



REQUEST FOR TENDER

Register of Prequalified Suppliers (ROPS) Fleet Services

Contract No.: T2526.06

PART 1 – PREAMBLE

Banana Shire Council invites tenders from suitably qualified tenderers for appointment as a pre-qualified supplier of fleet services throughout the Shire as described in more detail in Part 5 – Scope and Technical Specifications.

In accordance with s232 where the Supplier who has been assessed by the local government as having the technical, financial and managerial capability necessary to perform contracts on time and in accordance with agreed requirements will be awarded as part of the ROPS upon receipt and agreement with the **Notice of Successful Tender**.

Membership of T2526.06 **Register of Prequalified Suppliers (ROPS) Fleet Services** will be for a period of 18 months with 3x 12-month extension option at Council discretion. ROPS membership require annual provision of conflict-of-interest documents, work cover, insurance and any other relevant certificate, a good performance to undertake the activity.

PART 2 – GENERAL INFORMATION AND GENERAL SPECIFICATION

1. Contract details:	T2526.06 Register of Prequalified Suppliers (ROPS) Fleet Services			
2. Communications by Tenderers:	Communications regarding the Procurement Process must be submitted to tenders@banana.qld.gov.au or VendorPanel no later than five (5) calendar days prior Tender closing.			
3. Briefing or site inspection:	Details	Maximum attendees	Mandatory	RSVP
	N/A	n/a	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	N/A
4. Submission of Tender and closing date:	Tenders must be submitted electronically only at tenders@banana.qld.gov.au or VendorPanel no later than 11:00 am on the 8 th of August 2025. Note// Adequate time must be allowed for the Tender and all supporting documents to be uploaded or received by this time.			
5. Evaluation Criteria:	Evaluation Criteria			Weighting (%) (Optional)
	Price			40
	Availability			50
	Local Content			10
6. Tenders should not be longer than:	N/A			
7. Tenders to be valid for:	90 calendar days upon acceptance of a valid Offer, pursuant to the Procurement Process Conditions.			
8. Complaints:	Complaints regarding the Procurement Process to be directed to: enquiries@banana.qld.gov.au			

PART 3 – PROCUREMENT PROCESS CONDITIONS

The Procurement Process is governed by the Local Government Act (2009, Local Government Regulation (2012) and the current Council Procurement Policy.

The Request for Tender is to be read in conjunction with, the Procurement Process Conditions attached to or provided with this Request for Tender and identified as **T2526.06 Register of Prequalified Suppliers (ROPS) Fleet Services - Procurement Process Conditions**.

PART 4 – CONTRACT

Council will provide a contract document at its discretion or unless it is a large contractual arrangement as required by the Local Government Regulation 2012 and shall be substantially in the form fit for purpose for the **T2526.06 Register of Prequalified Suppliers (ROPS) Fleet Services**.

PART 5 – SCOPE

The Scope is described in the document(s) attached to or provided with this Request for Tender and identified as - **T2526.06 Register of Prequalified Suppliers (ROPS) Fleet Services – Scope**

T2526.06 Register of Prequalified Suppliers (ROPS) Fleet Services – Technical Specification

T2526.06 Register of Prequalified Suppliers (ROPS) Fleet Services – General Specification

T2526.06 Register of Prequalified Suppliers (ROPS) Fleet Services – Pricing Schedule.

PART 6 – RESPONSE SCHEDULES

The Tender must be submitted in the form provided in the response schedules attached to or provided with this Request for Tender and identified as **T2526.06 Register of Prequalified Suppliers (ROPS) Fleet Services - Response Schedules**.



PROCUREMENT PROCESS CONDITIONS

Register of Prequalified Suppliers (ROPS) Fleet Services

CONTRACT NO.: T2526.06

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1. GENERAL

- 1.1 **(Conduct of the Procurement Process)** The Principal will endeavour to conduct the Procurement Process in a manner which is consistent with these Procurement Process Conditions.
- 1.2 **(Rights of the Principal)** The Principal may do anything which it considers to be prudent or necessary for the proper conduct of the Procurement Process, including:
- (a) **(alteration of Procurement Documents)** amend, add to or delete any part of the Procurement Documents including:
 - (i) the procedures and timeframes provided in the Procurement Process Conditions;
 - (ii) the Evaluation Criteria (including weightings);
 - (iii) the Scope; and
 - (iv) where one is included in the Procurement Documents, the Contract;
 - (b) **(suspension or termination)** suspend or terminate the Procurement Process;
 - (c) **(attendances)** request any one or more Respondents to attend a briefing, site inspection or other meeting or to make a presentation of their Response in person at the Principal's office at no cost to the Principal;
 - (d) **(change or error in Procurement Documents)** request any one or more Respondents to change their Response to take account of a change in the Procurement Documents or any error in such documents;
 - (e) **(clarification or alteration)** request any one or more Respondents to clarify or alter any aspect of the Respondent's Response;
 - (f) **(additional information)** request additional information from one or more Respondents relating to a Response, the Procurement Process, the Respondent's compliance with the Procurement Process Conditions or any other matter which the Principal considers relevant to its assessment (including information that should have been, but was not, included in the Respondent's Response);
 - (g) **(negotiation)** negotiate amendments to any aspect of a Response with any one or more Respondents and suspend or terminate such negotiations at any time;
 - (h) **(revised Responses)** invite one or more Respondents to provide a revised Response or best and final offer; and/or
 - (i) **(shortlisting)** create a shortlist of one or more Respondents and exercise any of its rights only in respect of one or more of the shortlisted Respondents.
- 1.3 **(Conduct of Respondents)** The Respondent must not, and must ensure that its Personnel do not, engage in any Improper Conduct. The Respondent must immediately notify the Principal in the event that it becomes aware that it, or any of its Personnel, have engaged in Improper Conduct. Where appropriate, the Principal may report Improper Conduct by the Respondent to the appropriate Authority and provide that Authority with any relevant information related to that conduct.
- 1.4 **(Complaints in relation to the Procurement Process)** The Respondent must make any complaint in relation to the Procurement Process using the Communication Method immediately upon the cause of the complaint arising or upon the Respondent becoming aware of the cause.

The complaint must be made in writing to the Complaints Manager and must contain adequate detail to allow the Complaints Manager to properly investigate the complaint.

- 1.5 **(No warranty)** The Principal gives no warranty and makes no representation that the Procurement Documents or any other information provided to the Respondent in connection with the Procurement Process is accurate, adequate or complete.
- 1.6 **(No liability)** Neither the Principal nor its Personnel shall be liable upon any Claim for any Specified Loss in connection with the Procurement Process.

2. BRIEFINGS AND SITE INSPECTIONS (RFT AND RFEI ONLY)

- 2.1 **(Attendance)** The Respondent must attend any briefing or a site inspection which is identified in the General Information as mandatory. Respondents are encouraged to attend any briefing or site inspection which is not described as mandatory.
- 2.2 **(RSVP)** The Respondent must confirm that it intends to attend the briefing or site inspection to the email address and by the time and date stated in the General Information and may only bring a maximum of the number of Personnel stated in the General Information.
- 2.3 **(Safety)** The Respondent must inform itself of risks to health and safety arising from attendance at the briefing or site inspection and take all reasonable steps to ensure that such risks are eliminated or, if it is not possible to eliminate them, to minimise them so far as is practicable.
- 2.4 **(Obligation to inspect)** Where no site inspection is identified in the General Information, the Respondent must make its own arrangements to inspect the site prior to lodging its Response.

3. COMMUNICATIONS DURING PROCUREMENT PROCESS

- 3.1 **(Communication Method)** All communications by the Principal to the Respondent shall at first instance be made using the Communication Method. Except where expressly permitted by these Procurement Process Conditions, all communications by the Respondent to the Principal in connection with the Procurement Process shall at first instance be directed to the Principal using the Communication Method. No other communication method may be utilised by the Respondent unless expressly permitted by the Principal or where technical difficulties prevent the Respondent from utilising the Communication Method or the Principal expressly agrees to an alternative method.
- 3.2 **(Respondent's responsibility)** The Respondent must ensure that it is capable of receiving and does receive all communications to the Respondent in connection with the Procurement Process. Where the Communication Method is email, it is the Respondent's responsibility to ensure that it notifies the Principal of the correct email address for receiving communications. Where the Communication Method is through a website, the Respondent must ensure that it is properly registered with and capable of receiving communications through the website.
- 3.3 **(Confidentiality of communications)** The Principal may notify any or all Respondents of a request for further information made by a Respondent and the Principal's response to it without identifying the submitting Respondent or may keep a request for information confidential and respond only to the Respondent if it considers that it is appropriate to do so.
- 3.4 **(No reliance)** The Respondent must not rely upon any information (including information provided at a briefing or site inspection) unless it is confirmed by the Principal through the Communication Method.
- 3.5 **(Communication Closing Time)** The Principal will not respond to any request for information received after the Communication Closing Time.

4. THE RESPONSE (RFT AND RFQ ONLY)

- 4.1 **(Application of clause)** This clause 4 only applies in respect of an RFT or an RFQ.
- 4.2 **(Acceptance of Contract and Scope)** If one has not been provided, the Respondent must obtain a copy of the Contract from the Principal by requesting a copy through the Communication Method. Except to the extent that the Respondent has detailed a proposed alternative, amendment, qualification or departure in a Response, the Respondent will be taken to have unconditionally accepted and agreed to:
- (a) be bound by the terms and conditions of the Contract; and
 - (b) carry out and complete the whole of the obligations described in or to be reasonably inferred from the Procurement Documents.
- 4.3 **(Price)** The Price must be submitted exclusive of GST and in Australian dollars.
- 4.4 **(Discrepancy in Price)** Where the Response Form requires the Respondent to provide a Price and there is a discrepancy between the amount stated in the Response Form as the Respondent's Price and the sum total of the items in any Price Schedule then:
- (a) if the Contract provides that it is a lump sum contract, then the sum total of the items in the Price Schedule shall be the Respondent's Price; or
 - (b) if the Contract provides that it is a schedule of rates contract or a part lump sum and part schedule of rates contract, then the rate, price or lump sum of each item will prevail over the total shown, and the total shall be adjusted accordingly.
- 4.5 **(Response Validity Period)** The Respondent's Response will remain valid and open for acceptance by the Principal until the end of the Response Validity Period and thereafter until it is withdrawn in writing by the Respondent or the Procurement Process is finalised. The Principal may consent to the Respondent withdrawing its Response before the end of the Response Validity Period. The Principal may request an extension of the Response Validity Period at any time by giving written notice to the Respondent. If the Respondent does not agree to the requested extension then the Principal may exclude the Respondent's Response from assessment or further assessment as the case may be.
- 4.6 **(Alternative Responses)** If the Respondent wishes to submit an Alternative Response, then the Respondent is encouraged to:
- (a) also submit a Conforming Response; and
 - (b) submit the Alternative Response on a separate Response Form to the Conforming Response, clearly marked, "ALTERNATIVE RESPONSE" accompanied by a clear summary of all points of difference between the Alternative Response and the Conforming Response.

5. RESPONDENT'S GENERAL WARRANTIES AND REPRESENTATIONS

- 5.1 **(Warranties and Representations)** By lodging a Response, the Respondent warrants and represents that:
- (a) **(conduct of Respondent)** neither the Respondent nor any of its employees or agents has engaged in any Improper Conduct;
 - (b) **(authority)** the Response has been signed and lodged by a person with authority to do so on behalf of the Respondent;
 - (c) **(basis of Response)** the Respondent:

- (i) has received or obtained copies of all of the Procurement Documents and all information or documents referred to in the Procurement Documents; and
- (ii) has not relied on the accuracy, adequacy or completeness of any documents or information provided or any representation made by or on behalf of the Principal in connection with the Procurement Process in preparing its Response;
- (d) **(accuracy of Response)** all information provided in or with the Response is accurate;
- (e) **(ability)** the Respondent and its relevant Personnel:
 - (i) hold (and are compliant with all requirements of) all necessary competencies, licences (including if necessary, a licence under the *Queensland Building and Construction Commission Act 1991* (Qld)), accreditations, certifications, permits, clearances and other authorisations which will be required for the Respondent to carry out the Scope if it is ultimately engaged to carry out that Scope; and
 - (ii) are not excluded from submitting a tender under any applicable Queensland or Federal Government scheme, code or policy;
- (f) **(suitability etc. of works, goods or services)** where the Principal has stated in the Procurement Documents the purpose(s) for which the works, goods or services must be suitable, appropriate, adequate or fit, the works, goods or services shall be suitable, appropriate, adequate and fit for those purposes (but this warranty and representation will not apply to the extent (if any) that the Respondent has expressly excluded or limited it in the Respondent's Response);
- (g) **(Effect of implied warranties)** neither clause 5 nor clause 6 shall operate in any way to limit, exclude or otherwise restrict the operation of any warranty implied by law.

6. RESPONDENT'S FURTHER WARRANTIES AND REPRESENTATIONS (RFT AND RFQ ONLY)

- 6.1 **(Application of clause)** This clause 6 only applies in respect of an RFT or an RFQ.
- 6.2 **(Warranties and Representations)** By lodging a Response, the Respondent warrants and represents that:
 - (a) **(investigations)** the Respondent has undertaken its own enquiries and investigations to satisfy itself of:
 - (i) the nature and extent of the Scope, its contractual obligations and all other risks, contingencies and other circumstances which could have an impact on its ability to carry out and complete the obligations it will have under the Contract if its Response is accepted for the Price; and
 - (ii) the suitability, appropriateness and adequacy of the Scope (including, in respect of contracts under which the successful Respondent is required to design works, any preliminary design included in the Scope) for the purposes stated in or to be reasonably inferred from the Scope;
 - (b) **(ability)** the Respondent and its relevant Personnel:
 - (i) have and will maintain the necessary experience, expertise and skill to perform its obligations under the Contract in accordance with the requirements of the Contract in the event that its Response is accepted; and

- (ii) have and will maintain the resources necessary to comply with the timeframes for the performance of the Contract stated in the Procurement Documents (as amended if at all, pursuant to these Procurement Process Conditions);
- (c) **(price)** the Price, and all rates, sums and prices included in the Response allow for:
 - (i) all of the risks, contingencies and other circumstances which could have an effect on the Respondent's ability to carry out and complete the obligations it will have under the Contract if its Response is accepted for the Price, except to the extent that the Contract expressly allows an adjustment;
 - (ii) the provision of all materials, plant, labour and other services necessary for the proper completion of the obligations it will have under the Contract if its Response is accepted, whether or not those items are expressly mentioned in the Contract; and
 - (iii) unless the Contract expressly allows an adjustment, rise and fall in costs;
- (d) **(competitive neutrality)** if the Respondent is required by law to comply with principles of competitive neutrality, the Respondent has properly considered, assessed and complied with the applicable competitive neutrality principles in relation to the Procurement Process and the acceptance by the Principal of the Respondent's Response will not breach those principles;
- (e) **(notice)** the Respondent has notified the Principal in its Response of any:
 - (i) ambiguity, inconsistency, uncertainty, error or omission which it has discovered in or from the Procurement Documents;
 - (ii) any assumptions that it has made in determining its Price;
 - (iii) further information or investigations which it considers that it requires to enable it to give the warranties and make the representations in this clause 6,

and otherwise gives all warranties and makes all representations which the Contract requires to be given or made by the successful Respondent. The Respondent acknowledges that the Principal will rely on these warranties and representations in entering into a contract with the successful Respondent.

7. LODGEMENT AND OPENING OF RESPONSES

7.1 (Method of lodgement) A Response must be lodged:

- (a) if the Tender Box is a website, by uploading it to the Tender Box;
- (b) if the Tender Box is an email address, by sending it as an attachment to an email to the Tender Box; or
- (c) if the Tender Box is a physical address, by delivering it to the Tender Box.

The Principal may direct or allow the Response to be lodged by an alternative method.

7.2 (Time of lodgement) A document forming part of a Response shall be deemed to have been lodged:

- (a) where the Tender Box is a website, at the time that the document is successfully uploaded to the Tender Box, as indicated on the electronic receipt issued to the Respondent;

- (b) where the Tender Box is an email address, at the time that an email attaching the document is successfully delivered to the Tender Box, as indicated on the email system on which the Tender Box is hosted;
 - (c) where the Tender Box is a physical address, at the time that the document is physically received at the Tender Box; or
 - (d) where the Response is lodged by an alternative method allowed by the Principal, when it is received by the Principal by that method.
- 7.3 **(Response opening)** Responses will not be opened publicly and the Respondent will not be permitted to attend the opening of Responses.

8. ASSESSMENT OF RESPONSES

- 8.1 **(Evaluation Criteria)** In determining which Response(s) are most advantageous to the Principal, each Response evaluated in accordance with these Procurement Process Conditions will be assessed, but not necessarily exclusively, against the Evaluation Criteria (if any).
- 8.2 **(Considerations)** In assessing Responses, the Principal may consider any information which the Principal reasonably considers to be relevant to its assessment (however obtained), including:
- (a) information contained in the Response or any amendment to or clarification of a Response;
 - (b) information provided at a meeting with or presentation by the Respondent;
 - (c) outcomes from discussions with a Respondent's referees (if any);
 - (d) information obtained pursuant to clause 8.5;
 - (e) the Respondent's past performance under other contracts with the Principal or third parties; and
 - (f) the reasonably held subjective opinions of the persons appointed by the Principal to evaluate Responses or any advisor to such persons.
- 8.3 **(Uncertainties)** The Principal may ignore any part of a Response which is ambiguous, uncertain, unclear or illegible without seeking clarification from the Respondent and may assess the balance of the Response.
- 8.4 **(Right to exclude)** The Principal may, but shall not be obliged to, reject or exclude from assessment any Response including:
- (a) a Non-Conforming Response, an Alternative Response or a Late Response;
 - (b) a Response, in respect of which the Principal reasonably believes that the Respondent has:
 - (i) failed to comply with these Procurement Process Conditions or any request made by or on behalf of the Principal pursuant to them within the time required; or
 - (ii) breached a warranty given or representation made pursuant to these Procurement Process Conditions or that a warranty, declaration or representation in the Respondent's Response is false or misleading in any material respect;

- (c) a Response in respect of which the Principal reasonably believes that the Respondent cannot reasonably comply with the obligations which it will have under the Contract (in the event that its Response is successful) for the Price; or
 - (d) a Response which fails to achieve a satisfactory score against any of the Evaluation Criteria, even if the overall score of the Response is satisfactory;
- 8.5 **(Other information or assistance)** The Principal may undertake its own investigations, or engage third parties to do so on its behalf, in relation to any aspect of a Response (including verifying any warranty, representation or declaration made or given in the Response or pursuant to these Procurement Process Conditions) or any other matter which it considers relevant to the conduct of the Procurement Process. The Respondent must cooperate with such investigations and provide all information and assistance reasonably requested by or on behalf of the Principal in connection with the investigation.

9. SHORTLISTING (RFEOI ONLY)

- 9.1 **(Application of clause)** This clause 9 only applies in respect of an RFEOI.
- 9.2 **(Shortlisting)** The Principal intends, but is not bound, to create a shortlist of Respondents and invite tenders from the shortlisted Respondents.
- 9.3 **(No obligation)** The Principal is not bound to shortlist or invite a tender from any Respondent, including the Respondents with the highest scores against the Evaluation Criteria. The Principal may shortlist and invite tenders from as many or as few Respondents as the Principal sees fit and may choose not to shortlist any Responses or invite any tenders.
- 9.4 **(Local preference)** The Principal may shortlist an EOI that is from a Local Supplier in preference to comparable EOIs from Non-Local Suppliers even if the EOIs from the Non-Local Suppliers have been assessed as more favourable in terms of one or more Evaluation Criteria.
- 9.5 **(RFT)** A Respondent shall not be entitled to submit a tender unless and until the Principal expressly invites the Respondent to submit a tender in writing.
- 9.6 **(Unsuccessful Respondents)** Unsuccessful Respondents will be notified after the Procurement Process is concluded. The Principal may provide feedback to unsuccessful Respondents if requested to do so, but such feedback may be general in nature, will be limited to the Respondent's EOI only and may be postponed until after any related Request for Tender process is finalised.

10. ACCEPTANCE (RFT AND RFQ ONLY)

- 10.1 **(Application of clause)** This clause 10 only applies in respect of an RFT or an RFQ.
- 10.2 **(Ability to accept)** The Principal is not bound to accept the Response with the lowest Price or the Response with the highest score against the Evaluation Criteria, or any Response. The Principal will, if it accepts a Response, accept the Response(s) which it reasonably believes are the most advantageous to it having regard to the Sound Contracting Principles and the requirements of the *Local Government Regulation 2012* (Qld) to the extent that they are applicable and relevant to the Procurement Process.
- 10.3 **(Local preference)** The Principal may accept a Response lodged by a Local Supplier in preference to comparable Responses from Non-Local Suppliers even if the Responses from the Non-Local Suppliers have been assessed as more favourable in terms of one or more Evaluation Criteria, so long as the overall differences are not substantial, and so long as it is clear that the Local Supplier can meet the Principal's requirements at an acceptable standard which is generally comparable to that of the Non-Local Suppliers.

- 10.4 **(Acceptance of more than one Response and acceptance of part of a Response)** The Principal may accept a Response in whole or in part. Without limiting this, where the Scope comprises distinct portions of works, goods or services, the Principal may accept a Response from one or more Respondents in relation to different portions of the works, goods or services as if those portions had been the subject of separate Procurement Processes.
- 10.5 **(No contract or appointment until formal acceptance)** Unless and until the Principal expressly notifies the Respondent in writing that the Respondent's Response (as amended by any post-Response negotiation, if any) has been successful or the parties execute a contract:
- (a) no binding contract for the provision of any work, services and/or goods by the Respondent will exist between the parties; and
 - (b) in respect of an RFT for appointment as a Pre-qualified Supplier or Preferred Supplier, the Respondent will not be considered to be appointed as a Pre-qualified Supplier or Preferred Supplier.

For clarity, a statement published by the Principal but not specifically notified to the Respondent (including a record of a council resolution) to the effect that a Response has been accepted or a contract has been awarded does not, of itself, constitute an acceptance of the Response or notice that the Response has been successful or constitute a rejection of any other Response.

- 10.6 **(Form of Contract)** Unless the RFT or RFQ stated that the Respondent would not be required to enter into a contract until it is separately engaged by the Principal to provide works, goods or services, if a Response is accepted, the successful Respondent will be required to enter into a contract in the form of the Contract, as amended by agreement between the parties.
- 10.7 **(Unsuccessful Respondents)** Unsuccessful Respondents will be notified after a Response has been accepted. The Principal may, at its discretion, notify unsuccessful Respondents of the name of, and Price submitted by, the successful Respondent. The Principal may provide feedback to unsuccessful Respondents if requested to do so, but such feedback may be general in nature and will be limited to the Respondent's Response only.
- 10.8 **(Arrangement with other local governments)** The Respondent acknowledges that if, pursuant to the Procurement Process, the Respondent is selected to be a Preferred Supplier or Pre-qualified Supplier for goods and/or services then any Related Local Government may make a contract with the Respondent for the supply of those goods and/or services, as if that Related Local Government had itself selected the Respondent to be a Preferred Supplier or Pre-qualified Supplier of those goods and/or services.

11. DOCUMENTS AND INFORMATION

- 11.1 **(Ownership)** The Procurement Documents remain the property of the Principal. The Response will become the property of the Principal upon lodgement.
- 11.2 **(Intellectual Property Rights)** Intellectual Property Rights in documents and information provided on behalf of a party in connection with the Procurement Process remain, as between the parties, with the party on whose behalf they were provided. The Principal and the Respondent grant each other a perpetual, non-exclusive, royalty free licence to do the things contemplated by clause 11.8. The licence so granted by the Respondent is irrevocable. The licence granted by the Principal may be revoked at any time on the giving of written notice.
- 11.3 **(Warranty and representation)** The Respondent warrants and represents that:
- (a) it owns or has a right to use the Intellectual Property Rights in its Response for the purpose of lodging a Response and undertaking the obligations which it will have under a contract with the Principal in the event that the Respondent's Response is accepted; and

- (b) it has the right and authority to grant the licence in clause 11.2 and the Principal's exercise of the rights so granted will not infringe the Intellectual Property Rights of a third party.
- 11.4 **(Confidentiality)** Except to the extent otherwise provided in these Procurement Process Conditions, each party shall keep Confidential Information of the other party confidential. The Respondent must inform each of its Personnel and any other person to whom Confidential Information of the Principal is disclosed of the Respondent's obligations under this clause 11.4. Subject to clause 11.8(b), the Respondent must return any and all Confidential Information when requested to do so by the Principal.
- 11.5 **(Information Privacy Act)** If the Respondent collects or has access to 'Personal Information' as that term is defined in the *Information Privacy Act 2009* (Qld) in connection with the Procurement Process, the Respondent must comply with Parts 1 and 3 of Chapter 2 of that Act as if the Respondent was the Principal. The Principal collects and uses personal information and non-personal information in the Response so that it can properly conduct the Procurement Process and otherwise carry out its functions as a Local Government. The Principal is authorised to collect this information under the *Local Government Act 2009* (Qld) and the *Local Government Regulation 2012* (Qld) and other law. The information in the Respondent's Response will be accessible by employees of the Principal and third party personnel engaged to assist the Principal in conducting the Procurement Process or otherwise carrying out the functions of the Principal. Information in the Response may also be disclosed as required by the *Local Government Regulation 2012* (Qld) and the *Right to Information Act 2009* (Qld) as described below.
- 11.6 **(Local Government Regulation)** The *Local Government Regulation 2012* (Qld) provides that the Principal must, as soon as possible after entering into a contractual arrangement worth \$200,000 or more (exclusive of GST) publish relevant details of the contract (including the person with whom the Principal has entered into the contractual arrangement, the value of the contractual arrangement and the purpose of the contractual arrangement) on the Principal's website and display those details in a conspicuous place in the Principal's public office. The relevant details must be published or displayed in this manner for a period of at least 12 months.

The *Local Government Regulation 2012* (Qld) may also require the Principal to make documentation and information contained in, or provided by the Respondent in connection with, a Response (including documentation and information identified by the Respondent as confidential) publicly available where that documentation or information is:

 - (a) discussed in a Local Government Meeting;
 - (b) included in a report or other document that:
 - (i) relates to an item on the agenda for a Local Government Meeting and is made available to Councillors or committee members for the purposes of the meeting;
 - (ii) is directly relevant to a matter considered or voted on at a Local Government Meeting; or
 - (iii) is presented at a Local Government Meeting for the consideration or information of the Local Government or committee; or
 - (c) otherwise required to be disclosed pursuant to a provision of the *Local Government Act 2009* (Qld) or the *Local Government Regulation 2012* (Qld).
- 11.7 **(Right to Information)** The *Right to Information Act 2009* (Qld) provides members of the public with a legally enforceable right to access documents held by Queensland Government agencies (including the Principal). The Act requires that documents be disclosed upon request, unless the documents are exempt or on balance, disclosure is contrary to public interest. Information or documentation contained in or provided by the Respondent in connection with a Response is potentially subject to disclosure to third parties, including documentation and information

identified by the Respondent as confidential. Any application for disclosure will be assessed in accordance with the terms of the Act. Notwithstanding any other provision of the Procurement Documents or a Response, if a Response is accepted, the Principal may publish on a Queensland Government website or by any other means, contract information including:

- (a) the name and address of the Principal and the successful Respondent;
- (b) a description of the goods and/or services to be provided or works to be carried out pursuant to the contract;
- (c) the date of award of the contract (including the relevant stages if the contract involves more than one stage);
- (d) the contract value (including the value for each stage if the contract involves more than one stage and advice as to whether any non-price criteria were used in the evaluation of Responses);
- (e) the procurement method used; and
- (f) for contracts with a value over \$10 million, the contract, or summary information in respect of the contract, between the Principal and the Respondent.

11.8 **(Use of documents and information)** Documents and information provided on behalf of a party to the other party in connection with the Procurement Process (including documentation and information identified by the Respondent as confidential) may be used, copied, modified or disclosed as required by any law and otherwise:

- (a) by the Principal, as the Principal considers to be reasonably necessary to:
 - (i) properly conduct the Procurement Process;
 - (ii) exercise the rights granted to it in these Procurement Process Conditions;
 - (iii) obtain legal, accounting or other professional advice in connection with the Response;
 - (iv) report any actual or suspected Improper Conduct to the appropriate Authority; and/or;
 - (v) to otherwise properly carry out its functions as a Local Government;
- (b) by the Respondent, as is reasonably necessary to enable the Respondent to:
 - (i) prepare the Response;
 - (ii) obtain legal, accounting or other professional advice in connection with the Response; or
 - (iii) comply with the Respondent's corporate governance requirements.

If the Respondent is required by law to disclose Confidential Information of the Principal, the Respondent must notify the Principal of this prior to making such disclosure and must only disclose the minimum amount of information required to meet its obligation to disclose.

11.9 **(Media)** The Respondent must not, either on its own account or in conjunction with other parties, issue any publication, advertisement, document, article or information whether verbal or written, in connection with the Procurement Process in any media without the prior approval of the Principal.

12. DEFINITIONS

12.1 **(Definitions)** In these Procurement Process Conditions, unless the context otherwise requires:

- (a) **Addenda and Addendum** means any communication issued to Respondents in accordance with these Procurement Process Conditions which is identified as an Addendum;
- (b) **Alternative Response** means a Response which is otherwise a Conforming Response but which in the opinion of the Principal, contains significant alternatives, qualifications or amendments to or departures from the Contract or the Scope;
- (c) **Authority** means a local government, the State of Queensland, the Commonwealth or other any Federal, State, or local government authority, administrative or judicial body or tribunal, department, commission, agency, government owned corporation, statutory body or instrumentality having jurisdiction over the project;
- (d) **Business Day** means a day that is not a Saturday, Sunday or public holiday at Biloela;
- (e) **Claim** includes any claim, action, demand, proceeding, suit, defence or set-off, however arising including at law (including a breach of an express or implied term of contract), under statute, in equity, in tort (including for negligence), in quasi-contract, for unjust enrichment and to the extent permitted by law, pursuant to any other principle of law, in connection with the Procurement Process;
- (f) **Communication Closing Time** means the time identified in the General Information as the time by which communications by Respondents must be submitted;
- (g) **Communication Method** means submitting an enquiry through the website forum or sending an email to the email address nominated for communications by Respondents in the General Information;
- (h) **Complaints Manager** means the person identified in the General Information as the person to whom complaints regarding the Procurement Process should be directed;
- (i) **Confidential Information** means documents and information provided or made available by or on behalf of one party to the other party in connection with the Procurement Process which are of their nature confidential (including copies of such documents and information) but not including documents and information which are in the public domain other than through a breach of clause 11.4;
- (j) **Conforming Response** means a Response which, in the opinion of the Principal:
 - (i) is substantially in the form and contains substantially all of the documentation, information, acknowledgements, warranties, declarations and undertakings required by the Response Schedules;
 - (ii) contains no significant alternatives, qualifications or amendments to or departures from the Contract or the Scope; and
 - (iii) in respect of Tenders or EOIs only, does not substantially exceed the Maximum Page Limit (if any);
- (k) **Contract** means:
 - (i) a contract which may be entered into between the Principal and a Respondent pursuant to an RFT or RFQ and which will be in the form referenced in Part 4 – Contract of the RFT or RFQ, as amended (if at all) by the express written agreement of the Principal; and

- (ii) where an RFT is for appointment as a Preferred Supplier or Pre-qualified Supplier, also includes a contract which may be entered into during the term of the appointment unless the context requires otherwise;
- (l) **Councillor** has the same meaning as in the *Local Government Act 2009* (Qld);
- (m) **EOI (Expression of Interest)** means a Response lodged by a Respondent in response to an RFEOI and includes all documents and information lodged with or as part of the expression of interest;
- (n) **Evaluation Criteria** means:
 - (i) for an RFT or an RFEOI, the evaluation criteria (if any) set out in the General Information; and
 - (ii) for an RFQ, the evaluation criteria (if any) set out in the RFQ;
- (o) **General Information** means Part 2 – General Information of the RFQ, RFT or RFEOI (as the case may be);
- (p) **GST** has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- (q) **Improper Conduct** means:
 - (i) engaging in any activity or obtaining any interest which results in or is likely to result in any actual, potential or perceived conflict between the interests of the Respondent and the Respondent's obligations to the Principal in connection with the Procurement Process;
 - (ii) engaging in misleading or deceptive conduct in connection with the Procurement Process;
 - (iii) engaging in any collusive tendering, anticompetitive conduct, or any other unlawful or unethical conduct with any other Respondent, or any other person in connection with the Procurement Process;
 - (iv) canvassing, attempting to improperly influence, offering any inducement to or accepting or inviting improper assistance from any Councillor or other Personnel (or former Personnel) of the Principal in connection with the Procurement Process;
 - (v) using any information improperly obtained, or obtained in breach of any obligation of confidentiality in preparing the Respondent's Response;
 - (vi) breaching any law in connection with the Procurement Process;
 - (vii) engaging in aggressive, threatening, abusive, offensive or other inappropriate behaviour or committing a criminal offence; or
 - (viii) engaging in conduct contrary to sections 199 and 200 of the *Local Government Act 2009* (Qld);
- (r) **Intellectual Property Rights** means copyright, patents and all rights in relation to inventions, registered and unregistered trademarks (including service marks), registered designs, circuit layouts and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields;

- (s) **Late Response** means any Response that is not received in the Tender Box (or otherwise received by the Principal by an alternative method permitted under the Procurement Process Conditions) by the Response Closing Time;
- (t) **Local Government** has the same meaning as in the *Local Government Act 2009* (Qld);
- (u) **Local Government Meeting** has the same meaning as in the *Local Government Act 2009* (Qld);
- (v) **Local Supplier:**
 - (i) where the Principal's procurement policy provides a meaning of local supplier, has the meaning given in the Principal's procurement policy, a copy of which can be obtained from the Principal upon request; or
 - (ii) where the Principal does not have a procurement policy, or the procurement policy does not provide a meaning of local supplier, means a supplier that:
 - A. is beneficially owned and operated by persons who are residents or ratepayers of the local government area of the Principal as determined under the *Local Government Regulation 2012* (Qld); or
 - B. has its principal place of business within that local government area; or
 - C. otherwise has a place of business within that local government area that solely or primarily employs persons who are residents or ratepayers of that local government area;
- (w) **Maximum Page Limit** means the number of pages which may be lodged as, with or in relation to the Response (including, unless otherwise indicated, all attachments, annexures, supplements, parts, schedules or appendices), which the General Information states a Response should not be longer than;
- (x) **Non-Conforming Response** means a Response which is not a Conforming Response or an Alternative Response;
- (y) **Non-Local Supplier** means a supplier (including a Respondent) that is not a Local Supplier;
- (z) **Personnel** includes the officers, employees, agents, representatives, contractors and consultants of a party and any other person or entity for whom that party is vicariously liable;
- (aa) **Preamble** means Part 1 – Preamble of the RFEI, RFT or RFQ (as the case may be);
- (bb) **Preferred Supplier** means a supplier that has been selected as a preferred supplier pursuant to section 233 of the *Local Government Regulation 2012* (Qld);
- (cc) **Pre-qualified Supplier** means a supplier that has been selected as a pre-qualified supplier pursuant to section 232 of the *Local Government Regulation 2012* (Qld);
- (dd) **Price** means:
 - (i) where the Procurement Process is for appointment as a Preferred Supplier or Pre-qualified Supplier, the rates, sums or prices stated in the Response;
 - (ii) otherwise, subject to clause 4.4, the total price stated in the Response;

- (ee) **Price Schedule** means a Response Schedule which provides a breakdown of the Price, and which may include rates, lump sums, prices, provisional sums, estimated quantities and other information;
- (ff) **Principal or Purchaser** means Banana Shire Council;
- (gg) **Procurement Documents** means:
 - (i) the RFEOI, RFT or RFQ (as the case may be); and
 - (ii) any Addenda issued pursuant to these Procurement Process Conditions,and includes all documents included in or incorporated by reference into these documents;
- (hh) **Procurement Process** means the process by which the Principal intends to, or does, invite, assess and where applicable, accept or reject Responses in respect of the Scope;
- (ii) **Procurement Process Conditions** means these procurement process conditions;
- (jj) **Quotation** means a Response lodged by a Respondent in response to an RFQ and includes all documents and information lodged with or as part of the quotation;
- (kk) **Related Local Government** means a local government that has entered into an arrangement with the Principal, as contemplated in section 235(f) of the *Local Government Regulation 2012* (Qld), to the effect that the local government may make a contract with a supplier that has been selected by the Principal to be a Preferred Supplier or Pre-qualified Supplier of goods and/or services, as if that local government had itself selected the Respondent to be a Preferred Supplier or Pre-qualified Supplier of those goods and/or services.
- (ll) **Respondent** means:
 - (i) any person who lodges a Response; and
 - (ii) to the extent to which the term can apply to any other person who obtains a copy of any of the Procurement Documents during the Procurement Process, also includes such other persons,and includes a Tenderer;
- (mm) **Response** means, where these Procurement Process Conditions are incorporated into an:
 - (i) RFEOI, an EOI;
 - (ii) RFT, a Tender; or
 - (iii) RFQ, a Quotation;
- (nn) **Response Closing Time** means the time identified in the General Information as the time by which Responses must be submitted as varied (if at all) pursuant to these Procurement Process Conditions;
- (oo) **Response Form** means in respect of an:
 - (i) RFEOI, the document identified as the EOI form in the Response Schedules;

- (ii) RFT or RFQ:
 - A. the document identified as the tender form or the quotation form (as the case may be) in the Response Schedules; or
 - B. otherwise where there is no document identified as the tender form or quotation form, any document (other than a Price Schedule) which states the total price offered by the Respondent in the Response;
- (pp) **Response Schedules** means the schedules identified in Part 5 – Response Schedules of the RFEIOI or Part 6 – Response Schedules of the RFT or RFQ (as the case may be);
- (qq) **Response Validity Period** means the period stated in the General Information as the time for which Responses are to be valid as extended (if at all) pursuant to clause 4.5;
- (rr) **RFEIOI (or Request for Expressions of Interest)** means the request for expressions of interest issued by the Principal and all documents included in or incorporated by reference into it (including these Procurement Process Conditions and the Scope);
- (ss) **RFQ (or Request for Quotation)** means the request for quotations issued by the Principal and all documents included in or incorporated by reference into it (including these Procurement Process Conditions, the Contract and the Scope);
- (tt) **RFT (or Request for Tender)** means the request for tenders issued by the Principal and all documents included in or incorporated by reference into it (including these Procurement Process Conditions, the Contract and the Scope);
- (uu) **Scope** means the scope described in Part 4 – Scope of the RFEIOI or Part 5 – Scope of the RFT or RFQ (as the case may be) and all documents incorporated into it (whether physically or by reference), and includes any amendments provided for in an Addendum;
- (vv) **Sound Contracting Principles** has the meaning given in section 104(3) of the *Local Government Act 2009* (Qld);
- (ww) **Specified Loss** means:
 - (i) any loss of, or loss of anticipated, profit, income, revenue, saving, production; business, contract or opportunity; increase in financing or operating costs; liability for loss or damage suffered by third parties; legal costs (on a solicitor and client basis); fines levied; loss of reputation or embarrassment and the cost of abating or reducing such; any other financial or economic loss; and
 - (ii) any indirect, special or consequential loss, damage, cost, expense or penalty not expressly referred to in the preceding paragraph, howsoever arising;
- (xx) **Tender** means a Response lodged by a Tenderer in response to an RFT and includes all documents and information lodged with or as part of the tender;
- (yy) **Tender Box** means the website, email address or physical location at which the General Information states that Responses are to be submitted;
- (zz) **Tenderer** means:
 - (i) any person who lodges a Tender; and
 - (ii) to the extent to which the term can apply to any other person who obtains a copy of any of the Procurement Documents during the Procurement Process, also includes such other persons,

and words or terms not defined in these Procurement Process Conditions but defined in a Contract have the same meaning as in the Contract, except where the context otherwise requires.

13. GENERAL PROVISIONS

- 13.1 **(Interpretation of Procurement Documents)** The Procurement Documents must be read and construed together and are intended to be mutually explanatory.
- 13.2 **(Joint and several obligations)** An obligation of two or more parties binds them jointly and each of them severally and an obligation incurred in favour of two or more parties is enforceable by them severally.
- 13.3 **(Headings)** Clause headings are for reference purposes only and must not be used in interpretation.
- 13.4 **(No limitation)** The words 'include', 'includes' and 'including' shall be read as if followed by 'without limitation'.
- 13.5 **(Grammatical Forms)** Where any word or phrase is given a defined meaning, any other part of speech or other grammatical form concerning the word or phrase has a corresponding meaning. Words importing the singular number include the plural number and words importing the plural number include the singular number.
- 13.6 **(Time)** References to time are to local time in Queensland. Where time is to be reckoned from a day or event, the day or the day of the event must be excluded. If any time period specified in the Procurement Documents expires on a day which is not a Business Day, the period will expire at the end of the next Business Day.
- 13.7 **(Discretion)** Unless expressly provided otherwise:
- (a) any right of the Principal pursuant to these Procurement Process Conditions may be exercised; and
 - (b) any consent of the Principal required under these Procurement Process Conditions may be given, withheld or given subject to conditions,
- in the absolute discretion of the Principal without giving reasons and without reference to the Respondent unless, and then only to the extent that the Procurement Process Conditions provide otherwise.
- 13.8 **(Law)** A reference to 'law' includes:
- (a) legislation (including subordinate legislation), local laws, by-laws, orders, ordinances, awards, requirements and proclamations of an Authority having jurisdiction and any related fees and charges; and
 - (b) certificates, licences, accreditations, clearances, authorisations, approvals, consents, and permits and any related fees and charges,
- which are applicable to the Procurement Documents, the Procurement Process or the Contract or which are otherwise in force at any place where an obligation under the Contract is to be carried out.
- 13.9 **(Governing Law)** The Procurement Process is governed by the laws of Queensland and the Commonwealth of Australia which are in force in Queensland. The Principal and the Respondent submit to the jurisdiction of the Courts of Queensland, relevant Federal Courts and Courts competent to hear appeals from them.

- 13.10 **(Contra proferentem)** The *contra proferentem* rule and other rules of construction will not apply to disadvantage a party whether that party put the clause forward, was responsible for drafting all or part of it or would otherwise benefit from it.
- 13.11 **(Rights Cumulative)** The rights and remedies of the Principal and the Respondent provided in the Procurement Process Conditions are cumulative on each other and on any rights or remedies conferred at law or in equity.
- 13.12 **(Severance)** If a provision of the Procurement Process Conditions is void or unenforceable it must be severed and the provisions that are not void or unenforceable are unaffected by the severance.
- 13.13 **(No waiver)** No waiver by the Principal of a provision of these Procurement Process Conditions is binding unless made in writing.
- 13.14 **(Other references)** A reference to:
- (a) a person includes any other legal entity and a reference to a legal entity includes a person;
 - (b) the Respondent or the Principal includes their respective heirs, executors, successors and permitted assigns;
 - (c) writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes email and facsimile;
 - (d) a monetary amount is a reference to an Australian currency amount; and
 - (e) a measurement or quantity is a reference to an Australian legal unit of measurement as defined under the *National Measurement Act 1960* (Cth).



SCOPE

Register of Prequalified Suppliers (ROPS) Fleet Services

CONTRACT NO: T2526.06

1. INTERPRETATION AND DEFINITIONS

- 1.1 **(Documents comprising this Scope)** The Scope comprises the following documents:
- (a) Scope of work;
 - (b) Technical specification
 - (c) General specification
 - (d) Price schedule
- 1.2 **(Precedence)** If there is any ambiguity, inconsistency, conflict or discrepancy between any of the documents listed in clause 1.1, then the document which contains the higher standard or more onerous obligation will prevail. If that does not resolve the ambiguity, inconsistency, conflict or discrepancy then the documents will take precedence in the order set out in clause 1.1 with the document listed at 1.1(a) being the highest in the order.

2. REQUIREMENTS

The scope of services required includes, but is not limited to, the following Fleet Services

- Mechanical services
 - Servicing/ field servicing
 - Repairs
 - Panel repairs
 - Hydraulic services
- Tyre services
 - Tyres
 - Tyre repairs
 - Rim repairs
 - Tyre maintenance
 - Rotate and balance.
 - Wheel alignments
- Air conditioning and auto electrical services
- Parts and consumables
 - Inc oils and lubrication supplies
- Manufacturing/engineering supplies and services
 - Steel supplies
 - Fabrication
- Windscreens
- Towing/tilt tray services
- Vehicle detailing/cleaning

Included in the prices submitted are the following:

- All costs associated with the insurance, including but not limited to the obtaining and maintaining the following insurance:
 - Public Liability Insurance – not less than twenty million dollars (\$20,000,000)

All excess payments associated with these insurance policies shall be borne solely by the Contractor.

- Provision of a suitably licensed, qualified tradesperson. They must be in possession of the following:
 - Suitable Drivers License or other licenses/certifications needed to perform required services
 - Construction Blue/White Card

- All costs associated with the provision of the operator with appropriate personal protective equipment (PPE). All PPE is to be worn and maintained as per Council's requirements.
- All costs associated with meals and accommodation (if required) for the contractor
- Regular communication with the Council throughout the service provided
- All costs incurred by the Contractor in complying with Commonwealth and State legislation and Local Government By-laws
- All other expenses associated with the work not specifically listed above.

3. APPROVALS AND OTHER LAW

- 3.1 **(Identifying, obtaining and maintaining Approvals)** The Supplier must identify and notify the Principal of all Approvals which are necessary for the proper performance of the Services (other than Approvals which the Principal has advised the Supplier it has already obtained). The Supplier must obtain and maintain all such Approvals until all of the Supplier's other obligations under the Contract are complete. The cost of obtaining and maintaining all such Approvals shall be borne by the Supplier.
- 3.2 **(Compliance)** The Supplier must and must ensure that its Personnel comply with all Approvals and other law which are in anyway applicable to the Services, including, unless the Contract expressly provides otherwise, by paying all fees, royalties, levies, charges, costs, expenses, taxes or duties.
- 3.3 **(Obtaining or granting of Approvals by Principal)** The Principal gives no warranty and makes no representation that:
- (a) it will be able to obtain, or obtain within any particular time; or
 - (b) where the Principal is the relevant Authority, that it will grant,
- any Approval required for the Supplier to perform the Services.
- 3.4 **(No fetter)** Nothing in the Contract shall be taken to fetter the power, rights or authority of the Principal as the sublessor under the *Land Act 1994* (Qld) or an Authority under the *Local Government Act 2009* (Qld), the *Local Government Regulation 2012* (Qld) or any other law.
- 3.5 **(Provision of the Services)** The Supplier must, and warrants and represents that it will, perform the Services so that the Site, at all times during the Term, complies with all Approvals and other applicable law.
- 3.6 **(Obligation to report breach)** The Supplier must notify the Principal immediately if it becomes aware of or reasonably suspects in the course of carrying out its obligations under the Contract, that the Supplier has breached an obligation under clauses 3.1, 3.2 or 3.3. Unless otherwise directed by the Principal, the Supplier must take immediate steps to remedy such a breach at its expense.

4. SERVICE LEVELS

- 4.1 In this clause:
- (a) **Review Period** means the period stated in clause **Error! Reference source not found.** below in which the performance of the Supplier against a Service Level is to be reviewed;
 - (b) **Service Levels** means the service level(s) or key performance indicator(s) (if any) described as such in clause **Error! Reference source not found.** below.

- 4.2 **(Guarantee)** The Supplier must, and guarantees that it will, in providing the Services and carrying out its other obligations under the Contract, achieve or exceed all Service Levels in every Review Period.
- 4.3 **(Measuring performance)** The Principal will review the performance of the Supplier against the Service Levels at the times in clause **Error! Reference source not found.** below, and otherwise on the giving of reasonable notice. The Principal may direct the Supplier to provide a written explanation for its performance against any Service Level.
- 4.4 **(Performance liquidated damages)** If the Supplier has failed to meet any Service Level, the Supplier shall be indebted to the Principal for performance liquidated damages calculated in accordance with clause **Error! Reference source not found.**
- 4.5 **(Recovery of liquidated damages)** The Principal may deduct such performance liquidated damages from moneys otherwise owing to the Supplier to recover the performance liquidated damages. The Parties agree that the performance liquidated damages are an agreed genuine pre-estimate of the Principal's loss if the Supplier breaches its obligations under the Contract.
- 4.6 **(General damages)** If, for any reason, the Principal's entitlement to performance liquidated damages is found to be void, voidable or otherwise unenforceable (in whole or part), or the Principal is otherwise unable to recover the whole of the performance liquidated damages from the Supplier, the Supplier shall be liable to the Principal for any loss, damage, cost or expense suffered or incurred by the Principal as a result of the Supplier failing to achieve the Service Levels.
- 4.7 **(Review of Service Levels)** The representatives of the Parties may review the Service Levels from time to time and amend them in any way including by adding additional Service Levels, removing or amending Service Levels, amending the method of measuring performance or the consequence of achieving or failing to achieve a Service Level.
- 4.1 **(Substantial breach)** Failing to achieve or exceed:
- (a) the same Service Level for three consecutive Review Periods, even though the Supplier may have achieved or exceeded some or all of the other Service Levels for those same Review Periods; or
 - (b) any two Service Levels for two consecutive Review Periods,
- shall constitute a substantial breach of the Contract.

5. PROCUREMENT SERVICES

- 5.1 Where the Services require the Supplier to manage, conduct or otherwise participate in a Procurement Process for the engagement of a contractor or other supplier by the Principal, then the Supplier must, and must ensure that its Personnel, to the extent that it is within the control of the Supplier or its Personnel ensure that the procurement process is conducted consistently with:
- (a) the Principal's procurement policy;
 - (b) the *Local Government Act 2009* (Qld) and the *Local Government Regulation 2012* (Qld);
 - (c) the requirements of the request for tender or request for quotation documentation issued to tenderers;
 - (d) any probity plan or evaluation plan implemented for the Procurement Process;
 - (e) principles of probity; and
 - (f) Good Industry Practice,

with a view to ensuring that the selected contractor or supplier is the most advantageous to the Principal having regard to the sound contracting principles in section 104 of the *Local Government Act 2009* (Qld).

6. PRINCIPAL SUPPLIED INFORMATION AND OTHER INVESTIGATIONS

- 6.1 **(Definitions)** In this clause “**Principal Supplied Information**” means any information relating to the Contract which does not form part of the Contract but which is or has been provided or made available by or on behalf of the Principal to the Supplier in any form, whether such information is made available before or after the date of the Contract.
- 6.2 **(Acknowledgement and agreement by Supplier)** The Supplier acknowledges and agrees that:
- (a) the Principal gives no warranty and makes no representation in respect of this Contract. Without limiting this, the Principal gives no warranty and makes no representation:
 - (i) that the Principal Supplied Information is accurate, adequate or complete; and
 - (ii) as to the physical condition, suitability or other characteristics of the Site;
 - (b) the Supplier has not relied and will not rely on the Principal Supplied Information unless and until the Supplier has independently verified the adequacy, accuracy and completeness of that information;
 - (c) the Supplier:
 - (i) has carefully, thoroughly and critically reviewed, examined, investigated, inspected and checked the Principal Supplied Information and the Site and undertaken all other necessary enquiries and investigations to satisfy itself of the suitability of the Site to enable the Supplier to comply with its obligations under this Contract and of any other logistical considerations, risks, contingencies and other circumstances which could have an effect on the cost of carrying out and completing Services or compliance with the Supplier's other obligations under the Contract;
 - (ii) the Supplier has made its own interpretations, deductions and conclusions from such enquiries and investigations and accepts full responsibility for those interpretations, deductions and conclusions; and
 - (iii) the Supplier, having undertaken those enquiries and investigations, accepts the risk of any inadequacy, inefficiency, deficiency or fault in the Site and that it can and will carry out and complete the Services in accordance with the Contract and comply with its other obligations under the Contract for the Price (as adjusted pursuant to the Contract); and
- 6.3 **(No liability)** The Principal shall not be liable upon any Claim by the Supplier in connection with the Principal Supplied Information or the physical condition, suitability or other characteristics of the Site.

7. SUPPLIER'S PERSONNEL

- 7.1 **(Minimum Personnel levels)** The Supplier must ensure that at all times during the Term, the minimum number of each type of Personnel identified in the Contract perform the roles identified in the Contract for the periods indicated in the Contract (**Minimum Personnel Levels**). The Minimum Personnel Levels must be maintained notwithstanding any planned or unplanned absences, personal breaks, attendance at training or performance of other duties by any Personnel. Provision of the Minimum Personnel Levels does not relieve the Supplier of any obligation under the Contract. If further Personnel are required in addition to the Minimum Personnel Levels for the Supplier to comply with its obligations under the Contract, then the Supplier must provide such additional Personnel at its expense.

- 7.2 **(Police checks)** If the Principal directs the Supplier to obtain police checks on particular Personnel of the Supplier ("Nominated Persons") then the Supplier must not permit a Nominated Person to perform any part of the Services or to have access to any part of the Site unless and until 5 Business Days after the Supplier has given the Principal a written copy of a criminal history check produced by the Queensland Police Service for that Nominated Person. If the criminal history check contains any entries, the Principal may, in its absolute discretion, notify the Supplier that the Nominated Person is not permitted to perform the Services or may otherwise place conditions upon that person's role in performing the Services.

by the Supplier. Otherwise, the Principal shall bear the cost of the audit.

8. PERSONAL PROPERTY SECURITIES

- 8.1 **(Definitions)** In this clause, PPS Act means the *Personal Property Securities Act 2009* (Cth). Terms used in this clause which are defined in the PPS Act have the meanings given in that Act.
- 8.2 **(Disclosure)** If this Contract contains a security interest, then each Party agrees for the purposes of section 275(6) of the PPS Act that it will not disclose information of the type referred to in section 275(1) of the PPS Act where a request is made under section 275(1) of the PPS Act in relation to this Contract or any part of it, except in circumstances where the Party is compelled by law (other than section 275(1) of the PPS Act) to make that disclosure.
- 8.3 **(Supplier's obligations)** If the Principal determines that any clause of this Contract, or a transaction contemplated by this Contract or in connection with the performance of its obligations under this Contract constitutes, or is likely to give rise to a security interest in respect of which the Principal is the security holder, then:
- (a) the Supplier must, within the time required by the Principal, provide all assistance and cooperation requested by the Principal that the Principal determines is reasonably required to:
 - (i) register and maintain the registration of its security interest on the personal property securities register within any applicable time limits relevant to the effectiveness of the security interest;
 - (ii) ensure that the Principal's security interest is enforceable against third parties, perfected or otherwise effective;
 - (iii) ensure that the security interest has the appropriate priority required by the Principal (including where applicable as a purchase money security interest);
 - (iv) ensure that any security interest granted temporary perfection under the PPS Act is perfected by registration or other appropriate means prior to any applicable expiry of that temporary perfection; and
 - (v) enable the Principal to register financing statements or financing change statements under the PPS Act with respect to any such security interest;
 - (vi) the Supplier waives the right to receive notice of a verification statement in relation to the registration of that security interest;
 - (vii) the Supplier shall not register or permit to be registered any other security interest in respect of the personal property that comprises the collateral in respect of that security interest other than one that has been consented to or granted by the Principal
 - (viii) the Supplier shall not cause or allow any of the Supplier's personal property to become an accession to the Principal's personal property or cause or allow the Principal's personal property to become an Accession to the Supplier's personal property without the prior consent of the Principal, and

- (ix) the Supplier must immediately notify the Principal if any other person claims or attempts to enforce a security interest:
 - (A) in the Principal's personal property, or
 - (B) in the Supplier's personal property to the extent that that purported enforcement affects or has the potential to affect the Supplier's ability to carry out its obligations in accordance with the terms of the Contract.



TECHNICAL SPECIFICATION (STANDARD RISK)

Register of Prequalified Suppliers (ROPS) Fleet Services

CONTRACT NO.: T2526.06

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1. INTRODUCTION

Banana Shire Council has ownership of a large fleet of light vehicles, machinery and equipment and regularly undertakes a high volume of service and maintenance work for which Banana Shire Council utilises sub-contractors to supplement its Fleet maintenance programs and for specialized services.

Council is looking to create a register of prequalified suppliers (ROPS) to provide fleet services and maintain the delivery of efficient and effective operations of its current Fleet.

2. AVAILABLE INFORMATION

The following information is available to help with your understanding of existing and intended scope of this tender:

- Pricing Schedule (Appendix A).

3. SCOPE OF SERVICES

The scope of services required includes, but is not limited to, the following Fleet Services

- Mechanical services
 - Servicing/ field servicing
 - Repairs
 - Panel repairs
 - Hydraulic services
- Tyre services
 - Tyres
 - Tyre repairs
 - Rim repairs
 - Tyre maintenance
 - Rotate and balance.
 - Wheel alignments
- Air conditioning and auto electrical services
- Parts and consumables
 - Inc oils and lubrication supplies
- Manufacturing / engineering supplies and services
 - Steel supplies
 - Fabrication
- Windscreens
- Towing / tilt tray services
- Vehicle detailing / cleaning

Included in the prices submitted are the following:

- All costs associated with the insurance, including but not limited to the obtaining and maintaining the following insurance:
 - Public Liability Insurance – not less than twenty million dollars (\$20,000,000)

All excess payments associated with these insurance policies shall be borne solely by the Contractor.

- Provision of a suitably licensed, qualified tradesperson. They must be in possession of the following:

- Suitable Driver's License or other licenses/certifications needed to perform required services
 - Construction Blue/White Card
- All costs associated with the provision of the operator with appropriate personal protective equipment (PPE). All PPE is to be worn and maintenance as per Council's requirements.
- All costs associated with meals and accommodation (if required) for the contractor
- Regular communication with the Council throughout the service provided
- All costs incurred by the Contractor in complying with Commonwealth and State legislation and Local Government By-laws
- All other expenses associated with the work not specifically listed above.

4. NON-EXCLUSIVITY OF SERVICES

Under the agreement: -

- The agreement is not exclusive, and Council may, at its sole discretion, engage another entity or use its own staff to provide the Service/s.
- Council is not obliged to procure any or any minimum number of service/s from the Contractor under this arrangement.
- Council reserves the right, at its sole discretion, to call tenders or quotes for any other service/s.

5. NATURE OF TENDER

This tender is to be considered a Schedule of Rates Contract submissions. The submitted price shall be based on a Pricing Schedule (included in Appendix of this document) and payment shall be made on the basis of:

- a unit rate for those Works Items which have a stated hourly rate
- a lump sum for those Works Items which do not have a stated hourly rate.

Also, unless stated otherwise in this Document, the Tender shall be for the whole of the specified timeframe in the Tender Documents and Notices to Contractor (if any) with all hourly rates submitted to be valid for the life of the contract.

6. LAPSING OF OFFER

Offers submitted under this tender shall remain valid for a period of three months (90 calendar days) after the closing time and date and may be accepted by Council at any time before the expiry of that period unless otherwise notified, in writing, by Council.

7. TERM OF CONTRACT

The initial term of this Contract shall commence on the date as shown on the Notice Of Successful Tender issued by the Council delegate.

Generally, Council will allocate work by operational need, availability and expertise, in accordance with the prices tendered.

When feasible and for larger projects, quotes will be requested from suppliers listed on the prequalified supplier (ROPS) list via the VendorPanel for individual projects. Only those quotes that match or improve upon the prices provided in this tender will be considered.

Membership of T2526.06 **Register of Prequalified Suppliers (ROPS) Fleet Services** will be for a fixed period of 18 months with 3x 12-month extension option at Council discretion. ROPS membership require annual provision of conflict-of-interest documents, work cover, insurance and any other relevant certificate, a good performance to undertake the activity.

Additionally, at Council discretion, any new contractor interested in doing business within the shire can be added to the ROPS list by invitation. The prospective contractor will be required to submit a tender response schedule along with the necessary related documents and be evaluated as part of the membership process to join the ROPS list.

At the end of each financial year Council will enter into discussions with the incumbent ROPS members regarding the review of the approved hire rates, any reasonable changes to the rates will be considered. **Once agreed, all rates will be locked as the maximum hire rate for the applicable financial year.**

If the Contractors business is sold or transferred to another entity during the ROPS term the membership will be "*null and void*" and cannot be transferred.

8. APPOINTMENT OF THE PRINCIPAL CONTRACTOR

The successful tenderer will not be considered Principal Contractor under the terms of this contract.

9. WORKING HOURS

Working hours will be generally between 6:00am and 6:00pm Monday to Friday. Any hours outside of these will be as per agreement between both parties.

10. PRICING

All rates that are quoted as GST inclusive. **Rates are to be fixed and guaranteed as the maximum rate for the financial year with negotiations, between Council and the Contractor, for the revision of rates to occur before the start of each financial year.**

A correctly rendered invoice must:

- Specify details of order in sufficient detail to enable an Authorised Officer to assess; and
- Specify BSC Purchase Order number and Tender number; and
- Specify the respondent's Invoice number and Invoice date; and
- Specify the Quoted Price payable by BSC and particulars of any GST payable in respect of the Contract Price; and
- Otherwise comply with the requirements of a Tax Invoice for the purposes of the GST Act.

11. PROJECT VARIATIONS

Council may, by verbal or written notice given to the Contractor, require the Contractor to vary the Works in nature, scope (extent and quantity) or timing.

The Contractor may be directed to:

- Increase, decrease or omit any part of the Works and / or
- Perform additional work.

Where the contractor is given a direction to vary the work under the contract which is not expressly identified in writing as a variation, the contractor must promptly, and where practicable before complying with the direction, give the Council Representative a written Quotation which identifies the direction

All quoted variations must be approved by Council before any work is to proceed.

12. TRAVEL TO AND FROM SITE

The Contractor is responsible for any costs related to daily travel to and from the site, including vehicle, plant, fuel, maintenance, accommodation and any other costs.

13. THIRD PARTY CLAIMS

The Contractor shall be responsible for any damage to any public or private property that occurs as a direct result of the works being performed by the Contractor.

The Contractor shall notify Council of all claims or allegations made against the Contractor or damage that has been inflicted by the Contractor in respect to personal injury and/or damage to property. Verbal notification is to be received by Council within two (2) hours of the incident and a written report, in the form of an email, is to be received by Council within twenty-four (24) hours of the incident. The written report should include the following details:

- Date and location of the incident
- Description and amount of the claim
- Alleged cause of the damage

14. DEALING WITH THE PUBLIC

Council requires the Contractor and all related employees to conduct themselves professionally and in a socially responsible manner and represent the Council and themselves in a professional, customer focused manner at all times.

The Contractor shall not conduct any work additional to the Contract as a result of requests from residents or other members of the public without written authority or direction from the BSC representative.

If a request is outside the Contractor's area of responsibility, the Contractor shall provide the customer with the contact details of the Council's Customer Service Department who will forward the customer enquiry to a Council representative.

15. TEMPORARY SERVICES

The Contractor shall provide and maintain temporary services (if required) necessary for the execution of the work under the Contract, install such services in accordance with the requirements of the relevant authorities and pay charges in connection with the installation and use of such services. Unless there is a specific reference to the provision of temporary services in the contract scope of works, the cost of providing temporary services shall be considered as being included in the cost of the scope of works, unless otherwise agreed in writing by the Principal.

Such services shall be made available to Sub-contractors. On completion, the Contractor shall disconnect temporary services and clear away all traces.

16. ADDITIONAL WORKS

If the Contractor identifies complementary works outside the scope of the task during the course of the inspection of council's fleet and they believe would be beneficial to Council, the contractor is to advise the Principal of these observations. +

Contractors must provide an additional Quotation for the complementary scope as detailed on the Pricing Worksheet. Council will evaluate the quotation for the complementary scope and determine if any will be included in the contract scope for award.

Council reserves the right to accept or reject any tender offer for complementary/betterment scope.

17. SALVAGED MATERIALS

Unless otherwise stated, all materials, fixtures and other items removed from council equipment shall be the property of the principal and shall not be removed from the site without the prior approval of the Principal.

APPENDIX

Pricing Schedule

i. Labour

1. Hourly
2. Daily
3. Weekly

ii. Call outs

iii. Pricing arrangements for the following

1. Discounts e.g.

- a. Parts
- b. Tyres
- c. Windscreens

2. Call out vehicles.

3. Service rates e.g.

- a. Puncture repairs
- b. Wheel alignment

Quotes must include the recommended retail prices, and the discounts applied.



GENERAL SPECIFICATION (STANDARD RISK)

Register of Prequalified Suppliers (ROPS) Fleet Services

CONTRACT NO: T2526.06

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1. THE SPECIFICATION

- 1.1 **(Documents comprising the specification)** The specification comprises the following documents:
- (a) this General Specification;
 - (b) other documents to the extent that they are incorporated (whether physically or by reference) into the specification, namely:
 - (i) relevant Australian Standards;
 - (ii) Principal's Policies and Procedures;
- 1.2 **(Precedence of documents comprising specification)** The documents comprising the specification shall be taken to be mutually explanatory. If there is any ambiguity, inconsistency, conflict or discrepancy between any of the documents listed in clause 1.1 then the documents will take precedence in the order set out in clause 1.1, with the document listed at 1.1(a) being the highest in the order.
- 1.3 **(Documents incorporated by reference into specification)** The Contractor is deemed to have obtained copies of, read, understood, and allowed for compliance with the Specification (including any documents which are incorporated into it by reference only).

2. DEFINITIONS

- 2.1 **(Definitions)** Capitalised terms used in the General Specification have the meanings assigned to them in the General Conditions of Contract (if any) unless the context otherwise requires. Terms which are separately defined in a specific clause have the meanings assigned in those clauses. Otherwise, in the General Specification:
- (a) **Administrator** means, when used in or by reference to Department of Transport and Main Roads documents, the Superintendent;
 - (b) **Approvals** means certificates, licences, accreditations, clearances, authorisations, consents, permits, approvals, determinations, and permissions from any Authority and any related fees and charges;
 - (c) **Authority** means any Federal, State, or local government authority, administrative or judicial body or tribunal, department, commission, agency, government owned corporation, statutory body or instrumentality, or any other person having jurisdiction over the project;
 - (d) **General Conditions of Contract** means the General Conditions of Contract referred to in the formal instrument of agreement to which this General Specification is attached;
 - (e) **General Specification** means this document and all attachments to it which forms part of the Contract;
 - (f) **Good Industry Practice** means:
 - (i) the standard of skill, care, and diligence; and
 - (ii) the practices, methods, techniques, and acts,of a skilled, competent, and experienced contractor engaged in the business of carrying out Work similar to the WUC;
 - (g) **Principal** has the same meaning as given to the term "Principal" or "Purchaser" in the General Conditions of Contract (as the case may be);

- (h) **Principal's Policies and Procedures** means the policies, procedures, codes, plans, guidelines, and the like provided or made available by or on behalf of the Principal to the Contractor from time to time, including those published on the Principal's website which are in any way applicable to this Contract;
- (i) **Program** has the same meaning as given to the term "construction program" or "program" in the General Conditions of Contract (as the case may be);
- (j) **Specification** means this document and all attachments to it which forms part of the Contract;

3. CONTRACTOR'S GENERAL OBLIGATIONS, WARRANTIES AND REPRESENTATIONS

3.1 **(Ability)** The Contractor must ensure, and warrants and represents that the Contractor and, to the extent applicable to them, its Personnel:

- (a) have the experience, skills, expertise, and resources;
- (b) hold all necessary competencies, licences, accreditations, qualifications, permits, clearances, or other authorisations,

which are required for the Contractor to comply with its obligations under the Contract and will maintain such competencies, licences, accreditations, qualifications, permits, clearances, or other authorisations at all times until the Contractor has completed its obligations under the Contract.

3.2 **(Standard)** The Contractor must, and warrants and represents that it will, and to the extent applicable to them will ensure that its Personnel, carry out WUC and Contractor's other obligations in connection with the Contract in accordance with Good Industry Practice.

3.3 **(Methodology)** The Contractor:

- (a) warrants and represents that the methodology for carrying out and completing WUC stated in the Contract is suitable, appropriate and adequate; and
- (b) must, and warrants and represents that it will, carry out and complete WUC in accordance with that methodology (if any) unless otherwise directed by the Superintendent or permitted or required under the Contract.

3.4 **(Goods)** The Contractor warrants and represents that all plant, equipment, materials, parts, consumables or other goods ('Goods') supplied, used or installed as part of WUC shall:

- (a) at the time that they are supplied, used, or installed, be new;
- (b) be free from defects and of merchantable quality;
- (c) comply in all respects with the Contract including as to quality, quantity, performance, functionality and description;
- (d) conform to any sample goods approved by the Principal or Superintendent;
- (e) comply with any applicable requirement, code, guideline, policy, drawing, or specification included or incorporated by reference into the Contract or, if none is included or incorporated, any Australian Standards applicable to the Goods and any applicable Legislative Requirements; and
- (f) be suitable and adequate for the purposes for which they are supplied, used or installed.

3.5 **(Equipment)** The Contractor warrants and represents that:

General Specification



- (a) the Equipment and all materials comprising the Equipment shall, at the time at which the Equipment is Delivered:
 - (i) be new, free from defects, and of merchantable quality;
 - (ii) comply in all respects with the Contract including as to quality, quantity, performance, functionality, and description;
 - (iii) conform to any sample goods approved by the Principal or Superintendent;
 - (iv) comply with any applicable requirement, code, guideline, policy, drawing, or specification included or incorporated by reference into the Contract or, if none is included or incorporated, any Australian standards applicable to the Equipment and any applicable Legislative Requirements; and
 - (v) be suitable and adequate for the purposes for which the Equipment is supplied.
- (b) all other plant, equipment, materials, parts, consumables or other goods ('Goods') supplied, used or installed as part of WUC shall:
 - (i) at the time that they are supplied, used, or installed, be new;
 - (ii) be free from defects and of merchantable quality;
 - (iii) comply in all respects with the Contract including as to quality, quantity, performance, functionality and description;
 - (iv) conform to any sample goods approved by the Principal or Superintendent;
 - (v) comply with any applicable requirement, code, guideline, policy, drawing, or specification included or incorporated by reference into the Contract or, if none is included or incorporated, any Australian Standards applicable to the Goods and any applicable Legislative Requirements; and
 - (vi) be suitable and adequate for the purposes for which they are supplied, used or installed.

3.6 **(Investigations)** The Contractor warrants and represents that the Contractor has:

- (a) carefully reviewed the Contract and all other information provided by the Principal to the Contractor for the purpose of WUC, and is satisfied that the Contract and other information is appropriate and adequate to enable the Contractor to comply with its obligations under the Contract;
- (b) inspected the Site;
- (c) familiarised itself with factors that could affect the ability of the Contractor to carry out WUC for the Contract Sum, including weather conditions and the availability of temporary access, temporary lighting, power, telephone services, water supply, waste disposal facilities and local labour.

3.7 **(Contractor Documents)** The Contractor warrants and represents that all Contractor Documents will:

- (a) comply with the requirements of the Contract and applicable law;
- (b) be consistent with or exceed applicable industry standards;
- (c) be of a standard and quality expected of a contractor using Good Industry Practice;
- (d) be suitable and adequate for the purpose for which they are provided.

In this clause, **Contractor Documents** means:

- (i) those records, reports, designs, specifications, certificates, plans (including management plans), procedures, manuals and other documents, whether electronic documents or hard copy format, required by the Contract to be handed over to the Principal by the Contractor; and
- (ii) all information advice, designs, calculations and recommendations in those documents;

but does not include those that are incomplete at the time at which the Principal exercises its rights under subclause 39.4 of the General Conditions of Contract or the Contractor exercises its rights under subclause 39.9 of the General Conditions of Contract);

4. CONTRACT MANAGEMENT

4.1 **(Contractor's Superintendence)** The Contractor shall provide all superintendence necessary for the proper fulfilment of the Contractor's obligations under the Contract, including, unless the Superintendent directs otherwise, a competent site manager and site foreman approved by the Superintendent (with such approval not to be unreasonably withheld). Unless otherwise agreed by the Superintendent, the site manager shall be the Contractor's representative under clause 22 of the General Conditions of Contract.

4.2 **(Requests for review and information)** The Superintendent will endeavor to provide a response and/or Direction in relation to a written request for information from the Contractor within 5 Business Days of receipt of such request. The response time will be dependent on the complex nature and or quantity of clarifications per information request submitted. The Contractor is encouraged to make recommendations and or suggestions for the Superintendent's consideration when submitting such requests.

4.3 **(Direction by Principal or Superintendent)** The Principal shall not be bound by any verbal advice given or information furnished by any Personnel of the Principal or Superintendent in respect of the Contract. The Contractor must not accept instructions from any person other than the Superintendent and/or the Superintendent's Representative. The Contractor acknowledges and agrees that its obligations and liabilities in connection with the Contract are not affected by any:

- (a) receipt or review of, or comment or Direction on, a document submitted by the Contractor;
- (b) failure by the Principal or Superintendent to review, comment on, or give a Direction on any document submitted by the Contractor; or
- (c) failure by the Superintendent to give its approval pursuant to clause 8.3.

Before relying on the receipt, review, or comment by the Superintendent, or Principal, or complying with a Direction in relation to a document, the Contractor must notify the Superintendent in writing, if doing so will affect a warranty, representation or obligation of the Contractor under the Contract.

4.4 **(Code of Conduct)** In this clause, 'Code of Conduct' means the Principal's code of conduct which is available on the Principal's website. The Code of Conduct identifies the standards and behaviours expected from all workers, including contractors, in delivering services to the local community. The Contractor must:

- (a) communicate the Code of Conduct to all of the Contractor's Personnel;
- (b) comply with, and ensure that its Personnel comply with, all requirements of the Code of Conduct, including all standards contained within the Code of Conduct; and

- (c) if directed to do so by the Superintendent, obtain and provide to the Superintendent a signed form from all Personnel engaged by the Contractor to perform any part of WUC which states that the person has read, understood and agrees to comply with the Code of Conduct.

5. WORK BY OTHERS

- 5.1 **(Work by others)** The Work identified in Appendix A will be undertaken by others.
- 5.2 **(Obligation to cooperate)** The Contractor and its Personnel shall liaise, cooperate, and coordinate WUC with the Principal and any other Personnel of the Principal performing Work or services at the Site (including the Work identified in clause 5.1) so that, to the extent that it is within the control of the Contractor, WUC is coordinated and integrated with the Work and services performed by the Principal's Personnel. The Contractor must use all reasonable endeavours to avoid interference with, or disruption to, or delay to WUC, to the Work identified in clause 5.1, and to any other Work or services undertaken by the Principal's Personnel at the Site. The Contractor must keep the Superintendent informed on all matters involving such coordination.
- 5.3 **(No claim by Contractor)** Notwithstanding anything else in the Contract, the Principal shall not be liable upon any Claim (including a claim for delay costs under the General Conditions of Contract) arising as a consequence of any interference with, or disruption or delay to, WUC or any of the Contractor's obligations under this Contract, caused or contributed to by a contractor carrying out the Work identified in clause 5.1.

6. PRINCIPAL SUPPLIED MATERIALS

- 6.1 **(Definitions)** In this clause, 'Principal Supplied Materials' means materials identified in Appendix B which the Principal is required under the Contract to supply, or which the Principal otherwise agrees in writing to supply, to the Contractor free of charge for use in WUC.
- 6.2 **(Principal's obligation to provide)** The Principal must:
 - (a) deliver Principal Supplied Materials to the Site; or
 - (b) make the Principal Supplied Materials available at the location (if any) stated in the Contract,

at the time at which the Program required the materials to be provided or made available, or such other time as the Principal agrees in writing.
- 6.3 **(Inspection by Contractor)** Upon any Principal Supplied Materials being delivered or made available, the Contractor must immediately inspect the materials and ensure that the specified quantity has been delivered and that the materials are in a condition which complies with the requirements of the Contract.
- 6.4 **(Notice of deficiencies)** If, within 5 Business Days of the materials being delivered or made available, the Contractor does not notify the Superintendent in writing of any deficiencies, then it shall be deemed that the specified quantity of Principal Supplied Materials has been delivered or made available to the Contractor in a condition that complies with the Contract.
- 6.5 **(Risk)** Any Principal Supplied Materials which, after it is delivered or made available to the Contractor, is lost, destroyed, contaminated, or altered in any way such that the materials no longer comply with the Contract, shall be immediately removed, disposed of, and replaced by the Contractor, at the Contractor's expense, with materials that comply with the Contract, unless the Superintendent expressly directs otherwise. The Contractor must notify the Superintendent in writing of any lost, destroyed, contaminated, or altered materials within 5 Business Days of becoming aware of such events.

- 6.6 **(Excess)** Unless otherwise directed by the Superintendent, the Contractor must return any excess Principal Supplied Materials to the Principal at the place required by the Superintendent.
- 6.7 **(Ownership)** Principal Supplied Materials, other than destroyed, contaminated or altered material which is disposed of by the Contractor pursuant to clause 6.5 shall, notwithstanding anything else in this clause 6, remain the property of the Principal at all times.

7. APPROVALS AND OTHER LAW

- 7.1 **(Approvals obtained by the Principal)** The Principal has obtained the following Approvals:
- (a) all the approvals that require to conduct this tender.
- The Contractor must comply with those Approvals to the extent that they are applicable to WUC.
- 7.2 **(Identifying, obtaining and maintaining Approvals)** The Contractor must identify and notify the Principal of all Approvals which are necessary for the proper performance of WUC (other than Approvals which the Principal has advised the Contractor it has already obtained). The Contractor must obtain and maintain all such Approvals until the end of the last Defects Liability Period to expire. The cost of obtaining and maintaining all such Approvals shall be borne by the Contractor.
- 7.3 **(Final certificates)** The Contractor must:
- (a) obtain all final certificates; and
 - (b) provide a list of all inspections and forms required for the final certificate before commencing any WUC.
- 7.4 **(Compliance)** The Contractor must ensure that its Personnel comply with all Approvals and other laws which are in anyway applicable to WUC, including, unless the Contract expressly provides otherwise, by paying all fees, royalties, levies, charges, costs, expenses, taxes, or duties.
- 7.5 **(Obtaining or granting of Approvals by Principal)** The Principal gives no warranty and makes no representation that:
- (a) it will be able to obtain, or obtain within any particular time; or
 - (b) where the Principal is the relevant Authority, that it will grant,
- any Approvals required for the Contractor to perform WUC.
- 7.6 **(Timing)** The Contractor is deemed to have allowed a reasonable time in the Program for all required Approvals to be applied for and obtained.
- 7.7 **(No fetter)** Nothing in the Contract shall be taken to fetter the power, rights, or authority of the Principal as an Authority under the *Local Government Act 2009* (Qld), the *Local Government Regulation 2012* (Qld), or any other law.

8. PROGRAM

- 8.1 **(Format and details)** The Program shall:
- (a) be prepared utilising native format Microsoft Project software, or alternative software as approved in writing by the Superintendent;
 - (b) be submitted in electronic format with copies in both PDF format and native Microsoft Project file format; and

- (c) detail the Contract milestone dates, the commencement and completion dates of each trade, and/or sub-contract;
 - (d) work activity, procurement activities and supply contract activity, with activities linked in a logical progression through a 'critical path' and identify any float based on a continuous cycle of WUC.
- 8.2 **(Allowances in program)** The Contractor must allow, and is deemed to have allowed, in the program for:
- (a) the time permitted under the General Conditions of Contract for the Superintendent to review documents for which the Contract requires the Contractor to obtain the Superintendent's Direction about such documents; and
 - (b) other timeframes under the Contract within which the Superintendent and the Principal are permitted to act.
- 8.3 **(Approval of Program)** The approval of, or permission to adopt, a Program by the Superintendent will not relieve the Contractor of any of its obligations under the Contract, including the obligation to not, without reasonable cause, depart from an earlier approved Program.
- 8.4 **(Improving progress)** If, in the opinion of the Superintendent, the Contractor falls behind an approved Program, the Contractor must, unless otherwise directed by the Superintendent:
- (a) take such steps as are necessary to improve progress (including the use of additional resources);
 - (b) promptly, and within the time directed by the Superintendent, submit a revised Program, identifying the steps taken or to be taken.

The Principal shall not be liable upon any Claim in connection with the Contractor's compliance with this clause.

9. STAKEHOLDER MANAGEMENT

- 9.1 **(Workshop and plan)** The Contractor shall:
- (a) convene a workshop with the Principal, Superintendent, and the Contractor to identify all stakeholders on the project and to agree protocols for communications between stakeholders and the various parties of the Contract;
 - (b) develop a stakeholder management plan based on the outcome of the workshop and the requirements of this clause; and
 - (c) obtain and comply with the Superintendent's Direction regarding the plan pursuant to subclause 8.3 of the General Conditions of Contract.
- 9.2 **(Notice to Superintendent)** With respect to notification, the *Contractor* shall give the Superintendent a minimum of 15 business days' written notice of changes in traffic movements or any Work impacting individual property owners or businesses. The notice shall be clearly titled 'Notice of Changes in Traffic Movements' or 'Notice of Any Works Impacting Individual Property Owners or Businesses' and contain the following information:
- (a) title of notice;
 - (b) start and finish dates of Work;
 - (c) purpose of communications;
 - (d) type and length of interruption;

- (e) affected locations (chainages, streets, property accesses, etc);
 - (f) whether the works subject to weather;
 - (g) who is carrying out the works (i.e. contractor or subcontractor); and
 - (h) Contractor details.
- 9.3 **(Notice to stakeholders)** The Principal shall be responsible for undertaking public notification distributing through their normal channels. The Contractor shall be responsible for hand delivering written notices prepared by the Principal to individuals impacted and must do so not later than 5 Business Days prior to commencing the Works. The Contractor shall also send a copy of the written notice via registered post 5 Business Days prior to commencing The Works with a covering letter confirming the dates and times the written notice was hand delivered.
- 9.4 **(Sign board)** The Contractor must provide a sign board comprising the following information, at the entrance to the Site or as required:
- (a) Contractor's name;
 - (b) Contractor's postal address; and
 - (c) Site supervisor's name and 24-hour contact number.
- 9.5 **(Complaints)** With respect to complaints, the Contractor shall:
- (a) maintain a record of any complaints received from any stakeholder or the public, including documentary evidence that complaints have been addressed and attended to, to the satisfaction of the Superintendent; and
 - (b) discuss all complaints with the Superintendent promptly after being made aware of it and follow any directions of the Superintendent in relation to the complaint.

10. QUALITY MANAGEMENT SYSTEM

- 10.1 **(General)** The Contractor must:
- (a) prior to commencing WUC at the Site, implement a quality management system which accords with the requirements of ISO 9001 or with any alternative standard approved by the Superintendent (acting reasonably);
 - (b) provide a copy of the ISO9001 certification (or other documentary evidence suitable to the Superintendent, acting reasonably) of the Contractor's system;
 - (c) comply with, and ensure that all of the Contractor's Personnel comply with the system;
 - (d) appoint a suitably qualified quality management representative, who shall have such authority to effectively manage and control the implemented quality system.
- 10.2 **(Quality management plan)** The Contractor's quality management system must include a quality management plan which contains at least the following information:
- (a) a project organisation chart clearly showing the lines of authority, responsibility, and communication that will be in effect;
 - (b) details of the qualifications and experience of all project management and supervision staff;
 - (c) a lot plan;

- (d) details of project specific procedures, including those related to the following to the extent that they are applicable to WUC:
 - (i) all shop drawing formation and coordination;
 - (ii) management of all services subcontractor/trades;
 - (iii) management of all services/operational commissioning;
- (e) applicable inspection and test plans;
- (f) a register of all proposed quality records; and
- (g) a copy of the NATA terms of registration for the Contractor's compliance testing laboratory.

The Contractor must obtain and comply with the Superintendent's Direction regarding the plan pursuant to subclause 8.3 of the General Conditions of Contract.

10.3 **(Inspection and test plan)** The Contractor must, as part of the Contractor's quality management system, prepare and obtain the Superintendent's Direction regarding an inspection and test plan. The inspection and test plan must, at a minimum, detail:

- (a) the items of Work to be inspected or tested;
- (b) the party who will carry out the inspection or test;
- (c) the stages at which Work is to be inspected and tested or the frequency of inspections and tests;
- (d) the testing procedures and methodologies;
- (e) acceptance criteria;
- (f) non-conformance management and corrective processes;
- (g) Work which shall not be covered up or made inaccessible without the prior approval of the Superintendent;
- (h) witness points for Work for which a Superintendent's Representative must be present;
- (i) hold points beyond which Work cannot proceed without approval of the Superintendent;
- (j) relevant standards; and
- (k) the records to be maintained by the Contractor.

The Contractor must obtain and comply with the Superintendent's Direction regarding the plan pursuant to subclause 8.3 of the General Conditions of Contract.

10.4 **(Reporting)** The Contractor must provide the Superintendent with all documents and information:

- (a) reasonably requested to support or evidence the Contractor's quality management system;
- (b) which are produced by the Contractor in compliance with the quality management system.

10.5 **(Inspections)** The Principal and the Superintendent may carry out inspections of the Site at any time. During inspections, the Contractor shall provide the Principal and the Superintendent

with all documents, access and assistance reasonably requested by either. The Contractor shall provide a sufficient and safe access for all inspections at the Site. Unless otherwise specified, the Contractor must give the Superintendent no less than 2 Business Days' notice of its intention to commence each stage of the following Work:

- (a) all the listed work;

If the Contractor does not provide the required notification for an inspection, particularly in the event that an urgent after-hours inspection is required to ensure WUC is not delayed, the Superintendent may deduct the cost of the inspection as a Required Deduction pursuant to clause 37.2 of the General Conditions of Contract.

11. PAYMENT CLAIMS

11.1 **(Particular items in Price Schedule)** Further to clause 3 of the General Conditions of Contract where an item is identified in the Price Schedule as:

- (a) a prime cost item, then the relevant sum(s) included in the Price Schedule shall in themselves not be payable, but where that item of Work is to be supplied or carried out:
 - (i) the Contractor must, if directed to do so by the Superintendent:
 - (A) use its best endeavours to obtain 3 quotes for the prime cost item from suppliers which the Contractor considers are capable of carrying out the relevant Work and that are reasonably available to do so; and
 - (B) provide a complete written copy of each quote received to the Superintendent;
 - (ii) the Superintendent may (but shall not be obliged to) within 5 Business Days after receiving the quotation(s) direct the Contractor as to which supplier to engage and the Contractor must comply with that Direction. If the Superintendent does not give a Direction within this time, then the Contractor may engage any one of the suppliers that provided a quotation;
 - (iii) the Contractor shall be entitled to payment of the actual direct cost paid by the Contractor to the supplier for the supply of that item (excluding any damages payable to the supplier or vice versa) and without any payment for the Contractor's profit and overheads; and
 - (iv) the costs for labour, installation, and for all other costs required to incorporate the goods into The Works shall be deemed to have been included in the Price Schedule generally;
- (b) a provisional quantity, provisional item, if ordered, as directed, optional or similar term (other than provisional sum), then where that item of Work is supplied or carried out in accordance with a Direction of the Superintendent:
 - (i) the relevant sum(s) included in the Price Schedule shall in themselves not be payable;
 - (ii) where there is a rate for the item in the Price Schedule, the Contractor shall be entitled to payment for the item at the rate provided in the Price Schedule for the measured quantity of the item so supplied or carried out; or
 - (iii) where there is a lump sum for the item in the Price Schedule, the Contractor shall be entitled to payment of that lump sum,

A Direction to carry out or supply such an item, or the absence of a direction to carry out or supply such an item, shall be deemed to be within the general scope of the Contract.

12. PROJECT TRUSTS AND RETENTION TRUSTS

- 12.1 **(Definitions)** Terms used in this clause 12 which are not separately defined in the Contract have the same meaning as is attributed to them in Chapter 2 of the Security Of Payment Legislation.
- 12.2 **(Compliance)** Nothing in this clause shall be taken to limit the Contractor's obligations under Chapter 2 of the Security Of Payment Legislation. The Contractor must provide all information and documentation that the Superintendent reasonably directs in connection with the Contractor's compliance with this clause.
- 12.3 **(Project trust account)** The Contractor must:
- (a) open and maintain a Project Trust Account; and
 - (b) give to the Superintendent and Principal all notices which the Security Of Payment Legislation requires the Contractor to give in connection with a Project Trust.
- 12.4 **(Retention trust account)** The Contractor must:
- (a) open and maintain a Retention Trust Account; and
 - (b) give to the Superintendent and Principal all notices which the Security Of Payment Legislation requires the Contractor to give in connection with a Retention Trust.
- 12.5 **(Variation to contract)** If at the Date Of Acceptance Of Tender:
- (a) the Contractor is not required to open and maintain a Project Trust Account but subsequently becomes required to do so under the Security Of Payment Legislation; or
 - (b) the Contractor is not required to open and maintain a Retention Trust Account but subsequently becomes required to do so under the Security Of Payment Legislation,
- the Contractor must give the Superintendent and Principal written notice of that changed requirement within 5 Business Days of the date on which the Contractor becomes aware, or ought to have become aware of the changed requirement and must comply with clauses 12.4 and or 12.5 as the case may be.
- 12.6 **(Substantial breach)** In addition to other acts or omissions which constitute a Substantial Breach of the Contract, Substantial Breaches include the Contractor failing to
- (a) establish a project trust account as required by the security of payment legislation, in breach of clause 12.3;
 - (b) establish a retention trust account as required by the security of payment legislation, in breach of clause 12.4;
 - (c) comply with an obligation of the Contractor set out in Part 2, Divisions 4 and 5 of Chapter 2 of the security of payment legislation;
 - (d) comply with an obligation of the Contractor set out in Part 3, Divisions 4 and 5 of Chapter 2 of the security of payment legislation.

13. PRINCIPAL SUPPLIED INFORMATION

- 13.1 **(Definitions)** In this clause, **Principal Supplied Information** means:
- (a) the following information or documents:
 - (i) Company details;

- (ii) Key person details
 - (iii) Insurance details
 - (iv) Capability and experience and
- (b) any other information relating to the Contract which either:
 - (i) does not form part of the Contract but which is or has been provided or made available by or on behalf of the Principal to the Contractor; or
 - (ii) does form part of the Contract, but which is expressly identified as Principal Supplied Information or otherwise as information on which the Contractor should not or must not rely,

and includes information in any form and information which is made available before or after the Date Of Acceptance Of Tender.

13.2 **(No warranty or representation by Principal)** The Principal gives no warranty and makes no representation that the Principal Supplied Information is accurate, adequate, or complete.

13.3 **(No reliance)** The Contractor:

- (a) Acknowledges and agrees that the Contractor has not relied on the Principal Supplied Information in entering into the Contract; and
- (b) must not rely on the Principal Supplied Information unless and until the Contractor has independently verified the adequacy, accuracy, and completeness of that information.

14. CONFIDENTIAL INFORMATION

14.1 **(Specific confidential information)** Without limiting subclause 8.5 of the General Conditions of Contract, the Contractor must, and must ensure that its Personnel, keep confidential the following documents and any other information obtained in the course of performing the Contract which is, of its nature, confidential:

- (a) the Contract;
- (b) other information related with tendering

15. SAFETY

15.1 **(Relationship to General Conditions of Contract)** The Contractor's attention is drawn to clause 12A of the General Conditions of Contract. Nothing in clause 15 shall be taken to limit or exclude any obligation or liability of the Contractor under the General Conditions of Contract or at law in relation to work, health and safety.

15.2 **(Storage)** The Contractor must:

- (a) appropriately store and secure any poisonous, flammable, or injurious substances for the duration of WUC;
- (b) provide all necessary fully charged fire extinguishers in accessible locations at the Site as are necessary for the care and safety of WUC to the satisfaction of the Superintendent and the Queensland Fire and Emergency Services, or other relevant Authority;
- (c) provide adequate first aid facilities appropriate to the size and composition of his/her staff and labour force and the nature of WUC;

- (d) if the Principal has appointed a third party as principal contractor for the Site under the *Work Health and Safety Regulation 2011* (Qld), comply with the reasonable requirements of that third party in its capacity as principal contractor; and
- (e) if the Principal has not appointed a third party as principal contractor for the Site:
 - (i) comply with the Principal's Policies and Procedures relating to work, health and safety;
 - (ii) inform the Principal of all its work health safety policies, procedures or measures implemented for the individual project sites established for performance of its obligations under this Contract.

15.3 **(Microbiological risks)** The Contractor is advised that partially treated and untreated sewage contains micro-organisms such as bacteria, viruses, and parasites that can exist in large numbers. These micro-organisms may be harmful to health. The Contractor shall ensure that all microbiological risks are considered, and appropriate control measures identified within the Contractor's work health and safety management plan, general risk assessment for WUC, and any specific task related work method statements.

15.4 **(Safety audit)** The Contractor must:

- (a) prior to commencing WUC engage an independent third party to carry out safety audits of the Contractor's work practices. The safety audit must, as a minimum, include the following:
 - (i) verification that the Contractor is carrying out WUC in accordance with the approved WHS plan submitted to the Principal under subclause 12A.4(d) of the General Conditions of Contract;
 - (ii) physical safety inspection of the Site and the Contractor's work practices; and
 - (iii) confirmation that Contractor and the Contractor's Personnel is compliant with all Legislative Requirements;
- (b) provide the Principal with the safety auditor's report together with the Contractor's WHS plan within 5 Business Days after completion of the safety audit;
- (c) within 5 Business Days of the date of the safety auditor's report, create a non-conformance plan to rectify non-conformances identified in the safety auditor's report (if any) and keep evidence satisfactory to the Principal of the completion of the plan.
- (d) provide a copy of the non-conformance plan to the Principal within 5 Business Days of the date of the safety audit report. The Principal may audit the implementation of the non-conformance plan to rectify any non-conformances, and request evidence satisfactory to the Principal of completion.
- (e) immediately suspend WUC (or the relevant portion of WUC) until the Contractor has addressed the safety issues identified during the safety audit and/or in the safety audit report. The Contractor must continue to comply with all duties and obligations under the WHS Act and the Contract;
- (f) rectify any non-conformances in the Contractor's WHS Plan and resubmit the revised WHS Plan to the Principal within 5 Business Days.

15.5 **(Electrical Safety)** The Contractor must:

- (a) comply with all provisions of the *Electrical Safety Act 2002* (Qld) and all related Legislative Requirements; and
- (b) ensure that:

- (i) all electrical work conducted, including work performed by subcontractors, is fully documented and recorded on a 'Certificate of Electrical Safety';
- (ii) all required 'AS3000 Test Results' are documented and recorded by the Contractor; and
- (c) provide:
 - (i) certificates of testing and safety pursuant to the *Electrical Safety Regulation 2013* (Qld) for all electrical work carried out as part of WUC (whether by the Contractor or by subcontractors); and
 - (ii) records of all test results in accordance with AS3000:2007 for all electrical installation works on property owned by the Principal.

16. ENVIRONMENTAL PROTECTION

- 16.1 **(Environmental protection)** The Contractor must, and must ensure that its Personnel, perform the Contractor's obligations in accordance with:
- (a) best practice environmental management (as that term is defined in Section 21 of the *Environmental Protection Act 1994* (Qld));
 - (b) the requirements of all other Legislative Requirements relating to the protection of the Environment; and
 - (c) the Principal's policies and procedures relating to the protection of the Environment.
- 16.2 **(Environmental Management System)** The Contractor must provide a copy of its environmental risk assessments and relevant control strategies for WUC for the Superintendent's review prior as a requirement of possession of the Site and prior to any pre-start meeting. The level of detail in the risk assessments shall be adequate to provide the Superintendent with a clear understanding of the required Work.

17. WASTE MANAGEMENT

- 17.1 **(Definitions)** In this clause 'Levyable Waste Disposal Site', "Levyable Waste", "Waste", "Waste Disposal Site" and "Waste Levy" have the meanings given to those terms in the *Waste Reduction and Recycling Act 2011* (Qld).
- 17.2 **(Contractor's obligation)** The Contractor must:
- (a) ensure that all Waste from the Site is placed in appropriate containers and removed from the Site to a legal Waste Disposal Site in accordance with the *Waste Reduction and Recycling Act 2011* (Qld) and any other applicable Legislative Requirements;
 - (b) otherwise, ensure that all Waste arising from WUC is disposed of in accordance with the requirements of the *Waste Reduction and Recycling Act 2011* (Qld) and any other applicable Legislative Requirements relating to the disposal of Waste; and
 - (c) pay all royalties, levies, fees, charges, costs, expenses, taxes, or duties in connection with the disposal of Waste.
- 17.3 **(Evidence of payment)** With or in each progress claim submitted by the Contractor under the Contract, the Contractor must provide a separate breakdown of the amount of any Waste Levy which the Contractor is aware has been passed on to, and paid by, the Contractor in connection with the disposal of Levyable Waste arising from WUC.
- 17.4 **(Energy Use)** The Contractor shall ensure that the use of energy for WUC is minimised by undertaking regular maintenance of all machinery to ensure energy efficiency and by utilising minimum sized machinery to undertake tasks.

18. BIOSECURITY MANAGEMENT

18.1 (Definitions) In this clause:

- (a) a **Biosecurity Risk** is the risk that exists when dealing with:
 - (i) any pest, disease, or contaminant (including plants, seeds, spores, eggs, vertebrate, and invertebrate pest); or
 - (ii) something that could carry a pest, disease or contaminant (e.g., animals, plants, soil, equipment and water—known as 'carriers').
- (b) a **Potential Biosecurity Risk** is a Biosecurity Risk that does not currently occur at the Site, but which has the capacity to occur at the Site. It may be present but not visible or may be introduced during WUC. It includes risks associated with carriers and the movement and sourcing of materials, vehicles, and machinery; and the disturbance, import, or export of soils;
- (c) a **Known Biosecurity Risk** is a Biosecurity Risk that is currently recorded within the footprint or proximity of the Site which is:
 - (i) identified within biosecurity plans or programs active for the area;
 - (ii) identified during WUC; or
 - (iii) otherwise identified by the Principal;
- (d) **BRMP** means a Biosecurity Risk management plan;
- (e) **General Biosecurity Obligation** has the meaning given to that term in the *Biosecurity Act 2014* (Qld).

18.2 (Biosecurity Risk management plan) The Contractor must prepare and obtain the Superintendent's Direction regarding a BRMP pursuant to subclause 8.3 of the General Conditions of Contract. The BRMP must:

- (a) describe the processes and procedures for the management of Biosecurity Risks in connection with WUC;
- (b) outline reasonable and practical steps to address Biosecurity Risks;
- (c) describe how the Contractor will meet its General Biosecurity Obligation;
- (d) address both Potential Biosecurity Risks and Known Biosecurity Risks.

The Contractor must comply with and ensure that all of the Contractor's Personnel comply with the BRMP.

18.3 (Training) The Contractor must ensure that each of the Contractor's Personnel and every other person carrying out WUC at the Site is appropriately trained to be aware of Biosecurity Risks prior to that person carrying out any part of WUC. If at any time during WUC a breach of the BRMP or a significant Biosecurity Risk is identified, then the Contractor must immediately contact the Superintendent for Direction.

19. ASBESTOS

19.1 (General) The removal, transportation, and disposal of asbestos products must be undertaken in accordance with:

- (a) all Legislative Requirements;

- (b) relevant standards and codes of practice including “How to Safely Remove Asbestos 2021” as amended or replaced from time to time; and
 - (c) to the extent not inconsistent with paragraphs (a) and (b), any management plan prepared under the Contract.
- 19.2 **(Work to be done by certified removalist)** Such Work must be undertaken by a certified asbestos removalist.
- 19.3 **(Monitoring)** The Contractor must arrange for daily air monitoring and reporting during the asbestos removal process by an independent air monitoring consultant/hygienist.
- 19.4 **(Certification)** At the completion of the asbestos removal process, the Contractor must provide certification that all asbestos has been safely removed from the Site and disposed of in accordance with this clause.

20. CULTURAL HERITAGE

- 20.1 **(Compliance)** Without limiting any other obligation of the Contractor under the Contract or any law, the Contractor's attention is drawn to, and the Contractor must comply, and must use all reasonable endeavours to ensure that its Personnel comply with the requirements of, the *Aboriginal Cultural Heritage Act 2003 (Qld)*, *Torres Strait Islander Cultural Heritage Act 2003 (Qld)* and the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth)*.

21. TRAFFIC MANAGEMENT

- 21.1 **(Traffic management plan)** The Contractor must, within the time required by clause **Error! Reference source not found.**, prepare and provide to the Superintendent for review a traffic management plan for WUC, detailing how the Contractor will manage traffic in accordance with the requirements of the Contract. The Contractor must obtain and comply with the Superintendent's Direction regarding the plan pursuant to subclause 8.3 of the General Conditions of Contract. The Contractor must comply, and ensure that all of the Contractor's Personnel comply, with the traffic management plan at all times until the expiration of the last Defects liability Period to expire.
- 21.2 **(General)** The Contractor:
- (a) is responsible for the safety of all pedestrians and vehicular traffic at, or adjacent to the Site, or in any way affected by the execution of WUC;
 - (b) must provide all necessary lights, barriers, notices and signs, and other traffic control devices required for the safe and appropriate management of traffic.
 - (c) must comply with and ensure that all traffic control devices conform to:
 - (i) the current Manual of Uniform Traffic Control Devices published by the Department of Transport and Main Roads;
 - (ii) Queensland Guide to Temporary Traffic Management;
 - (iii) AS1742 Manual of Uniform Traffic Control Devices;
 - (iv) Austroads Australian Guide to Temporary Traffic Management;
 - (v) Queensland Guide to Road Safety;
 - (vi) Guideline – Traffic Management at Works on Roads,

as amended or replaced from time to time. In the event of any inconsistency, ambiguity, discrepancy, or conflict between any requirement or standard in the documents listed above,

the Contractor shall comply with the more onerous requirement or higher standard unless otherwise directed by the Superintendent.

21.3 (No obstruction) The Contractor must:

- (a) provide for the continuous operation of normal traffic along all roads, and pedestrian and vehicular access to properties included in the Contract or intersected by WUC;
- (b) where necessary, provide side-tracks which must be appropriately constructed, signposted, lit, and maintained; and
- (c) use all reasonable endeavours to avoid obstructing any side road, branch track, drain, or watercourse and to the extent that such obstructions cannot be avoided, remove such obstructions as soon as possible.

22. PERSONAL PROPERTY SECURITIES

22.1 (Interpretation) In this clause, 'PPS Act' means the *Personal Property Securities Act 2009* (Cth). Terms used in this clause which are defined in the PPS Act which are not separately defined in the Contract have the meaning attributed to them in the PPS Act.

22.2 (Disclosure) If this Contract contains a security interest, then each party agrees to the purposes of section 275(6) of the PPS Act that it will not disclose information of the type referred to in section 275(1) of the PPS Act, where a request is made under section 275(1) of the PPS Act in relation to this Contract or any part of it, except in circumstances where the party is compelled by law (other than section 275(1) of the PPS Act) to make that disclosure.

22.3 (Contractor's obligations) If the Principal determines that any clause of this Contract, or a transaction contemplated by this Contract or in connection with the performance of WUC, constitutes, or is likely to give rise to a security interest in respect of which the Principal is the security holder, then the Contractor:

- (a) must, within the time required by the Principal, provide all assistance and cooperation requested by the Principal that the Principal determines is reasonably required to;
 - (i) register and maintain the registration of its security interest on the personal property securities register within any applicable time limits relevant to the effectiveness of the security interest;
 - (ii) ensure that the Principal's security interest is enforceable against third parties, perfected, or otherwise effective;
 - (iii) ensure that the security interest has the appropriate priority required by the Principal (including where applicable, as a purchase money security interest);
 - (iv) ensure that any security interest granted temporary perfection under the PPS Act is perfected by registration or other appropriate means prior to any applicable expiry of that temporary perfection;
 - (v) enable the Principal to register financing statements or financing change statements under the PPS Act, with respect to any such security interest;
- (b) waives the right to receive notice of a verification statement in relation to the registration of that security interest;
- (c) must not register or permit to be registered any other security interest in respect of the personal property that comprises the collateral in respect of that security interest, other than one that has been consented to or granted by the Principal;
- (d) must not cause or allow any of the Contractor's personal property to become an accession to the Principal's personal property or cause or allow the Principal's personal

property to become an accession to the Contractor's personal property without the prior consent of the Principal; and

- (e) must immediately notify the Principal if any other person claims or attempts to enforce a security interest:
 - (i) in the Principal's personal property; or
 - (ii) in the Contractor's personal property to the extent that that purported enforcement affects or has the potential to affect the Contractor's ability to carry out WUC in accordance with the terms of the Contract.

23. HEAVY VEHICLE NATIONAL LAW

23.1 **(Meaning of terms)** Terms used in this clause which are defined in the Heavy Vehicle National Law (Queensland) (the 'National Law') have the same meaning as in that law.

23.2 **(General obligations)** The Contractor must ensure, so far as is reasonably practicable, the safety of the Contractor's transport activities. Without limiting this, the Contractor must, so far as is reasonably practicable:

- (a) eliminate public risks and, to the extent it is not reasonably practicable to eliminate public risks, minimise the public risks; and
- (b) ensure the party's conduct does not directly or indirectly cause or encourage:
 - (i) the driver of the heavy vehicle to contravene the National Law; or
 - (ii) the driver of the heavy vehicle to exceed a speed limit applying to the driver; or
 - (iii) another person, including another party in the chain of responsibility, to contravene the National Law.

23.3 **(Notice)** The Contractor must immediately:

- (a) notify the Superintendent if the Contractor considers that anything in this Contract, or any act or omission of the Principal or its respective officers, employees, agents or representatives, has or is likely to, directly or indirectly, cause or encourage the Contractor or any Personnel of the Contractor:
 - (i) being the driver of a heavy vehicle to contravene the National Law; or
 - (ii) being the driver of a heavy vehicle to exceed a speed limit applying to the driver; or
 - (iii) being another person, including another party in the chain of responsibility, to contravene the National Law; and
- (b) notify the Principal and the Superintendent in writing in the event that it, or any Personnel, is issued with any warning, request for information or production of documents, notice or fine in respect of any breach of chain of responsibility law in respect of WUC. The Contractor undertakes to provide the Principal and the Superintendent with a copy of any such warning, request, notice or fine, and any response or submissions made by it in relation to the same.

23.4 **(Chain of Responsibility)** In addition to its obligations under the chain of responsibility law, the Contractor must comply with the following chain of responsibility compliance assurance conditions, that:

- (a) the Principal has a policy of compliance for its chain of responsibility obligations under the National Law. The Contractor agrees that it complies with its obligations under the

chain of responsibility laws, and has a policy of training and compliance that is subject to periodic review and assessment. The Contractor will require its subcontractors and agents to comply with chain of responsibility obligations in any supply chain arrangement or any arrangement whatsoever in connection with WUC;

- (b) the Principal is committed to taking all reasonable steps to ensure that any carriage of goods by road performed as part of WUC is performed safely and in accordance with the National Law and the chain of responsibility provisions it contains. The Principal will not comply with any instruction or requirement of the Contractor that might have the effect of contributing to a breach of the National Law, or preventing the Principal from taking all steps that it considers necessary to prevent any breach of the National Law;
- (c) upon becoming aware of any breach of mass, dimension, load restraint, fatigue, speed, or maintenance requirement, the Principal may report the breach to the relevant Authority and retain records of the breach; and
- (d) as a requirement of access to the Site, the Contractor must provide copies of any/all:
 - (i) chain of responsibility policy;
 - (ii) mass, dimension, or load restraint policy;
 - (iii) speed management policy;
 - (iv) fatigue management policy; and
 - (v) maintenance management policy,that is in place in respect of its business.

24. LABOUR HIRE

The Contractor must not provide or utilise any labour for any WUC, unless the provider of that labour hire is registered under the *Labour Hire Licensing Act 2017* (Qld).

25. WORK HEALTH AND SAFETY ACCREDITATION SCHEME

- 25.1 **(Accreditation)** The Contractor must maintain accreditation under the Australian Government Work Health and Safety Accreditation Scheme ('the Scheme'), established by the *Building and Construction Industry (Improving Productivity) Act 2016* (Cth), while building work (as defined in section 6 of the Act) is carried out.
- 25.2 **(Compliance)** The Contractor must comply with all conditions of the Scheme accreditation and the National Construction Code performance requirements in relation to building materials.

26. QUEENSLAND CODE

- 26.1 **(The Queensland Code)** If applicable, in addition to the terms defined in this document, terms used in this clause 26 have the same meaning as is attributed to them in the Queensland Government's *Queensland Code of Practice for the Building and Construction Industry* (the 'Queensland Code').
- 26.2 **(Primary Obligations)** The Contractor must:
 - (a) comply with, and meet any obligations imposed by, the Queensland Code;
 - (b) notify the Australian Building and Construction Commission ('ABCC') (or nominee) and the Principal, of any alleged breaches of the Queensland Code and of voluntary remedial action taken within 24 hours of becoming aware of the alleged breach;

- (c) where the Contractor is authorised to engage a subcontractor and it does so, ensure that any secondary contract imposes on the subcontractor equivalent obligations to those in this clause 26, including that the subcontractor shall comply with, and meet any obligations imposed by, the Queensland Code; and
 - (d) not appoint or engage another party in relation to WUC, where that appointment or engagement would breach a sanction imposed on the other party in relation to the Queensland Code.
- 26.3 **(Information)** The Contractor must maintain adequate records of compliance with the Queensland Code by it, its subcontractors, and related entities.
- 26.4 **(Access)** The Contractor must allow, and take reasonable steps to facilitate, Queensland Government authorised personnel (including personnel of the ABCC) to:
 - (a) enter and have access to sites and premises controlled by the Contractor, including any Site at which WUC is being carried out;
 - (b) inspect any work, material, machinery, appliance, article, or facility;
 - (c) access information and documents;
 - (d) inspect and copy any records relevant to WUC;
 - (e) have access to personnel; and
 - (f) interview any person,as is necessary for the authorised personnel to monitor and investigate compliance with the Queensland Code by the Contractor, its subcontractors, and related entities.
- 26.5 **(Production of documents)** The Contractor, and its related entities, shall agree to, and comply with, a request from Queensland Government authorised personnel (including personnel of the ABCC) for the production of specified documents by a certain date, whether in person, by post, or electronic means.
- 26.6 **(Sanctions)** The Contractor warrants that at the time of entering into this Contract, neither it, nor any of its related entities, are subject to a sanction in connection with the Queensland Code that would have precluded it from tendering for work to which the Queensland Code applies. If the Contractor does not comply with, or fails to meet any obligation imposed by the Queensland Code, a sanction may be imposed against it in connection with the *Queensland Code*. Where a sanction is imposed:
 - (a) it is without prejudice to any rights that would otherwise accrue to the parties;
 - (b) the State of Queensland (through its agencies, Ministers and the ABCC) is entitled to:
 - (i) record and disclose details of non-compliance with the Queensland Code and the sanction; and
 - (ii) take them into account in the evaluation of future expressions of interest or tender responses that may be lodged by the Contractor, or its related entities, in respect of work to which the Queensland Code applies.
- 26.7 **(Cost)** The cost of ensuring the Contractor's compliance with the Queensland Code shall be borne by the Contractor. The Contractor is not entitled to make a claim for reimbursement or an extension of time from the Principal or the State of Queensland for such costs.
- 26.8 **(No relief)** Compliance with the Queensland Code does not relieve the Contractor from responsibility to perform WUC and any other obligation under the Contract, or from liability for

any defect in The Works, or from any other legal liability, whether or not arising from its compliance with the Queensland Code.

- 26.9 **(Change)** Where a change in the Contract or WUC is proposed, and that change would, or would be likely to, affect compliance with the Queensland Code, the Contractor must immediately notify the Principal (or nominee) of the change, or likely change and specify:

- (a) the circumstances of the proposed change;
- (b) the extent to which compliance with the Queensland Code will, or is likely to be, affected by the change; and
- (c) what steps the Contractor proposes to take to mitigate any adverse impact of the change,

and the Principal will direct the Contractor as to the course it must adopt within 5 Business Days of receiving notice.

27. QUEENSLAND GOVERNMENT QUEENSLAND CHARTER FOR LOCAL CONTENT

- 27.1 **(Definitions)** Terms used in this clause 27 which are not separately defined in this Contract have the same meaning as is attributed to them in the Charter for Local Content.

- 27.2 **(Contractor's obligation)** The Contractor must, and must ensure its subcontractors, in carrying out WUC:

- (a) comply with the principles of the Charter for Local Content and any related requirements under the Contract;
- (b) comply with any Statement of Intent or equivalent local content statement under the Contract;
- (c) complete and submit a Charter for Local Content – Project Outcome Report (available from State Government website) to the Principal at, and as a requirement of, Practical Completion and at such other times as reasonably requested by the Principal, with a copy to gclc@dsd.qld.gov.au.

28. OPERATION AND MAINTENANCE MANUALS

- 28.1 **(Requirements for operation and maintenance manuals)** Unless the Superintendent otherwise directs, the operation and maintenance manuals must include:

- (a) Contractor's name, address, facsimile number, telephone number and email address;
- (b) maintenance schedule (in tabular form);
- (c) technical description of the equipment supplied, with diagrams and illustrations where appropriate;
- (d) detailed description of each item of maintenance;
- (e) detailed description of each item of operation;
- (f) procedures for dismantling and reassembling;
- (g) details and descriptions of maintenance and operations, equipment and tools, with instructions for their use;
- (h) supplier/material quality certificates for each product;
- (i) supplier/material specification and data sheets for each product;

- (j) Material Safety Data Sheets (MSDS) for all products directly or indirectly involved in all aspects of operation and maintenance of the works; and
 - (k) complete spares list.
- 28.2 **(Draft as operation and maintenance manuals)** No later than two weeks before the Date For Practical Completion the Contractor must give to the Superintendent, two advanced 'draft' copies of the operation and maintenance manuals for The Works.
- 28.3 **(Final operation and maintenance manuals)** The Contractor must give to the Superintendent, as a requirement of Practical Completion, 1 complete electronic copy in PDF of the operation and maintenance manuals for The Works.

29. PRACTICAL COMPLETION

- 29.1 **(Requirements of achieving practical completion)** The Contractor acknowledges that the Contract may elsewhere include additional obligations which must be satisfied as a requirement of Practical Completion. In addition to any such obligations, the Contract must, as a requirement of Practical Completion:
- (a) satisfy all requirements of the Contract in relation to commissioning and operator training;
 - (b) provide to the Superintendent one (1) bound and one (1) PDF copy of an end-of-job report which shall contain the following as a minimum:
 - (i) material test results;
 - (ii) as constructed drawings which comply with clause **Error! Reference source not found.**;
 - (iii) completed warranties for all fittings and fixtures including major supply information;
 - (iv) operations & maintenance manuals;
 - (v) building surveyor inspection certificates where applicable;
 - (vi) plumbing inspection certificates;
 - (vii) electrical inspection certificates; and
 - (viii) final inspection certificates from an approved registered certifier;