has not been specified, the Contractor shall allow for the construction of the Works in compliance with the provisions of the Australian Standard covering the class or type of work being constructed.

In the event that a Standard other than an Australian Standard is specified, the Contractor shall allow for complying with the provisions of the specified Standard. The standard applying shall be the latest edition at the time of commencement of the Contract.

Copies of Australian Standards may be purchased from the Standards Association of Australia, 165 Adelaide Terrace EAST PERTH WA 6004.

The following documents shall apply to this Contract.

AS1141	Methods for Sampling and Testing Aggregates.
AS1181	Method of Measurement of Civil Engineering Works and Associated Building Works.
AS1289	Methods of Testing Soils for Engineering Purposes.
AS1348	Glossary of Terms-Road and Traffic Engineering.
AS1470	Health and Safety at Work - Principles and Practices.
AS1742	Manual of Uniform Traffic Control Devices.
AS2124	General Conditions of Contract.
AS2150	Asphalt (Hot Mixed).

AS2341	Methods of Testing Bitumen and Related Road Making Products.
AS2357	Mineral Fillers for Asphalt.
AS2700	Colour Standards for General Purposes.
AS2734	Asphalt (Hot Mixed) Paving - Guide to Good Practice.
AS2758	Aggregates and Rock for Engineering Purposes.
AS2891	Methods of Sampling and Testing Asphalt.
WA Govt.	The Explosives and Dangerous Goods Act.
WA Govt.	Construction Safety Act and Regulations.
WA Govt.	Noise Abatement Act and Regulations.

5.1.8 PROGRAM OF WORKS

The Contractor shall, within seven (7) days of the date of acceptance of the tender, lodge with the Superintendent a program of Works detailing the commencement and completion dates of the various stages of the Works.

The Contractor shall not, without prior approval of the Superintendent in writing, depart from or vary the Programme of Works.

5.1.9 INSURANCES

Once awarded the contract the Contractor shall provide the Principal with written evidence of insurance policies required.

Where an insurance policy exists as a result of Common Law cover or statutory requirement, the Contractor shall arrange for the insurance to be endorsed to indemnify the Principal against liability. The Contractor shall provide any additional insurance as necessary to effect the insurance cover required by the General Conditions of Contract.

5.1.10 DEFECTS LIABILITY PERIOD

The Defects Liability Period shall be the period of twelve months and shall commence from the date of the Practical Completion inspection.

5.1.11 PAYMENT CERTIFICATES

Payment Certificates will be made generally in accordance with the General Conditions of Contract.

5.1.12 CONTRACTOR TO BE INFORMED

It shall be assumed that the Contractor is fully conversant with the ground conditions within and adjacent to, the Site and no extra costs or charges shall be allowed for ground or other Site conditions that may in the opinion of the Superintendent be assessed by a full inspection of the site.

5.1.13 ACCESS TO SITE

The Contractor shall at all times maintain access to the Site and the Works therein unless given prior written approval of the Superintendent.

The Contractor shall minimise restrictions to the use of the Site to that minimum reasonably necessary for the duration of the Works and shall not close a road to traffic or cause prolonged delays without the approval of the Superintendent.

The Contractor shall take all reasonable precautions to maintain access and entry to the Site to all traffic and shall allow for the provision of all necessary warning signs, sign posting and any other measures required in this regard.

5.1.14 WORK IN EXISTING ROAD RESERVES

The Contractor shall allow to limit operations within existing road reserves to that reasonably necessary to complete the Works. The Contractor shall allow for all costs associated with reinstatement of verges, crossovers, street trees and shrubs and all other improvements within the road reserve and shall conduct such reinstatement to the satisfaction of the Superintendent or relevant Controlling Authority.

The Contractor shall allow maintaining at all times access to each property within the road reserve together with free Public thoroughfare of the roadway. The Contractor shall bear all costs and charges related to the provisions of warning signs, barricades, flagmen and lights. The Contractor shall obtain all necessary approvals from Public Utility Authorities, Local Authorities and other involved bodies and shall comply with all provisions and conditions rendered with such approvals.

The Contractor shall be liable for all costs associated with the reinstatement of any road pavements damaged during the course of the Works.

Certification by the Local Authority that all reinstatement has been undertaken or that arrangements have been made to their satisfaction for such reinstatement, will be required at Practical Completion.

5.1.15 TEMPORARY PUBLIC UTILITIES

The Contractor shall be entirely responsible for the location and protection of all Public Utilities and services before any works are commenced regardless of the utility being shown or not shown on the drawings. Repair and reinstatement costs arising from damage to any Public Utility due to the Contractor's activities shall be borne by the Contractor together with all costs arising from delays caused by such damage.

The Contractor shall arrange for any supervision and approval required by any Public Utility in connection with any works on or adjacent to existing services.

5.1.16 NUISANCE

The Contractor shall take all reasonable measures to limit nuisance to the public arising from operations regardless of the source of such nuisance.

In respect to noise, the Contractor shall ensure the level of noise, when measured in accordance with the Local Authority By-Laws and Regulations, shall not exceed the maximum permissible level permitted by such By-Laws and Regulations. Where any machine or any operation cannot be conducted within the prescribed limits the Contractor shall cease such operation or remove such machine from site. The cost of all noise attenuation measures shall be borne by the Contractor.

The Contractor shall allow for all reasonable measures, to limit nuisance caused by construction traffic, dust, sand, smoke, vibration, light spill or other intrusion arising from the contract operations.

5.1.17 EXISTING AREA DRAINAGE

The Contractor shall allow for the maintenance and efficient operation of the existing drainage pattern and on completion of the Contract shall clean out and remove from the drainage system, regardless of source, any rubbish, debris or other deleterious matter deposited in the drainage system.

5.1.18 WATER FOR WORKS

The Contractor shall be responsible for provision of a suitable water supply for the construction of the Works and shall comply in all respects to any restrictions in respect to water use in force during the period of the Contract.

With prior written approval of the Shire representative, the Contractor may draw water for the Works from suitable shire stand pipes or other approved sources.

5.1.19 DISPOSAL OF RUBBISH

The Contractor shall allow for all costs and charges in relation to rubbish disposal. The Contractor shall provide for the collection, stockpiling and removal of all rubbish, debris, stripped vegetation and other deleterious matter from the Site in a manner approved by the Shire representative.

All rubbish, debris and other deleterious matter shall be removed from the Site to an approved Local Authority Refuse Site; any associated costs shall be the responsibility of the Contractor.

5.1.20 CLEANING UP

Notwithstanding the provisions of the General Conditions of Contract, the Contractor shall allow for the cleaning of all drains, gullies, manholes, kerbing, paths and other structures prior to the completion of the Works regardless of the agent by which the rubbish debris or other deleterious matter was deposited in the Works.

5.1.21 GROUND VIBRATION

The Contractor shall avoid excessive use of vibratory compaction equipment. The vibrators shall not be started or stopped near a building.

The type of vibratory equipment and the wave velocity generated shall be selected to minimise ground vibrations beyond the Site.

The wave velocity at buildings and structures shall not exceed the recommended maximum velocity at the foundations.

6 APPENDIX C – PROJECT JOB SIGN OFF PROFORMA



PROJECT JOB SIGN OFF PROFORMA

JOB NAME AND NUMBER

DESCRIPTION

WORKS COMPLETED TO REQUIRED SPECIFICATION

YES NO

If yes, Date of Completion: _____

NAME Shire of Jerramungup Representative: _____

SIGNATURE: _____ **DATE:** _____

ITEMS NOT COMPLETED

DESCRIPTION	REASON NOT COMPLETE
1.	
2.	
3.	
4.	
5.	

7 APPENDIX D – SITE INSPECTION REPORT



SHIRE OF JERRAMUNGUP

8 VASEY STREET, JERRAMUNGUP

TELEPHONE: (08) 9835 1022

FACSIMILE: (08) 9835 1161

INDUCTION OF CONTRACTORS

SITE INSPECTION REPORT

Prior to the calling of Tenders and or Quotations the Principal will complete a Site Inspection Report, which purpose is to make the Tenderer/Contractor aware of any recorded hazards prior to submitting their Tender and/or Quotation.

This Site Inspection Report is to be added to the Tender and or Quote document as an attachment.

Job Name: SUPPLY + SPRAY BITUMEN SEAL
 Location: VARIOUS WORK SITES
 Inspected By: MURRAY FLOTT

1. ASSESS THE AREA – Does the work site involve any of the following?		
Identify Hazard:	Answer	
Is there a risk of a person falling two metres or more?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the work involve demolition?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the work involve the disturbance or removal of asbestos?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the work involve structural alterations that require temporary support to prevent collapse?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the work involve confined spaces?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the work involve excavation to a depth greater than 1.5 meters?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the work involve the construction of tunnels?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the work site situated near pressurised gas pipes, including consumer mains?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the work site situated near chemicals, fuel or refrigerant lines?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the work near power lines (overhead or underground)?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the work site contaminated?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the work involve tilt up and pre-cast concrete?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the work site on or adjacent to roadways or railways?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the work involve any movement of powered mobile plant?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the work site in, over or adjacent to water or other liquids where there is a risk of drowning?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Other:	<input type="checkbox"/> Yes	<input type="checkbox"/> No

2. FIND THE ENERGIES – Look up / Down / Beside / Inside							
Will the Contractor be exposed to?							
1. Vehicles	<input checked="" type="checkbox"/>	Vehicle – person	<input checked="" type="checkbox"/>	Vehicle – Over edge	<input checked="" type="checkbox"/>	Vehicle – jolt/jar	<input checked="" type="checkbox"/>
2. Gravity	<input checked="" type="checkbox"/>	People falling/tripping	<input checked="" type="checkbox"/>	Objects falling	<input type="checkbox"/>	Geotechnical	<input type="checkbox"/>
3. Human	<input checked="" type="checkbox"/>	Lifting	<input checked="" type="checkbox"/>	Pushing	<input checked="" type="checkbox"/>	Pulling	<input checked="" type="checkbox"/>
4. Electrical	<input type="checkbox"/>	Hand held equipment	<input type="checkbox"/>	High voltage	<input type="checkbox"/>	Overhead wires	<input type="checkbox"/>
5. Mechanical	<input checked="" type="checkbox"/>	Caught in	<input type="checkbox"/>	Caught between	<input checked="" type="checkbox"/>	Struck by	<input checked="" type="checkbox"/>
6. Vibration	<input checked="" type="checkbox"/>	Noise	<input checked="" type="checkbox"/>	Hand/arm	<input type="checkbox"/>	Whole body	<input type="checkbox"/>
7. Chemical	<input checked="" type="checkbox"/>	Liquids	<input checked="" type="checkbox"/>	Vapours	<input checked="" type="checkbox"/>	Solids	<input type="checkbox"/>
8. Radiation	<input type="checkbox"/>	Sunlight	<input type="checkbox"/>	Radioactive source	<input type="checkbox"/>		<input type="checkbox"/>
9. Flying Objects	<input type="checkbox"/>	Projectiles	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>
10. Other	<input checked="" type="checkbox"/>	Bites/stings	<input checked="" type="checkbox"/>	Sharp edges	<input type="checkbox"/>	Dust	<input checked="" type="checkbox"/>

Disclaimer: The Identified Hazards in this document are to be used as a guide only for the Tenderer/Contractor to prepare a Safety Management Plan. The hazards noted are those that have been identified when inspected and the Shire of Jerramungup takes no responsibility for any hazards that have not been recorded. The Contractor must still take responsibility and conduct a thorough site inspection and risk assessment as required under Occupational Safety and Health Act 1984 before any work can commence onsite as conditions such as weather, environment and personal etc. can have an impact.

8. APPENDIX E – GENERAL CONDITIONS OF CONTRACT

GENERAL CONDITIONS OF CONTRACT FOR THE SUPPLY OF GOODS AND THE PROVISION OF GENERAL SERVICES

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8.1 CONSTRUCTION OF CONTRACT

The Contract shall be governed by the laws of the State of Western Australia and the parties hereby submit to the exclusive jurisdiction of the courts of that State.

8.2 DEFINITIONS

In the Contract, except where the context otherwise requires:

'Clause' means a clause of these General Conditions.

'Contract' means the document which constitutes or evidences or, as the case may be, all the documents which constitute or evidence the final and concluded agreement between the Principal and the Contractor.

'Contract Price' means:

- (a) The monetary consideration stated in the Contract for the sale of the Goods to the Principal whether expressed as a lump sum or price per unit or by weight or volume or otherwise;
- (b) Where payment is to be made on a Lump Sum Basis, the sum which is stated in the contract to be payable to the Contractor for the supply of the Services by the Contractor and the performance of the obligations of the Contractor under the Contract;
- (c) where payment is to be made on a Schedule of Rates basis, the sum ascertained by calculating the product of the rates and the corresponding quantities set out in the Schedule of Rates and adding to the sum thereof the total of any lump sums, provisional sums, contingency sums or other sums included in the Schedule of Rates;
- (d) Where payment is to be made on a Lump Sum and a Schedule of Rates Basis, the aggregate of the sums referred to in paragraphs (a), (b), (c) and (d) above, but excluding any additions or deductions, which may be required to be made pursuant to the Contract.

'Contractor' means the party named in the Contract as the seller of the Goods and the supplier of the Services the subject of the Contract.

'Date for Delivery' means:

- (a) Where the Contract or Order specifies a date for delivery, that date; or
- (b) Where the Contract or Order specifies a period of time for delivery, the last day of that period.

'Goods and Services' means the goods the subject of the Contract or such of them as shall be described in the Order and the whole of the services, tasks, work and requisites to be supplied rendered provided or performed by the Contractor including all variations provided for by the Contract as more fully set out in the Contract.

'Local Government' means any local government established under the *"Local Government Act 1995"* or the Principal.

'Officer' means any officer or person authorised by the Principal to act on its behalf for the purpose of the Contract.

'Order' means a purchase order from the Principal to the Contractor requiring the supply of specific Goods and Services.

'Principal' means the Shire of Jerramungup.

'Specification' means any Special Conditions, Technical Specification, Drawings and Schedules forming part of the Contract; and such Specification shall be read with these General Conditions as an integral part of the Contract, but in the event of any inconsistency between the Specification and these General Conditions the former shall (unless the Contract otherwise provides) prevail.

Unless the context otherwise requires, the singular includes the plural and vice versa. The clause headings of the General Conditions of Contract shall not in any way affect their interpretation. Any one gender includes all genders.

8.3 EVIDENCE OF CONTRACT

The Contract shall be evidenced by the Special Conditions of Contract, General Conditions of Contract, Specifications, Response, Letter of Acceptance and all things referred to therein.

The precedence of documents in the event of a conflict or inconsistency shall follow the sequence as detailed above.

Should any part of the Contract be held in law to be invalid, that part shall be severed from the Contract and the remainder of the Contract shall have full force and effect.

8.4 NOTICES

Any notice or other communication under the Contract shall be in writing and signed and shall be given or served by:

- (a) Hand delivery or prepaid post to the address of the recipient specified in the Contract or at such other address as may from time to time be notified in writing to the party giving the notice by the intended recipient but in any event to the last notified address: or
- (b) Facsimile transmission to the facsimile number of the recipient specified in the Contract or at such other number as may from time to time be notified in writing to the party giving the notice by the intended recipient but in any event to the last notified number.

A printed or copied signature will be sufficient for the purpose of sending any notice or other communication.

8.5 CONTRACTOR TO HAVE INFORMED ITSELF

The Contractor shall be deemed to have:

- (a) Examined carefully and to have acquired actual knowledge of the contents of the Drawings, Specification, Schedules, Bills of Quantities (if any), Conditions of Response or Quotation, these General Conditions of Contract and the Special Conditions of Contract (if any) and any other information made available in writing by the Principal to the Contractor for the purpose of quoting; and
- (b) Examined the site and its surroundings (if applicable); and
- (c) Satisfied itself as to the correctness and sufficiency of its Submission or Response and that its price covers the cost of complying with all its obligations under the Contract and of all matters and things necessary for the due and proper performance and completion of the contract; and
- (d) Obtained and properly examined all information relevant to the risks, contingencies and other circumstances that may have had an effect on its Submission or Response and which was obtainable by the making of reasonable enquiries.

Failure by the Contractor to do all or any of the things it is deemed to have done under this clause will not relieve the Contractor of its liability to perform and complete the Contract in accordance with the terms and conditions thereof.

8.6 COMPLYING WITH STATUTORY REQUIREMENTS

The Contractor shall comply with the requirements of all Acts of the Parliament of the Commonwealth and with the requirements of the provisions of all Acts of the Parliament of the State of Western Australia and with the requirements of all ordinances, rules, regulations, by-laws, orders, codes of practice and proclamations made or issued under any such Act and with the lawful requirements of public and other authorities in any way affecting or applicable to the Services or the performance of the Contract.

Without limiting in any way the generality of the foregoing, the Contractor shall duly and punctually observe, perform and comply with the provisions of the "*Occupational Health, Safety and Welfare Act 1984*" and all improvement notices, prohibition notices and codes of practice (if any) issued thereunder and having application to this Contract.

If, in the opinion of the Contractor, the provisions of any document forming part of the Contract are at variance with any such requirements, the Contractor shall give written notice to the Principal specifying the departure from such provisions which he considers necessary to comply with such requirements.

If such a requirement necessitates a change to the work under the Contract, the Principal may order a variation. Except to the extent that a variation is ordered by the Principal as set forth above, the Contractor shall bear the cost of complying with the requirement.

8.7 ASSIGNMENT AND SUBCONTRACTING

The Contractor shall not without the prior written approval of the Principal:

- (a) Assign the Contract, or any part thereof or any payment thereunder. Approval to assign shall be on terms and conditions determined by the Principal.
- (b) Subcontract the whole or any part of the Contract. Approval to subcontract shall not relieve the Contractor from any liability or obligation under the Contract.

8.8 INDEMNITY

The Contractor shall indemnify and keep indemnified the Principal against all loss of or damage to the property of the Principal and from and against any claim, demand, action, suit or proceeding that may be made or brought by any person against the Principal or employees, professional consultants or agents of the Principal or any of them in respect of personal injury to or the death of any person whomsoever or loss of or damage to any property whatsoever arising out of or as a consequence of the sale or delivery of the Goods or the supply or provision of the Services by the Contractor or its employees, agents or subcontractors and also from any costs and expenses that may be incurred in connection with any such claim, demand, action, suit or proceeding.

Notwithstanding the preceding paragraph, the Contractor shall not be rendered liable for personal injury to or the death of any person or loss of or damage to property resulting from any breach by the Principal of any provision of the Contract or any negligent act or omission of the Principal, or the employees, professional consultants or agents of the Principal nor for any claims, demands, actions, suits or proceedings, costs and expenses whatsoever in respect thereof or in relation thereto.

8.9 PATENT RIGHTS/COPYRIGHT AND OTHER INTELLECTUAL PROPERTY RIGHTS

The Contractor warrants that neither the Goods or Services nor any design, documents or methods of working provided by the Contractor will infringe any patent, registered design, trademark or name, copyright or other protected right.

The Contractor shall indemnify and at all times keep the Principal indemnified against any action, claim, demand, costs or expenses arising from or incurred by reason of any infringement or

alleged infringement of any letters patent, design, trade mark or name, copyright or other protected right in respect of any goods, articles, services, equipment, machinery, plant or thing, system or method of performing, using, fixing, working or arrangement used, fixed, provided or supplied by the Contractor.

All payments and royalties payable in respect of any such letters patent or other protected right, shall be included by the Contractor in the Contract and shall be paid by itself to the person, persons, or body to whom they may be due or payable.

In the event of any claim being made or brought against the Principal in respect of any of the matters stated in this clause, the Contractor shall be immediately notified thereof. The Contractor shall, with the assistance if required of the Principal, but at the Contractor's sole expense, conduct all negotiations for the settlement of the same or any litigation that may arise there from and in the event of the failure by the Contractor so to do, the Principal shall have power to suspend payment of any money due to the Contractor under the Contract until such claim has been satisfied, settled, or withdrawn. Should any money due, or which may thereafter become due, to the Contractor, or which may have been deposited by the Contractor as security under the Contract, be insufficient to satisfy or settle any such claim and such claim has not been satisfied or withdrawn at the date when the Contract would otherwise have been completed, the balance outstanding in respect of the claim shall be a debt due by the Contractor to the Principal.

8.9 SPECIFIED BRANDS OF GOODS

Where a particular brand of Goods is specified in the Contract, no other brand shall be supplied unless otherwise approved in writing by the Principal.

8.10 PRICE VARIATIONS

Contract prices shall be firm unless otherwise stated in the Contract.

Where Contract prices are variable, and the Contractor wishes to claim for a variation in price during the term of the Contract, then the Contractor shall give the Principal full details of the make-up of the claim, including all applicable information as to the cost of materials, direct labour, overheads, profit and such other cost components as the Principal may require to verify any claim for variation. All applications for variation must show in statement form the existing approved Contract prices, the proposed price increase and proposed new Contract price on an item by item basis and shall be accompanied by all relevant determinations and documents in support of the claim.

Where the Contract price is the price ruling at date of performance of the Services the Contractor shall produce to the Principal evidence to verify each claim for payment.

Where trade list prices form the basis of the Contract the Contractor shall identify the trade list referred to by date, number or other suitable reference.

Reductions affecting the Contract rates shall be notified by the Contractor to the Principal immediately they occur and the Contractor shall repay to the Principal the full amount of any overpayment made by the Principal within fourteen (14) days of the reduction being authorised by the Principal.

Applications for variation of variable Contract prices or rates by the Contractor shall be submitted in writing to the Principal as far in advance as practicable of the date from which the variation is sought to commence.

All variations approved by the Principal shall operate from a date determined by the Principal, which shall not be earlier than the date of the formal application for variation.

The onus shall be upon the Contractor to prove to the satisfaction of the Principal all details of any variation claimed.

In all matters of price variations (up or down) the Contractor shall make available to the Principal within the time specified by the Principal such information, records, facts and figures as the Principal shall require. Failure to supply the required information, records, and facts and figures shall entitle the Principal to refuse the variation.

Where the variation is to be determined on the basis of decisions by the Australian Competition and Consumer Commission such variations will be effective on the date nominated by the Australian Competition and Consumer Commission and will be binding on all parties. Should the Australian Competition and Consumer Commission cease to operate during the period of the Contract, a new variation arrangement will be negotiated by mutual agreement. If agreement cannot be reached, the Contract may forthwith be determined by either party by written notice to the other.

8.11 QUALITY OF GOODS AND SERVICES

All Goods and Services shall conform to the Specification and the standards specified in the Contract.

Where no standards are specified in the Contract, the Goods and Services shall comply with the appropriate and current standard of the Standards Association of Australia and if there is no such standard then with the appropriate and current standard of the British Standards Institution, the International Standards Organisation or such other standard as the Principal shall consider appropriate.

If no standards are applicable, the Goods supplied shall be suitable for their purpose as stated in the Contract and fully capable of their intended use and the Services shall be of the highest standard and carried out promptly with all due skill, care and diligence.

8.12 SUPPLY OF GOODS AND SERVICES BY ORDER

The Contractor shall fulfil all Orders for Goods and Services placed by the Principal during the term or currency of the Contract.

Where the Contract is for the supply of Goods by reference to:

- (a) 'Variable Quantities', the Principal shall not be required to purchase all or any Goods listed EXCEPT such of the Goods as may be ordered by the Principal.
- (b) 'Approximate Quantities', the quantities stated shall be regarded as an estimate only of the quantity which may be required. The Principal shall not be bound to purchase the exact nominated quantity of Goods, but the quantity ordered may vary within a margin not exceeding 25 percent above or below the nominated approximate quantity and any such variance shall not affect the unit price of the Goods.
- (c) 'Fixed Quantities', the Principal shall purchase the actual quantity shown.

The Principal may order requirements of any one type or item of the Goods either in one single lot or instalments or in such quantities as may be required.

Where the Contract is for the supply of Services by reference to:

- (a) A list of Services and prices in a Schedule to the Specification, the Principal shall not be required to take or accept all or any of the Services listed EXCEPT such of the Services as may be ordered by the Principal from time to time during the period of the Contract.
- (b) Where the quantity or value set out in any Schedule to the Specification is described as 'approximate' it shall be regarded only as an estimate of the quantity or value which may be required under the Contract and the Principal shall not be required to take or accept the said nominated approximate quantity or value of Services.

The right is reserved for the Principal to order its requirements of any one type or item of the Services either at one time or in instalments or in such quantities as may be required from time to time.

Nothing herein contained shall oblige the Principal to take or accept all its needs or requirements of the Services solely from the Contractor nor shall be taken to confer any exclusive right upon the Contractor to provide the Services to the Principal. The Principal shall be free at all times to obtain the Services or any part of them from any other source provider or supplier thereof except Services the subject of an existing order to the Contractor.

8.13 DELIVERY OF GOODS AND SERVICES

The Contractor shall deliver the Goods and Services in full to the locations and at the times stated in the Contract or Order as the case may be. In this respect time shall be of the essence of the Contract.

Upon it becoming evident to the Contractor that delivery of the Goods and Services is likely to be delayed beyond the Date for Delivery, the Contractor shall promptly notify the Principal in writing. Such notification shall not release the Contractor from its obligation to deliver by the Date for Delivery or from any other obligation under the Contract, unless the Principal otherwise agrees in writing. The Contractor shall not be entitled to any increase in the Contract Price or damages, costs or expenses in connection with the delay.

The Contractor shall be entitled only to such extensions of time for compliance with the Contract as the Principal, upon the written application of the Contractor, may in its absolute discretion grant in writing.

8.14 EXPENSES OF DELIVERY OF GOODS

Unless otherwise provided in the Contract, the Contractor shall pay all delivery, packaging, freight, insurance, and other charges whatsoever, in connection with the delivery of the Goods and the return of any Goods wrongly supplied.

8.15 RECEIPT AND ACCEPTANCE

Delivery, receipt and completion of the Goods and Services shall not of itself constitute acceptance of the Goods or Services by the Principal, with acceptance being subject to the approval of the Officer.

The Principal shall be deemed to have accepted the Goods and Services when:

- (a) The Officer notifies the Contractor that the Goods and Services have been accepted; or
- (b) When after the lapse of 14 days the Principal retains the Goods without notifying the Contractor that the Goods have been rejected PROVIDED THAT where it is a term of the Contract that the Goods be installed and/or commissioned that the Principal shall not be deemed to have accepted the Goods unless the Goods are satisfactorily installed and/or commissioned within the period stipulated in the Contract or, if no period is stipulated, within a reasonable period.

The risk of any damage, deterioration, theft or loss of the Goods after delivery but prior to acceptance shall remain with the Contractor except where the damage, deterioration, theft or loss results from a negligent act or omission of the Principal or its agents or employees.

Where prior to acceptance, the Goods are found to be defective or not in accordance with the Contract, the Principal may reject any or all of the Goods (the Rejected Goods).

8.16 REJECTION AND REMOVAL OF GOODS

The Officer shall notify the Contractor in writing within a reasonable time of the rejection of Goods and may direct that the rejected Goods be removed and either replaced or rectified by the Contractor at the Contractor's expense within such reasonable time as the Officer may direct.

Should the Contractor fail to duly and properly remove, replace or rectify the rejected Goods within the time specified in the notice of rejection the Principal shall be entitled to:

- (a) Exercise a general lien upon the Goods to cover all costs, fees and expenses of the Principal; and
- (b) Sell the rejected Goods; or
- (c) Have the Goods redelivered at the Contractor's risk and expense to the Contractor's premises, where the Contractor shall afford every facility to accept redelivery of the rejected Goods.

The Principal shall not be responsible for the care or custody of any rejected Goods.

Where the Contractor fails to deliver the Goods by the Date for Delivery, or where Goods are rejected and the Contractor fails to replace the rejected Goods or to deliver Goods conforming to the Contract forthwith upon written notice to do so, the Principal;

- (a) Shall have the right to purchase from another supplier substitute Goods of the kind and quality ordered; or
- (b) Where it is not possible or practicable to purchase from another supplier substitute Goods of the kind or quality ordered, purchase Goods which in the opinion of the Principal are most suitable, even though such Goods be of a superior kind and quality.

In both cases any extra cost or expense incurred over and above the Contract Price, shall be a debt due from the Contractor to the Principal.

8.17 DEFICIENT GOODS

Where after acceptance, the Goods are subsequently found not to be in accordance with the Contract or of an inferior quality, or differing from those ordered (whether by sample or quality), ("the deficient Goods"), the Principal may notify the Contractor of the deficiency, and require the Contractor to forthwith:

- (a) Remove the deficient Goods from the Principal's premises and at the Contractor's expense either to replace them with Goods conforming to the Contract or to rectify them to conform; or
- (b) Refund the price paid and thereupon to remove the deficient Goods from the Principal's premises; and
- (c) Upon a refund of the price paid for the deficient goods, property therein shall revert to the Contractor.

Any expense incurred by the Principal shall be a debt due from the Contractor to the Principal.

The Principal shall not be entitled to exercise any rights under this clause in respect of any defects or deficiencies that ought to have been apparent on reasonable examination of the Goods prior to acceptance.

Where the deficient Goods are not forthwith replaced or rectified by the Contractor as aforesaid the Principal may exercise the powers contained in Clauses 5.17 and 5.30 as if the same referred to the deficient Goods under the provisions of this Clause and the provisions of Clauses 5.17 and 5.30 were set out herein.

8.18 FAILURE TO PROVIDE GOODS AND SUPPLY SERVICES

Where a state of emergency exists or where the Contractor is unable or fails (for whatever reason) to supply and provide the goods and services at any time or in any place the Principal may without being liable in any way to the Contractor obtain or acquire such Goods and Services as it requires during the state of emergency or at that time or in that place (as the case may be) from any other supplier or provider thereof. The existence of a state of emergency shall be determined by the Principal in its sole discretion.

8.19 POWER TO ACT FOR THE PRINCIPAL

Anything to be done or performed by the Principal may be done and performed by any person duly authorised by the Principal.

8.20 WARRANTIES

The Contractor shall obtain all warranties specified in the Contract including any warranties that are obtained by any subcontractor, and shall ensure that the Principal will have the benefit of the said warranties.

8.21 VARIATION TO CONTRACT TERMS

None of the terms of the Contract shall be varied, waived, discharged or released either at law or in equity, except by the express written agreement of the Principal.

8.22 SPECIAL PRICING AND OFFERS

Any special price, licence fee, rate or charge in relation to the Goods and Services, or goods and services of a like nature which is offered by the Contractor to any Local Government and which is lower than under the Contract, shall be made available to the Principal and all purchasers.

The Contractor, through the period within which that special price, licence fee, rate or charge is being offered, shall only be bound to comply with the above, where the purchase is of similar circumstances and under substantially the same terms and conditions.

8.23 PAYMENT

Unless otherwise provided in the Contract all payments shall be made within 30 days of receipt of the Contractor's invoice or claim, provided that the Goods and Services have been accepted and approved by the Officer.

Failure by the Principal to pay the amount payable at the due time will not be grounds to invalidate or avoid the Contract.

The Contractor shall not be entitled to any interest or charge for extending credit or allowing time for the payment of the Contract Price unless otherwise provided in the Contract.

8.24 SUSPENSION OF PAYMENTS

Should the Contractor refuse or neglect to carry out the instructions of the Principal in regard to any matter connected with the Contract, the Principal may suspend all payments to the Contractor until such instructions have been complied with.

8.25 DEDUCTION OF CHARGES OR DEBTS

Without limiting the Principal's rights under the any of the foregoing clauses hereof any debt due from the Contractor to the Principal may be deducted by the Principal from any moneys which

may be or thereafter become payable to the Contractor by the Principal, and if such moneys are insufficient for this purpose, then from the Contractor's security under the Contract. Nothing in this clause shall affect the right of the Principal to recover from the Contractor the whole of the debt or any balance that remains owing after deduction.

The Contractor hereby acknowledges and agrees that all moneys becoming payable by the Contractor in respect of the Contract and all costs, expenses, losses, and damages hereinbefore mentioned, and for which the Contractor shall become liable at any time under the Contract, may be deducted and paid by the Principal from any sum or sums due, or which may become due, to the Contractor under or in respect of any other contract or contracts which may be subsisting between the Contractor and the Principal for the time being.

8.26 STAMP DUTY

The Contractor shall pay all stamp duties in connection with the Contract.

8.27 GOODS AND SERVICES TAX

For the purposes of this clause:

- (a) "GST" means goods and services tax applicable to any taxable supplies as determined under the GST Act.
- (b) "GST Act" means "A New Tax System (Goods and Services Tax) Act 1999" and (where the context permits) includes the Regulations and the Commissioner of Taxation's Goods and Services Tax Rulings and Determinations made thereunder and any other written law dealing with GST applying for the time being in the State of Western Australia.
- (c) "Supply", "taxable supply" and "tax invoices" have the same meanings as in the GST Act.

Where the supply of the Goods and Services or any part thereof is a taxable supply under the GST Act:

- (a) The Contract Price shall be inclusive of all applicable GST at the rate in force or the time being.
- (b) The obligation of the Principal to pay the Contract Price or any instalment thereof, and the right of the Contractor to recover the Contract Price or any instalment thereof, shall be subject to and conditional upon the prior issue by the Contractor and the prior receipt by the Principal of a tax invoice in respect of the Contract Price, or the relevant instalment thereof, which complies in all respects with the GST Act.

This provision applies notwithstanding any other provision of the Contract or any legislation or rule of law to the contrary, but does not apply if the Contractor is not registered for GST, and is not required to be so registered, under the GST Act.

The Contractor shall at all times observe, perform and comply with all applicable provisions of the GST Act relative to the supply of the Goods and Services under the Contract.

8.28 CUSTOMS AND EXCISE DUTIES

The Contract Price shall, unless otherwise stated, be inclusive of all applicable customs excise, levies, duties, taxes and charges at the rates in force at the date of closing of the Response.

The Contractor shall, if so requested, provide information as to the Customs Tariff classification, the amount of duty payable, its application to the Contract Price and date or proposed date of importation.

The Contractor shall:

- (a) If the Principal so requires, pay any dumping duty or security therefore which may be levied or demanded under the “*Australian Customs Tariff (Anti-Dumping) Act 1975*”, in respect of the Goods supplied under the Contract direct to the Principal or to the Australian Customs Service as the case may be.
- (b) Indemnify and keep indemnified the Principal against any liability for such dumping duty or security.

8.29 SETTLEMENT OF DISPUTES

The parties agree to attempt in good faith to resolve through negotiation any dispute regarding the Contract.

Either party may refer to an appropriate independent expert, agreed to by the parties, any Goods and Services for examination and report as to their compliance with the Contract. The decision of the expert shall be final and binding upon both parties, and the expense of such reference shall be paid by the unsuccessful party.

Subject to the provisions of 5.30, any dispute or unresolved claim arising out of or relating to the Contract or the breach, termination or invalidity thereof ('the dispute') shall first be the subject of conciliation before a conciliator who is either agreed to by the parties or, failing agreement, who is appointed by the President of the Institute of Arbitrators and Mediators (WA Branch).

If the dispute has not been resolved within 28 days (or such other period agreed in writing between the parties) after the appointment of the conciliator, the dispute shall be referred to arbitration to be effected:

- (a) By an arbitrator mutually agreed upon between the parties; or
- (b) In default of such mutual agreement, by an arbitrator appointed by the President of the Institute of Arbitrators and Mediators,
- (c) In accordance with the provisions of the “*Commercial Arbitration Act 1985*”.

8.30 TERMINATION OF CONTRACT

- (a) Subject to Clause 5.30, if the Contractor fails to duly and punctually observe perform and comply with any term, condition or stipulation on the part of the Contractor contained or implied in the Contract and such failure continues for a period of 14 days (or such other period as having regard to the circumstances the Principal may reasonably allow) after service on the Contractor of a written notice requiring the Contractor to observe perform and comply with such term, condition or stipulation or otherwise to remedy the breach; or
- (b) If the Contractor (being a corporation) goes into liquidation (except for the purpose of reconstruction or amalgamation) or is otherwise dissolved or if a receiver or receiver/manager of the whole or any part of the assets and undertaking of the Contractor is appointed or if the Contractor enters into any composition or scheme of arrangement with its creditors or if an inspector or like official is appointed to examine the affairs of the Contractor or the Contractor enters into voluntary administration; or
- (c) If the Contractor (being a natural person) commits an act of bankruptcy or if an order is made for the sequestration in bankruptcy of the estate of the Contractor, or if the Contractor assigns its estate or enters into a Deed of Arrangement for the benefit of its creditors; or
- (d) If the Contractor assigns or subcontracts the Contract or any part thereof without the prior written consent of the Principal; or

- (e) If the Contractor includes in its Response any statement, representation, fact, matter, information or thing which is false untrue incorrect or inaccurate, whether known to the Contractor or not.

Then and in any of the said cases, if the Principal considers that damages may not be an adequate remedy, the Principal may by notice in writing to the Contractor forthwith terminate the Contract whether any Orders remain outstanding or not and thereafter the Principal may engage or contract with any person or corporation other than the Contractor to perform and complete the Contract.

The Principal shall ascertain the amount of all damages and expenses suffered or incurred by the Principal in consequence of any of the abovementioned matters and all such amounts may be deducted from amounts then owing to the Contractor or may be recovered in court by the Principal.

8.31 WAIVER

No forbearance, delay or indulgence by the Principal in enforcing the provisions of the Contract shall prejudice, restrict or limit the rights of that party, nor shall any waiver of those rights operate as a waiver of any subsequent breach.

8.32 ENTIRE AGREEMENT

The Contract supersedes all prior agreements, arrangements and undertakings between the parties and constitutes the entire agreement between the Principal and the Contractor relating to the Goods and Services.

8.33 RIGHTS AND REMEDIES

The Principal may exercise the rights herein conferred in addition to all or any other rights or remedies which the Principal shall or may be entitled to against the Contractor whether at law or under the Contract.

8.34 INSURANCE

Without limiting its obligations and responsibilities the Contractor, in the joint names of itself and the Principal for their respective rights interests and liabilities, shall effect and keep in effect during the currency of the Contract insurance policies covering all matters referred to in Clause 4.1.1

The insurance policies shall contain a cross-liability clause and otherwise be in terms, and effected with an insurance company, approved by the Principal which approval shall not be unreasonably withheld.

The Contractor shall lodge certificates of proof of the required insurance policies with the Principal before the commencement of the Services provision and at such other times as the Principal may require.

8.35 INDUSTRIAL AWARDS

With respect to all work done in Western Australia under the Contract, the Contractor shall observe, perform and comply in all material respects with all relevant Industrial Awards, Industrial Agreements and orders of Competent Courts or Industrial Tribunals applicable to the Services and the work to be done under the Contract.

Failure by the Contractor to comply shall entitle the Principal by notice in writing to the Contractor to forthwith terminate the Contract, but without prejudice to any other rights or remedies of the Principal.