



Lifestyle Capital of Victoria

Request for Tender

Frankston City Council

Contract (Tender): John Monash Reserve Playground - Upgrade

Contract No: CN10496

Closing Date & Time: Tuesday 1st December 2020 at 3:00pm

Electronic Tender Box: Electronic (Email) Submissions only

Tender.Box@frankston.vic.gov.au

Council Contact Officer: Himalee Padmakar (Landscape Architect)

Contact Email Address: himalee.padmakar@frankston.vic.gov.au

Council's Website Link: [www.frankston.vic.gov.au/Your Council/Tenders](http://www.frankston.vic.gov.au/Your_Council/Tenders)

Contents of Request for Tender

This Request for Tender comprises the following Parts:

Part A

1. Introduction to Tender
2. Tender Conditions

Part B

1. Specifications and Appendices
2. Conditions of Contract
3. Formal Instrument of Agreement

Part C

1. Instructions

The following document is to be completed, signed and returned to Council:

2. Tender Offer Form

Privacy Statement: Council is collecting this information for the purposes of assessing and awarding a Contract for the works and services. The information will not be disclosed except as required by law and Council Policy and will be retained by Council in accordance with the provisions of the *Public Records Act 1973 (Vic)*.

Council reports presented at Closed Council meetings may include respondent details. You may apply to Council by contacting the Privacy Officer for information about this matter.



Request for Tender

John Monash Reserve Playground - Upgrade

Contract No - CN10496

Part A

1. Introduction to Tender
2. Tender Conditions

1. Introduction to Tender

Construction of John Monash Playground Upgrade

This tender is for Lump-sum Contract for supply and construct of playground upgrade works.

Required contracting services will construct works including but not limited to:

- **Removal of existing play equipment and fence**
- **Excavation**
- **New footpath**
- **Drainage**
- **Planting Bed**
- **Installation of seating drinking fountain & bins**

2. Tender Conditions

(Words in bold below are defined on the front page or in the relevant clause below)

2.1 Tender

- 2.1.1 Council invites you to make a **Tender Offer** to carry out the **Works** on the terms of these **Tender Conditions**.
- 2.1.2 **Services** means the **Works** contained in the **Specifications** specified in Part B.
- 2.1.3 **Tender Offer** means the Tender Offer in Part C.
- 2.1.4 **Tender Conditions** means these Tender Conditions in Part A.

2.2 What if I have questions about the Tender Process?

- 2.2.1. If you have any questions about the **Tender**, please email the **Council Officer** identified on the front page of this document. Requests for information must be made no less than five (5) business days before the **Closing Date & Time**. Council may not respond to any questions during the five (5) business days before the **Closing Date & Time**.
- 2.2.2. If Council responds to a written request, it will do so in writing to all prospective respondents without disclosing the identity of the prospective respondent who made the request. Council may not respond to a request to all prospective respondents if to do so would reveal confidential information.
- 2.2.3. The **Council Officer** will not respond to any verbal request for clarification regarding the **Request for Tender** (RFT).

2.3 Probity

- 2.3.1. Council is committed to fairness in all its dealings with tenderers. It is possible that people involved in contracting processes may become aware of, or has information indicating corrupt, fraudulent or unfair activity in relation to tendering or contract processes. In these circumstances, please telephone 9293 7150 and ask to speak to the Protective Disclosure Coordinator.
- 2.3.2. Alternatively any such matters can be reported to the Independent Broad-based Anti-corruption Commission (IBAC). IBAC is an independent body responsible for investigations into corruption, improper conduct and detrimental action of Government employees and officials. Reports can be made to IBAC confidentially by phone 1300 735 135 or online www.ibac.vic.gov.au

2.4 Can I discuss the Tender with a Councillor?

- 2.4.1 You must not discuss the **Tender** with any Councillor or any Council staff member other than the **Council Officer**.
- 2.4.2 If you approach a Councillor or Council staff (other than the **Council Officer**) about the **Tender**, Council has the right to disqualify you from taking any further part in this **Tender Process**.

2.5 Can I disclose or discuss my Tender with other tenderers?

- 2.5.1 Under no circumstances should you disclose the contents of your **Tender Offer** with any other party that is submitting a **Tender Offer**.
- 2.5.2 If you disclose or discuss your **Tender Offer** with any other tenderer, your **Tender Offer** may be disqualified at Council's discretion.

2.6 Will there be a Tender briefing session held by Council?

- 2.6.1 Council may conduct a Tender briefing session and, if so, you will be notified in writing.
- 2.6.2 If Council is conducting a briefing session, you must attend the session and register at the briefing or your **Tender Offer** may be considered non-conforming.

2.7 Should I obtain advice concerning my Tender Offer?

- 2.7.1 Council recommends that you obtain your own independent legal and financial advice on this **Tender**.
- 2.7.2 You should make your own enquiries concerning the **Services and or Works** to be provided and your legal obligations.
- 2.7.3 Council strongly recommends that you undertake any necessary site inspections (where applicable) so you fully understand your obligations under the Conditions of Contract in Part B.

2.8 How to make a Tender Offer?

- 2.8.1 In order to submit a **Tender Offer**, you must first register your interest through completing a **Tender Registration Form** available on the Frankston City Council Tenders webpage as soon as practicable (but no later than five clear working days prior to close of the RFT).
- 2.8.2 This will allow you to be kept informed if there are any changes or additional information for this **Tender**. Council will not be held responsible if changes have been made and a Respondent was not informed because they failed to provide Council with their details by the required date.
- 2.8.3 Council may reject **Tender Offers** where the Respondent fails to comply with clause 2.8.1
- 2.8.4 You must lodge the **Tender Offer** and supporting material in the **Electronic Tender Box** by the **Closing Date & Time** only. **Tender Offers** submitted to Council officers or Council sites will not be accepted.
- 2.8.5 You must include in the subject line of Tender Offer email the following information:
- a) Contract No: **CN10496** and
 - b) Contract Name: **John Monash Reserve Playground - Upgrade**
- 2.8.6 Each document forming the **Tender Offer** must not be greater than 20 Mb in size.
- 2.8.7 You must not withdraw the **Tender Offer** once lodged for a period of 60 days.
- 2.8.8 The **Tender Offer** (once completed and lodged pursuant to these **Tender Conditions**) constitutes an offer by you which may be accepted by Council in accordance with the **Tender Conditions** but does not give rise to a contract between you and Council, except as set out in the **Tender Conditions**.
- 2.8.9 All documents must be attached to submissions in PDF or Microsoft Office Format (Word) only. References to a Dropbox, Cloud or any other third party links will not be accepted.

2.9 What if I do not lodge the Tender Offer in accordance with the Tender Conditions?

- 2.9.1 A **Tender Offer** must be lodged in the **Electronic Tender Box** and a **Tender Offer** that is received by mail, by hand, facsimile transmission or by any method other than in accordance with these **Tender Conditions** may not be accepted.

2.10 What if there are errors in the Tender?

- 2.10.1 If Council finds that there were errors or omissions in any documents in connection with this **Tender**, Council may amend the documents and will give you written notice of the relevant amendment.
- 2.10.2 Council reserves the right to make such changes to the **Request for Tender** at any time.
- 2.10.3 Council may, with your agreement, amend any errors or omissions in the **Tender Offer**.

2.11 What additional information may Council request that I provide?

- 2.11.1 Council may require that you submit additional information concerning your **Tender Offer**, which may include further financial information, or information to verify the contents of your **Tender Offer**.
- 2.11.2 If you do not submit such additional information within the time Council requires, Council may refuse to consider your **Tender Offer**.

2.12 Supplier Code of Conduct

- 2.12.1 Council has introduced a Supplier Code of Conduct as part of its commitment to ensuring its contractors, consultants and suppliers engage in ethical behaviours when providing goods and services, including construction works and services, to Council. The code describes Council's minimum expectations for the achievement of a professional and productive work culture, characterised by the absence of any form of unlawful or inappropriate behaviour. A copy of the Code can be found on Council's web site at [Supplier Code of Conduct](#) under 'Protocols'.
- 2.12.2 Tenderers are required to complete the Commitment to Council's Supplier Code of Conduct in Part C – Tender Form (Returnable).

2.13 What if I am late in lodging the Tender Offer?

- 2.13.1 Any **Tender Offer** that is not received by the **Closing Date & Time** may be considered only in extraordinary circumstances, and then only with the specific approval of Council's Chief Executive Officer (or authorised delegated officer) having regard to any probity and legal implications.

2.14 What criteria is used to evaluate Tender Offers?

2.14.1 Council will take into account the following criteria in evaluating the **Tender Offer** listed in descending order of importance:

Tender Evaluation Criteria & Weighting:	
Criteria	Weighting (%)
1. Cost to Council	30%
2. Local Content Employment creation opportunities Local Content	5%
3. Capacity Current Commitments and Ability to Meet Project Timeframe; and Ability to Meet Technical Requirements	25%
4. Capability: Performance on Similar Projects Experience and Management Systems Methodology; and Environment & Sustainability	30%
5. Occupational Health & Safety	10%
TOTAL PERCENTAGE WEIGHTING	100%

2.14.2 It is important that you ensure that the **Tender Offer** addresses the above criteria, in order for Council to properly assess the **Tender Offer**.

2.14.3 In selecting a preferred tenderer, Council will consider the Tender evaluation panel's Report and may consider other factors in accordance with the Best Value Principles stipulated in the Local Government Act 1989 (Vic).

2.15 What are Council's rights in considering Tender Offers?

2.15.1 Council may:

- refuse to consider any non-conforming or incomplete **Tender Offer**;
- accept any **Tender Offer**, even if it is not the lowest price;
- negotiate with any tenderer including with a preferred tenderer on an exclusive basis;
- accept a **Tender Offer** which does not conform with the strict terms of the **Tender Conditions**;
- consider a **Tender Offer** which was not submitted in accordance with these **Tender Conditions**;

- choose to shortlist, interview, request demonstrations and/or site visits or do anything else it deems necessary during the evaluation process to achieve best value;
- terminate the **Tender** at any time without making an award; or
- do anything else that Council determines in its absolute discretion.

2.16 When will I know the result of the Tender?

2.16.1 Council will write to you advising whether your **Tender Offer** has been accepted or unsuccessful.

2.17 What happens if Council accepts my Tender Offer?

2.17.1 If your **Tender Offer** is accepted by Council, you will be notified in writing and be requested to sign the **Formal Instrument of Agreement** incorporating the **Conditions of Contract**.

2.17.2 Once your **Tender Offer** has been accepted and that acceptance notified to you in writing, there will be deemed to be a binding contract between you and Council.

2.17.3 Council will not consider any changes to the **Conditions of Contract** after your **Tender Offer** has been accepted by Council.

2.17.4 Should you fail to execute the **Formal Instrument of Agreement** which incorporates the **Conditions of Contract**, you will be in breach of the **Tender Conditions** and may be liable to Council for any loss Council has incurred.

2.17.5 If your **Tender Offer** is accepted by Council, the **Conditions of Contract** are binding on you, whether or not you sign the **Formal Instrument of Agreement**.

2.17.6 **Formal Instrument of Agreement** means the form of agreement in Part B.

2.17.7 **Conditions of Contract** means the Conditions of Contract in Part B which will be finalised by Council by completing all relevant information from the **Tender Offer**.

2.17.8 Council may award contracts in open Council and will publish non-confidential details of the awarded contract on the Council's website, e.g. the nature, total value and parties to the agreement. Refer to the Public Disclosure and Freedom of Information statement below.

Public Disclosure and Freedom of information statement

You acknowledge and agree that disclosure by Council of any information provided by you may be required and consent to such disclosure:

- a. under any legislation including;

- A. the *Freedom of Information Act 1982* (Vic);
 - B. the *Ombudsman Act 1973* (Vic); and
 - C. the *Audit Act 1994* (Vic);
- b. at any Council meeting in connection with the award of a contract that you have submitted a tender for; and
 - c. to satisfy any other recognised public requirement of Council.

(each a Public Disclosure Obligation).
 - d. You must use all reasonable endeavours to assist Council in meeting its Public Disclosure Obligations.
 - e. You must specify in writing any information you believe is confidential in relation to your Tender or which you may wish to be treated as exempt from classification as a Public Disclosure Obligation in any contract. You should seek their own legal advice as to the implication for you of the operation of the Freedom of Information Act 1982 (Vic).
 - f. Should you make a submission to Council under subsection (c), Council is entitled to make a determination that the specified information is not exempt from classification as a Public Disclosure Obligation.

2.18 Am I entitled to a refund of any costs I incur?

- 2.18.1 Council will not refund any costs incurred by you in making a **Tender Offer**.
- 2.18.2 Even if Council terminates the **Tender**, Council will not be responsible for any costs that you have incurred.

2.19 No creation of legal or equitable rights

- 2.19.1 This RFT is an invitation for persons to submit a proposal for the provision of the works set out in the Specification contained in Part B of this RFT.
- 2.19.2 Accordingly, this RFT must not be construed, interpreted, or relied upon, whether expressly or impliedly, as an offer capable of acceptance by any person, or as creating any legal or equitable rights.

2.20 Request does not create a binding contract

- 2.20.1 No binding contract (including a process contract) or other understanding (including any legal or equitable rights) for the supply of the works will exist between Council

and a party submitting a Response unless and until Council has signed a formal written contract following the RFT process.

2.21 Accuracy of information

2.21.1 While all due care has been taken in connection with the preparation of this RFT, Council makes no representations or warranties that the content in this RFT or any information communicated to or provided to parties providing a Response during the RFT process is, or will be, accurate, current or complete. Council and its officers, employees and advisors will not be liable with respect to any information communicated or provided which is not accurate, current or complete.