

WESTERNPORT WATER



**WESTERNPORT WATER**

Trading name for

**WESTERNPORT REGION WATER CORPORATION**

**ABN 63 759 106 755**

## **REQUEST for TENDER**

**TENDER NAME:**

**HASTINGS ST SEWER RISING MAIN REPLACEMENT**

**TENDER NUMBER: 2011/11**

**All prospective Tenderers must register by email with [westport@westernportwater.com.au](mailto:westport@westernportwater.com.au) to ensure receipt of any Addenda.**

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**TENDERS CLOSE: At 4.00pm on 12 October 2011 with**

Managing Director

Westernport Water

2 Boys Home Road

NEWHAVEN, Victoria 3925

**REQUEST for TENDER**

For

**TENDER NAME: Hastings St Sewer Rising Main Replacement****INDEX OF DOCUMENTS**

The documents listed below and associated conditions of contract, contract specifications, schedules and drawings, whether attached hereto or not, constitute the Tender Documents.

The documents marked thus # are not included at tender stage but will be included in the Contract Documents.

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VERSION CONTROL	AUTHOR/DATE	REVIEW/COMMENT	DATE
Version A	C Jayasena 22/08/11	Colin Bowker (add two BOQs, change length of replacement, add operation procedures)	9/09/2011
Version B	C Jayasena	R McNamara, S Porter (delete option b, tender for complete section,	21/09/2011
Version C	C Jayasena	S Porter	
Version D- Final	C Jayasena	R McNamara	27/09/2011



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**REQUEST for TENDER**

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**TENDER NAME:**

**HASTINGS ST SEWER RISING MAIN REPLACEMENT**

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**PART A - CONDITIONS OF TENDERING**

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**REQUEST for TENDER****For**

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**TENDER NAME: Hastings St Sewer Rising Main Replacement**

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**CONDITIONS OF TENDERING**

Westernport Region Water Corporation ("Corporation") is seeking Tenders for the construction and commissioning of Hasting Street Sewer Rising main (180mm diameter PE100 minimum pressure rating of PN10 and approximately 1050m long) along Rhyll-Newhaven Road between Phillip Island Tourist Road and McFees Road on Phillip Island

The following information is to be read in conjunction with the technical Specification which is contained in **Part B** of this Request for Tender. Where there is a conflict of information between clauses in the technical Specification and the information in this 'Conditions of Tendering', the 'Conditions of Tendering' shall take precedence.

**1 Background**

The existing Hastings St Rising Main is a 150mm Asbestos Cement (AC) pressure pipeline which is approximately 40 years old. It was originally installed as a water distribution pipeline and was changed to a sewage pumping main approximately 20 years ago. The main lies within the road reserve along the Rhyll-Newhaven Road.

The section of pipe between Phillip Island Tourist Road and McFees Road burst twice over a 2 day period in June 2011 during a period of bypass pumping. Subsequent investigation proved that the final section of this AC pipeline has a corroded obvert and it is not suitable for being placed under pressure.

This project will be the replacement of a corroded section of pumping main that is presently exposing the Corporation to the risk of sewage spills for an extended period and the cost of providing tankers to dispose of waste from the Hastings St pump station.

**2 Scope of Work**

The Corporation invites tenders from suitably qualified and experienced contractors to construct and commission a replacement sewer rising main (the Works) in accordance with all relevant standards, codes and Authority regulations and to rectify all defects within a twelve (12) month defects liability period.

The Pipeline will be constructed along the existing public road reserve from the Phillip Island Tourist Road to McFees Road. The space between the road pavement edge and the property fence line is covered with high density vegetation and construction using an open trench is not acceptable.

Therefore the Contractor shall select one of the following preferred trenchless construction methods for the replacement of the rising main:

- (a) Pipe bursting/ cracking, or

- (b) Bore adjacent to the existing rising main, or
- (c) Reline the existing pipe

The Work to be performed by the Contractor for this project comprises:

- (i) Obtain construction permits and relevant authority approval including traffic management plans
- (ii) Construct and commission the replacement rising main in accordance with the approved design and relevant authority permits
- (iii) Connect the replacement main to the existing sewer main at both ends (the scope shall include the design of the connection details depending on the construction method)
- (iv) Decommission the existing rising main as per approved procedures
- (v) Reinststate the disturbed area(s) after construction completion
- (vi) Undertake a 12 months Defects Rectification period after Practical Completion

The Contractor shall ensure that the operation of the Principal's sewerage system is not compromised by the programming of the Works, and the Contractor shall prepare work methodologies, schedule of works and risk assessments in consultation with the Principal's Operations staff before commencing any shut down or change-over procedure.

It is intended that this project will be completed not later than Friday 2<sup>nd</sup> December 2011 to enable to connect the Rising main before the Summer Holiday season.

Full details on the Scope of Works and the Principal's requirements are included in **Part B – Specification** in the Request for Tender documents

### 3 Contract Type

All goods and services required for the Works are to be provided in accordance with **Part C – Conditions of Contract –AS4000-1997 General Conditions of Contract** as described in this Request for Tender document.

All fees and prices for this Contract must be submitted in accordance with the requirements of the Request for Tender documents and must include all disbursements which are necessary to deliver the Works.

### 4 Tender Submissions

The Tenderer shall complete **all Tender Forms** and include them with their Tender.

All tenders shall be addressed to:

Managing Director  
Westernport Water  
2 Boys Home Road  
NEWHAVEN, Victoria 3925

## 5 Tender Timetable

The Principal advises Tenderers that the following timetable will apply for the tender process:

ACTIVITY	DAY	DATE
Invitation for RFT	Wednesday	28 September 2011
Site Visit*	Wednesday	10:00am 5 October 2011
Tender Closing Date	Wednesday	4pm 12 October 2011
Announcement of Successful Tender	Friday	21 October 2011

**\*Site Visit:** *The Principal is conducting an optional (non-mandatory) site visit and project briefing session at the Site.*

*Tenderers are expected to visit the site of the proposed works during the tender period to ascertain the extent of the works, the conditions existing at the site and the specific site issues associated with undertaking the works.*

## 6 Principal's Representative:

All Tenderer's enquiries during the tender period should be directed in the first instance to:

Mr Chaminda Jayasena –Project Manager  
 Westernport Water  
 2 Boys Home Road, Newhaven, Victoria 3925  
 Telephone: (03) 5956-4149, or 0400 797 976  
 Facsimile: (03) 5956-4101  
 E-mail: [cjayasena@westernportwater.com.au](mailto:cjayasena@westernportwater.com.au)

Tenderers who wish to make a site inspection during the tender period can make the necessary arrangements by contacting the Principal's Representative.

## 7 Tender Lodgement

Tenders not lodged in the Tender Box by the designated tender closing time will not be considered by the Principal.

Tenders may be lodged by hand delivery, or by mail, or by e-mail or by facsimile (fax):

7.1 Hand Delivery and Mail Lodgement:	
Address of Tender Box	Tender Box, 2 Boys Home Road, NEWHAVEN, VICTORIA 3925
Tender Box Hours	8:30am – 5pm, Monday - Friday
Lodgement Requirements	<ol style="list-style-type: none"> <li>1. Tenderers shall include an electronic copy of the submission</li> <li>2. It is the Tenderer's responsibility to ensure that mailed submissions reach the Principal in sufficient time to enable Principal staff to place them in the Tender Box before tender closing time.</li> </ol>

<b>7.2 Email Lodgement</b>		
Address of Tender Box	<a href="mailto:tender@westernportwater.com.au">tender@westernportwater.com.au</a>	
Lodgement Requirements	<ol style="list-style-type: none"> <li>1. The Tenderer shall ensure that the e-mail is received in sufficient time for Principal staff to print the documents and then place them in the Tender Box before the tender closing time.</li> <li>2. The Tenderer shall time/date stamp and post the original tender documentation to verify that the documents were emailed before the closing time.</li> <li>3. Confidentiality of emailed documents cannot be guaranteed</li> </ol>	
<b>7.3 Facsimile Lodgement</b>		
Address of Tender Box	Fax number 03 5956 4101	
Lodgement Requirements	<ol style="list-style-type: none"> <li>1. The Tenderer shall ensure that the fax is received in sufficient time for the Principal's staff to place the documents in the Tender Box before the closing time.</li> <li>2. The Tenderer shall time/date stamp and post the original tender documentation to verify that the documents were faxed before the closing time.</li> <li>3. Confidentiality of faxed documents cannot be guaranteed</li> </ol>	
<b>7.4 Label on Tender Submissions</b>		
The information to be marked on Tender submissions including envelopes, email message headers and facsimile cover sheets	Tender Name:	Hastings St Sewer Rising Main Replacement
	Tender Number:	2011/11
	<b>Tender Closing Time/Date</b>	<b>4pm on 12 October 2011.</b>

Failure to comply with these conditions will render the Tender non-conforming.

## 8 Discrepancies in Tender Documents

Upon receipt of the Tender documents the Tenderer shall immediately check that all pages and attachments of the Technical Specification and the accompanying documents have been received in legible form.

If a Tenderer becomes aware of any discrepancies or omissions in the documents, they shall immediately notify the Principal in writing, and such notice shall be not later than the day prior to tender closing time.

No claim will be recognised as resulting from failure to receive such documents, or receipt in incomplete or illegible conditions.

## 9 Differences in Tender Words and Figures

Where there is any difference between prices or amounts quoted in words and in figures, then the words shall prevail.

In the event that documentation comprising the Contract contains any discrepancy or

inconsistency then the order of precedence shall be;

- i) Covering letters including any letter accompanying the tender, the tender forms, any Addenda issued to the Tenderers, and the letter of acceptance of the tender
- ii) Technical Specification
- iii) Drawings
- iv) The Conditions of Contract

## **10 Corrections**

Any corrections made by Tenderers in any document forming part of their tender submission shall be made by ruling out the information to be omitted and inserting the corrected information. The Tenderer shall initial all such corrections.

## **11 Information Made Available to Tenderers**

The Principal will make available any information relevant to the Works. However, this information is owned by the Principal and may not be complete or current. It is the Tenderer's responsibility to confirm and acquire any outstanding information required to complete the Tender.

## **12 Tenderers to Inform Themselves Fully**

If a Tenderer has any doubt as to the meaning of any portion of the Tender Documents they shall either:

- (i) ask the Principal for clarification, which clarification shall be valid only if issued in writing; or
- (ii) submit the Tender and include a statement of the interpretation upon which they rely and on which their Tender has been prepared

Any clarification given pursuant to this clause may also be issued to all other prospective Tenderers.

## **13 Responsibility for Works**

If in the opinion of the Tenderer, any specified details of the proposed Works or programming are likely to prevent them from, or prejudice them in fulfilling any of their obligations under the Contract, they shall submit details thereof with their tender, shall tender primarily in accordance with the technical specification, and shall submit price variations and full details of the changes they suggest.

## **14 Tendering Considerations**

### **14.1 Rise and Fall**

Rise and fall adjustments shall not apply to this tender.

All prices shall be fixed for the duration of the Contract.

#### **14.2 Monthly Payment Arrangements**

Tenderers shall allow for progress payment claims to be processed monthly and payments to be made within 30 days of approval of the claims unless described otherwise in Part C of the Request for Tender documents.

The processing of payment claims shall be subject to the requirements of the Security of Payment Act (the Building and Construction Industry Security of Payment Act 2002 Victoria) legislation.

#### **14.3 Insurance**

Tenderers shall note that Principal Controlled Contract Works Insurance applies to this Contract; therefore Tenderers shall **not** include the cost of Contract Works Insurance in the pricing of preliminaries and overheads for the Works.

Tenderers shall provide evidence of the currency of insurances listed in **Schedule 10**.

#### **14.4 Security Deposit**

The successful Tenderer shall be required to lodge a security deposit with the Principal upon being awarded the Contract and before the Commencement Date of the Contract. The amount of the security deposit is as specified in Clause 5 of the Contract and in **Item 13 (a) of the Annexure Part A** of the Contract.

The security deposit shall be refunded in full at the date of Practical Completion unless the Contractor has defaulted in the performance of the Contract, in which case the Principal shall deduct sufficient monies to remedy the default from the security deposit before refunding the balance of the security deposit.

The security deposit shall be lodged with the Principal either in cash or in the form of a guarantee from an Australian financial institution.

The security deposit shall be in addition to retention moneys held by the Principal on progress payment claims as specified in **Item 13 of Annexure Part A** of the Contract.

#### **14.5 Tender Validity Period**

The tender shall remain valid and open for acceptance for a period up to **90 days** after the tender closing date.

### **15 Assessment of Tenders Received**

An analysis of the tender will be undertaken based on the information provided in the tender documents, the information obtained at interviews and information obtained from referees and other official sources.

### **16 Tender Evaluation Criteria**

The Principal will evaluate tenders on the basis of how adequately they meet the requirements for the Works as outlined in the Request for Tender.

The intent of the evaluation criteria is to ensure that the Principal selects the tender that offers the best value for money.

Each tender shall be scored for how well it meets each requirement on a scale of 0 to 5 (with 5 being the best score). The Principal has established weightings for each requirement. The weighting shall be applied to each score to give an overall score for each requirement.

Tenderers shall note that in this tender the following weightings will be applied to the information submitted in the tender responses:

<b>Tender Criteria</b>	<b>Weighting %</b>
Experience in similar type of construction, References	20
Systems: OH&S, Quality, Environment	20
Construction: Program, Risk Assessment, Project Plan, Methodology	20
Tender Price	40
<b>Total</b>	<b>100</b>

The Successful Tender will be the tender that achieves the highest weighted score.

## **17 Alternative Tenders**

An alternative, non conforming tender may be submitted and will receive consideration provided a conforming tender is also submitted by the Tenderer. The Tenderer shall provide information to adequately describe the alternative tender and submit any further information that the Principal requests for the purpose of assessing the alternative tender.

The Tenderer shall clearly state the benefits associated with the alternative tender. There shall be significant advantage to the Principal and a sound basis for the alternative proposal if an alternative tender is to be accepted.

Alternative tenders will be assessed using the same criteria as for the conforming tenders.

## **18 Informal Tenders**

Any Tender may be rejected which does not comply with the requirements of, or which contains provisions not required by, the Request for Tender documents.

## **19 Acceptance of Tender**

It is anticipated that the Principal will approve the successful Tenderer on the date listed in **Section 5**. The successful Tenderer will receive written notification as soon as practicable after that date.

Following the Principal's acceptance of the tender the Successful Tenderer shall execute the

Contract and return it to the Principal for execution.

The Principal will not be bound to accept, designate or nominate the lowest or any tender for this Contract.

## **20 Document Ownership and Record Keeping**

Documents that comprise the Tender submission will become the property of the Principal, and shall be stored by both the Tenderer and the Principal for the period of time specified in **Section 12 Public Records Act 1973** (PROV).

## **21 Victorian Industry Participation Plan (VIPPP)**

This tender is **not** subject to the requirements of the Victorian Industry Participation Policy (VIPPP)

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**REQUEST for TENDER DOCUMENTS**

for

**TENDER NAME: Hastings St Sewer Rising Main Replacement**

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**10 PART A TENDERING FORMS and SCHEDULES**

The documents upon which the Tenderer is to tender are all the documents contained in Part A, Part B and Part C of this Request for Tender.

The documents contained in Part A that must be completed by the Tenderer and which will form part of the executed Contract are:

- 1. SCHEDULE 1: TENDER FORM**
- 2. SCHEDULE 2: SCHEDULE OF PRICES (SCHEDULE 2B, 2C)**
- 3. SCHEDULE 3: LABOUR, PLANT AND EQUIPMENT RATES**
- 4. SCHEDULE 4: TENDERER'S KEY PERSONNEL, SUBCONSULTANTS, EXPERIENCE & REFEREES**
- 5. SCHEDULE 5: TENDERER'S OHS MANAGEMENT SYSTEM & QUESTIONNAIRE**
- 6. SCHEDULE 6: TENDERER'S QUALITY ASSURANCE SYSTEM**
- 7. SCHEDULE 7: TENDERER'S PROJECT MANAGEMENT PLAN AND RISK ASSESSMENT**
- 8. SCHEDULE 8: TENDERER'S CONSTRUCTION ENVIRONMENT MANAGEMENT PLAN (CEMP)**
- 9. SCHEDULE 9: TENDERER'S CONSTRUCTION PROGRAM AND CASH FLOW FORECAST**
- 10. SCHEDULE 10 – TENDERER'S INSURANCE POLICIES & GST REGISTRATION**
- 11. SCHEDULE 11 – TENDER WORK METHODOLOGY AND TECHNICAL DETAILS**
- 12. SCHEDULE 12: LETTER OF ACCEPTANCE#**
- 13. SCHEDULE 13: FORM OF FORMAL INSTRUMENT OF AGREEMENT#**



**REQUEST for TENDER DOCUMENTS**

For

**TENDER NAME: Hastings St Sewer Rising Main Replacement****SCHEDULE 2: SCHEDULE of PRICES**

Item	Description	Amount (\$) Excluding GST
1	Renewal of Sewer Rising main – (Total of Schedule 2A)	

**Note:**

- (i) The GST exclusive Tender Amount in Schedule 2 is to be transferred to the Tender Forms in Schedule 1.
- (ii) Payment Claims under the Contract shall be based on the breakdown of the lump sum price of the tender as stated in this Schedule.
- (iii) Each item shall be separately priced and in ink. Tenders, in which items and prices are grouped together, may not be considered.
- (iv) All prices to be in Australian dollars exclusive of GST.
- (v) General obligations, overheads, profit, liabilities and the cost of complying with the provisions of the Conditions of Contract, where not separately itemised in the Schedule shall be deemed to be included in all prices given.

**SCHEDULE 2A: DETAILED PRICES**

The Tenderer shall provide a comprehensive and complete cost breakdown of the Works in support of **Schedule 2A**. The Tenderer shall include all costs in detailed cost breakdowns below.

**Replacement of Section A to C (1050m)**

Item	Description	Amount (\$)
<b>1.</b>	<b>Preliminaries</b>	
1.1	Site mobilisation & demobilisation	
1.2	Traffic management	
1.3	Authority approvals (if necessary)	
1.4	Other	
<b>Sub-Total</b>		
<b>2.</b>	<b>Renewal of Sewer main</b>	
2.1	Excavation/ boring / pipe bursting	
2.2	Supplying, welding and installation of 180mm diameter PE100 PN10 (or higher) pipes	
2.3	Connections to the Existing sewer main	
2.4	Decommissioning of the old sewer main (if necessary)	
2.5	Other	
<b>Sub-Total</b>		
<b>3.</b>	<b>Testing &amp; commissioning</b>	
3.1	Reinstatement of roadways, driveways and kerbs	
3.2	Restoration of all disturbed areas	
3.3	Testing and commissioning of the new pipeline	
3.4	Other	
<b>Sub-Total</b>		
<b>4.</b>	<b>Total Amount (GST Exclusive)</b>	

**Tenderers shall complete all the above tables and include any other significant cost items in the tables**

## REQUEST for TENDER DOCUMENTS

for

**TENDER NAME: Hastings St Sewer Rising Main Replacement**

### SCHEDULE 3: LABOUR, PLANT and EQUIPMENT RATES

1. The Tenderer is required to state its labour charges per hour for the various classes of labour, plant and equipment it proposes to use on the project in Tables 3.1 and 3.2 of this Schedule.
2. All rates must be in Australian dollars exclusive of GST.
3. All rates and charges must include on-costs and all associated allowances, including allowances for profit and overheads.
4. The rates, charges and on-costs set out in this Schedule will be used to determine the value of Variations as described in the **Conditions of Contract in Part B & C**.

**Table 3.1 –LABOUR**

Item	Description	Rate(\$/hr) Excl GST
	Foreman/Supervisor	
	Skilled Labourer	
	Plant Operator	
	Other	

**Note: The above descriptions are to be used as a guide. Tenderers must include all relevant personnel who will be engaged to deliver the goods and service they are offering**

**Table 3.2 –PLANT & EQUIPMENT**

Plant/Equipment	Capacity/Details	Rate(\$/hr) Excl GST	Stand-By rate (\$/hr) Excl GST
Truck			
Back-Hoe			
Pump			
Compressor			
Etc			

**Note: The above descriptions are to be used as a guide. Tenderers must include all relevant plant & equipment that will be used to deliver the works they are offering**

**Table 3.3 –RATES FOR VARIATIONS TO PIPELINE WORKS**

<b>Item</b>	<b>Description</b>	<b>Unit</b>	<b>\$ (Excl GST)</b>
1.	Trenchless boring, Pipe bursting or Relining (ID after installation 150mm)	per m	
2.	Supply of 180mm PE100 PN10 pipes	per m	
3.	Welding and Installation of 180 mm diameter pipes	per m	
4.	Traffic management	per day	
5.	Any other	per m	

**Note: The above items must be priced, and Tenderers may include other relevant units that may be subject to change during the design development phase.**

## REQUEST for TENDER DOCUMENTS

For

**TENDER NAME: Hastings St Sewer Rising Main Replacement**

### SCHEDULE 4: TENDERER'S KEY PERSONNEL, SUBCONSULTANTS, EXPERIENCE & REFEREES

Tenderers are required to submit details of their proposed Key Project Personnel and their relevant experience, covering the roles of Design and Construction and should include personnel servicing each of the key disciplines.

Tenderers must also provide an outline / chart of their company structure showing how the relevant personnel are included in the company structure.

#### Schedule 4.1: Key Personnel

Role	Name of Person Assigned	Experience/Qualifications
Project Manager		
Engineer		
Site Supervisor		

**Note: The above descriptions are given as a guide only. Each Tenderer is to include the specific classification and skills of their team members who are deemed necessary to work on this project.**

#### Schedule 4.2: Nominated Sub-Contractors, Suppliers, Consultants

The Tenderer is required to nominate those parts of the Works it proposes to subcontract and details of the Sub-consultants it proposes to engage:

Work/Role Sub-Contracted	Sub-Contractor, Supplier, Consultant	Contact Person	Contact Person Phone

**Schedule 4.3: Experience and Referees**

The Tender shall provide a list of recent projects of a similar nature it has undertaken and provide names and contact details of four (4) referees for the Tenderer's company, the major sub-contractors and the-consultants:

<b>Client</b>	<b>Project Description</b>	<b>Referee</b>	<b>Telephone No</b>

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**REQUEST for TENDER DOCUMENTS****For****TENDER NAME: Hastings St Sewer Rising Main Replacement**

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**SCHEDULE 5: TENDERER'S OHS MANAGEMENT SYSTEM & QUESTIONNAIRE**

Tenderers shall provide their company Occupational Health and Safety Management System with the Tender response including evidence of any accreditations for the system (eg AS/NZ 4801 OH&S Management System).

Tenderers shall complete the certification schedule and the questionnaire on the following pages. This questionnaire forms part of the tender evaluation process.

Tenderers shall complete the questionnaire to provide an overview of the status of the Tenderers' OHS Management System which shall form the basis of audits during the Works.

**TENDERER OHS CERTIFICATION**

<b>Certification</b>	
The information provided in this questionnaire is an accurate summary of the Tenderer's OHS Management System.	
<b>Tenderer's Name:</b> .....	
<b>Status of Health &amp; Safety Management System</b> (please tick as appropriate)	
<p>1.   <input type="checkbox"/> Pre-qualified Department of Infrastructure (DOI) Construction Supplier Register</p> <p>2.   <input type="checkbox"/> Pre-qualified VicRoads Registration Scheme</p> <p>3.   <input type="checkbox"/> 3<sup>rd</sup> Party Accredited OHSMS (specify.....)</p>	
Provide a copy of current certificate of accreditation	
<b><u>If any of the above apply, then complete only Parts 6.3 and 7 of the questionnaire</u></b>	
<b><u>If none of the above apply, then complete all items of the questionnaire</u></b>	
<p>4.   <input type="checkbox"/> Assessment of Tenderer's system to be made by Westernport Water</p>	
Signed: .....	Name: .....
Position: .....	Date: .....
<b>Contract Details</b>	
Contract Name: <b>Hastings St Sewer Rising Main Replacement</b>	Contract Number: <b>2011/11</b>

**TENDERER OHS MANAGEMENT SYSTEM & QUESTIONNAIRE**

Tenderers shall provide detailed responses about their OHS Management System in the following questionnaire.

		Yes	No
<b>1</b>	<b>OHS Policy and Management</b>		
1.1	Is there a written OHS policy?		
	<i>If yes provide a copy of policy. Comments.</i> ..... ..... .....		
1.2	Has the Contractor previously had an OHS Management System certified/accredited by a recognised independent authority (eg: SafetyMAP, NSCA, etc)?		
	<i>If Yes provide details</i> ..... ..... .....		
1.3	Is there an OHS Management System manual or plan?		
	<i>If yes provide a copy of contents page(s). Comments</i> ..... .....		
1.4	Are OHS responsibilities clearly identified for all levels of staff?		
	<i>If Yes provide details:</i> ..... ..... ..... ..... ..... ..... .....		
<b>2</b>	<b>Safe Work Practices and Procedures</b>		
2.1	Has the Contractor prepared safe operating procedures or specific safety instructions relevant to its operations?		

		Yes	No
	<p><i>If yes, provide a summary listing of procedures or instructions.</i>  <i>Comments</i></p> <p>.....</p> <p>.....</p> <p>.....</p>		
2.2	<p>Does the Contractor have any permit to work systems?</p>		
	<p><i>If Yes, provide a summary listing or permits:</i></p> <p>.....</p> <p>.....</p> <p>.....</p>		
2.3	<p>Is there a documented incident investigation procedure?</p>		
	<p><i>If Yes provide a copy of a standard incident report form.</i></p>		
2.4	<p>Are there procedures for maintaining, inspecting and assessing the hazards of plant operated/owned by the Contractor or supplied to the Contractor?</p>		
	<p><i>If Yes, provide details</i></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>		
2.5	<p>Are there procedures for storing and handling hazardous substances?</p>		
	<p><i>If Yes, provide details</i></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>		
2.6	<p>Are there procedures for identifying, assessing and controlling risks associated with manual handling?</p>		

		Yes	No
	<p><i>If Yes, provide details</i></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>		
<b>3</b>	<b>OHS Training</b>		
3.1	<p>Describe how OHS training is conducted in your organisation</p> <p>.....</p> <p>..</p> <p>.....</p> <p>.....</p> <p>.....</p>		
3.2	<p>Is a record maintained of all training and induction programs undertaken for employees in your organisation?</p>		
	<p><i>If Yes, provide examples of safety training records</i></p> <p>.....</p> <p>.....</p> <p>.....</p>		
<b>4</b>	<b>OHS Workplace Inspection</b>		
4.1	<p>Are regular OHS inspections at worksites undertaken?</p>		
	<p><i>If Yes, provide details:</i></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>		
4.2	<p>Are standard workplace inspection checklists used to conduct OHS inspections?</p>		

		Yes	No
	<p><i>If Yes, provide details or examples:</i></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>		
4.3	<p>Is there a procedure by which employees can report hazards at workplaces?</p>		
	<p><i>If Yes, provide details</i></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>		
<b>5</b>	<b>OHS Consultation</b>		
5.1	<p>Is there a workplace OHS committee?</p>		
5.2	<p>Are employees involved in decision making over OHS matters?</p>		
	<p><i>If Yes, provide details</i></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>		
5.3	<p>Are there employee elected representatives?</p>		
	<p><i>Comments</i></p> <p>.....</p> <p>.....</p> <p>.....</p>		

		Yes	No
<b>6</b>	<b>OHS Performance Monitoring</b>		
6.1	Is there a system for recording and analysing OHS performance statistics?		
	<i>If Yes provide details:</i> ..... ..... .....		
6.2	Are employees regularly provided with information on your organisation's OHS performance?		
	<i>If Yes, provide details:</i> ..... ..... .....		
6.3	Has the Contractor ever been convicted of an occupational health and safety offence?		
	<i>If Yes, provide details:</i> ..... .....		
<b>7</b>	<b>References for OH&amp;S</b>		
7.1	Please provide information for three (3) recent projects in the table below which the Principal shall contact for reference purposes		
	<b>Project 1</b>	<b>Project 2</b>	<b>Project 3</b>
Project Description			
Client Name			
Client Contact			
Client Phone No			
Number of person days on contract			
Number of lost time injuries			
Total person days lost due to injuries			

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**REQUEST for TENDER DOCUMENTS****For****TENDER NAME: Hastings St Sewer Rising Main Replacement**

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**SCHEDULE 6: TENDERER'S QUALITY ASSURANCE SYSTEM**

Tenderers shall provide their company Quality Assurance System with the Tender response including evidence of any accreditations for the system (eg AS/NZS ISO 9001 Quality System).

Tenderers shall provide evidence of the following in their tender response:

1. How the Contractor shall maintain procedures and processes that ensure the accuracy of work and the immediate communication of any problems in the performance of the Works described in the ***Technical Specification***.

Evidence of all quality accreditations held by the Contractors, the Contractor's employees and the sub-Contractors.

**(To be provided by the Successful Contractor)**

The Contractor shall prepare a Quality Plan for the testing and commissioning phase of the Works.

**REQUEST for TENDER DOCUMENTS****For****TENDER NAME: Hastings St Sewer Rising Main Replacement**

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**SCHEDULE 7: TENDERER'S PROJECT MANAGEMENT PLAN and RISK ASSESSMENT**

Tenderers must provide their company Project Management System with the Tender response and the proposed draft Project Management Plan for the Works which must include:

- i) work methodologies and construction techniques proposed; and
- ii) procedures applicable to risks associated with implementing the Works outside of Quality, OH&S and Environmental Management

The Successful Tenderer shall also establish a detailed Project Management Plan specific to the Works.

**(To be inserted after the Contract is awarded)**

The detailed Project Management Plan shall be submitted to the Superintendent for review within two (2) weeks of Commencement Date of the Contract.

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**REQUEST for TENDER DOCUMENTS****For****TENDER NAME: Hastings St Sewer Rising Main Replacement**

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**SCHEDULE 8: TENDERER'S CONSTRUCTION ENVIRONMENT MANAGEMENT PLAN (CEMP)**

Tenderers must provide their company Environmental Management System with the Tender response.

The CEMP shall identify and document potential environmental hazards and the corresponding measures for prevention and management. Documentation must be developed and included in the Plan to evidence this process.

The Contractor shall implement procedures to avoid environmental damage during construction of the Works as detailed in the CEMP.

**(To be inserted after the Contract is awarded)**

***CEMP Content***

The CEMP shall cover, but shall not be limited to, the following items in the Construction works:

- i) Works Environmental Policy;
- ii) Flora and Fauna protection;
- iii) Environmental Complaints, Training and Audits;
- iv) Landscaping/Remediation Works;
- v) Water Quality, Erosion and Sedimentation Control;
- vi) Air Quality and Dust Suppression;
- vii) Expected noise levels and attenuation measures;
- viii) Prevention of waste entering any surface water environments;
- ix) Waste disposal and management;
- x) Emergency/Contingency Action Plans;
- xi) Cleanup of spills and site remediation;
- xii) Ground Vibration; and
- xiii) Statutory Approvals

The Contractor's CEMP shall be submitted to the Superintendent for review at least two (2) weeks prior to the planned date of commencement of Works on the site.

**REQUEST for TENDER DOCUMENTS****For****TENDER NAME: Hastings St Sewer Rising Main Replacement**

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**SCHEDULE 9: TENDERER'S CONSTRUCTION PROGRAM and CASH FLOW FORECAST**

Tenderers are to provide a preliminary Construction Program (MS Project or equivalent) that outlines the proposed construction and commissioning timetable as well as any other significant dates such as hold points and milestone dates with the Tender.

Also, the Tenderer must provide a forecast of monthly cash flows up to, and including, Practical Completion for the Works.

**(To be inserted after the Contract is awarded)**

The Contractor shall submit a Construction Program and cash flow to the Superintendent within two (2) weeks of Commencement Date of the Contract.

## REQUEST for TENDER DOCUMENTS

For

**TENDER NAME: Hastings St Sewer Rising Main Replacement**

### SCHEDULE 10 – TENDERER’S INSURANCE POLICIES & GST REGISTRATION

#### 10.1 GST

Tenderers shall provide proof of registration for GST.

#### 10.2 Insurances

The Tenderer is required to provide evidence and currency of its insurance policies in the following table.

Insurance Type	Insured Amount (\$)	Expiry Date	Insurer
Public Liability	\$10,000,000		
Workers' Compensation (Work Cover)			
Long Service Leave & Superannuation			

#### Note to Tenderers:

The Principal shall provide Principal Controlled Contract Works Insurance for the Works. Tenderers **shall exclude** the cost of Contract Works insurance from their Tender prices.

The Successful Tenderer shall supply the Principal's Representative with the current policy details for each Insurance Type within two (2) weeks of the Commencement Date

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**REQUEST for TENDER DOCUMENTS****For****TENDER NAME: Hastings St Sewer Rising Main Replacement**

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**SCHEDULE 11 – TENDER WORK METHODOLOGY AND TECHNICAL DETAILS**

The work methodology details completed by the Tenderer during the Tender period shall be submitted under this Schedule, and shall provide a full and comprehensive description of the proposed works method statement and associated technical details.

Considerations will include the management of operational issues such as temporary shut down of the pumping main, arrangement of tankers and environmental risk.

The details and information required with the Tender work method statement shall be inclusive of, but not necessarily limited to, the following:

- 11.1 Description of the works methodology**, including trenchless construction method, works site setup, pipe storing and welding, pipe pulling and installation, reinstatement works, re-vegetation allowances, location and verification of other services.
- 11.2 Description of temporary work arrangement including**, shut down requirements, operational arrangement, temporary sewer tankers etc while working on live sewer mains.
- 11.3 Description of the preliminary route alignment proposal**, including the process to assess and resolve vegetation and traffic management issues with Bass Coast Shire Council requirements
- 11.4 Management of private property access**
- 11.5 Details of other Authority requirements** that will need to be obtained or satisfied prior to pipe line construction commencing
- 11.6 Risk and hazard assessment** of all activities associated with construction of the pipeline
- 11.7 Methodology of the pipeline pressure testing** that will be implemented prior to Practical Completion

The Tender Design details submitted shall be comprehensive, and must clearly and unambiguously define the methodology that will be used in the Detailed Design and Construction of the Works.

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**REQUEST for TENDER DOCUMENTS**

**For**

**TENDER NAME: Hastings St Sewer Rising Main Replacement**

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**SCHEDULE 12: LETTER OF ACCEPTANCE#**

**Letter of Acceptance (Not Attached)**

*(To be inserted, when contract is awarded)*

**SCHEDULE 13: FORM of FORMAL INSTRUMENT OF AGREEMENT#**

**Form of Formal Instrument of Agreement AS 4950-2006 (Not Attached)**

*(To be inserted, when contract is awarded)*

**WESTERNPORT WATER**

Trading name for

**WESTERNPORT REGION WATER CORPORATION****ABN 63 759 106755****PART B - SPECIFICATIONS****REQUEST for TENDER DOCUMENTS****for****TENDER NAME: Hastings St Rising Main Replacement**

This document contains the Specification of the Works to be provided by the Contractor.

The Specification contains requirements for the preparation and delivery of various plans, meetings and notifications for issue to the Principal at different phases and times of the project. The Principal shall assess the performance of the Contractor in meeting these requirements (Performance Standards) as well as how effectively the Contractor delivers the project outcomes for the Pipeline.

The Principal shall notify the Contractor of any failure(s) to meet Performance Standards and require the Contractor to advise the Principal of the steps, time and processes to be taken to remedy the failure to perform.

The Principal shall have the right to notify the Contractor of a breach of contract if the failure to perform is of a serious or continuous nature.

**WESTERNPORT WATER**

Trading name for

**WESTERNPORT REGION WATER CORPORATION****ABN 63 759 106755****PART C – CONDITIONS OF CONTRACT****REQUEST for TENDER DOCUMENTS****for****TENDER NAME: Hastings St Sewer Rising Main Replacement**

The Conditions of Contract that will apply to the Works are **AS4000-1997 General Conditions of Contract**. The successful Tenderer will be required to execute a contract with the Principal which contains these Conditions of Contract before commencing the Works.

The Conditions of Contract are not attached to the Request for Tender documents but are available on request from the Principal's Representative during the tender period.

The Preferred Tenderer will be required to complete the following contract forms prior to the execution of the Contract;

- (i) **Annexure Part A to AS4000-1997**

The completed forms will form part of the Contract.

## ANNEXURE PART A to General Conditions of Contract AS4000 – 1997

ANNEXURE to the Australian Standard General Conditions of Contract		<b>Part A</b>
This Annexure shall be completed and issued as part of the tender documents and, subject to any amendments to be incorporated into the <i>Contract</i> , is to be attached to the General Conditions of Contract and shall be read as part of the <i>Contract</i> .		
<i>Item</i>		
1	Principal (clause 1)	Westernport Region Water Corporation ACN; 759 106 755 .....ABN 63 759 106 755
2	Principal's <i>address</i>	2 Boys Home Road, NEWHAVEN, VICTORIA, 3925 Phone 03 5956 4100 .....Fax 03 5956 4101
3	Contractor (clause 1)	..... ..... ACN ..... ABN .....
4	Contractor's <i>address</i>	..... ..... Phone ..... Fax .....
5	Superintendent (clause 1)	Mr Steven Porter, General Manager Operations Westernport Region Water Corporation
6	Superintendent's <i>address</i>	2 Boys Home Road, NEWHAVEN, VICTORIA, 3925 Phone 03 5956 4100 Fax 03 5956 4101
7	(a) Date for practical completion or Period of time for practical completion (clause 1)	2 <sup>nd</sup> December 2011
8	Governing law (page 5 clause 1(h))	Victoria
9	(a) Currency (page 5 clause 1(g))	Australian Dollars (\$AUD)
	(b) Place for payments (page 3, clause 1(g))	2 Boys Home Road, NEWHAVEN, VICTORIA, 3925
	(c) Place of business of bank (page 3, clause 1(d))	National Australia Bank, Cowes

10	Bills of Quantities (subclause 2.2) (a) Alternative Applies (b) If alternative 2 applies, is the bill of quantities to be priced (c) Lodgement time (subclause 2.3(b))	Not Applicable
11	Quantities in <i>schedule of rates</i> , limits of accuracy (subclause 2.2)	Upper limit Five (10%) Lower Limit Five (10%)
12	Provisional Sum, percentage for profit and attendance (Clause 3)	Not applicable
13	Contractor's security	
	(a) Form (clause 5)	Cash, or an Irrevocable Bank Guarantee from a recognised Australian Financial Institution .....
	(b) Amount or maximum percentage of <i>contract sum</i> (clause 5)	5%
	(c) If retention moneys, percentage of each progress certificate (clause 5 and subclause 37.2)	Ten (10)%, until the limit in <i>Item 13(b)</i>
	(d) Time for provision (except for retention moneys) (clause 5)	Within 28 days after <i>date of acceptance of tender</i>
	(e) Additional <i>security</i> for unfixed plant and materials (subclauses 5.4 and 37.3)	..... ..... \$ .....
	(f) Contractor's security <i>upon</i> certificate of practical completion is reduced by (subclause 5.4)	50% of amount held
14	Principal's security	
	(a) Form (clause 5)	Not applicable
	(b) Amount or maximum percentage of <i>contract sum</i> (clause 5)	Not applicable
	(c) Time for provision (clause 5)	Not applicable

	(d) Principal's security upon certificate of practical completion is reduced by (subclause 5.4)	Not applicable	
15	Principal-supplied documents (subclause 8.2)	Document	No. of copies
		Request for Tender "Hastings St Rising Main Replacement"	1
16	Documents, numbers of copies, and the times or stages at which they are to be supplied by the Contractor (subclause 8.3)	<p>Within 2 weeks of Execution of Contract</p> <ul style="list-style-type: none"> <li>• Works Program</li> <li>• OH&amp;S Plan/System</li> <li>• Project Management Plan</li> <li>• Construction Environment Management Plan (CEMP)</li> </ul> <p>At least 2 weeks prior to On site (construction) commencing</p> <ul style="list-style-type: none"> <li>• Confirmation of work sites</li> <li>• Updated Project Management Plan / Works Program</li> <li>• Traffic Management Plan</li> <li>• Relevant approvals (Road opening permits etc)</li> <li>• Risk Management Plan</li> </ul>	
16	Time for Superintendent's direction about documents (subclause 8.3)	14 days	
17	Subcontract work requiring approval (subclause 9.2)	<i>Work by consultants</i>	<i>Work by others</i>
		.....	.....
		.....	.....
		.....	.....
		.....	.....
		.....	.....
18	Novation (subclause 9.4)	Subcontractor <i>or</i> selected subcontractor, as the case may be	Particular part of the preliminary design <i>or</i> selected subcontract work, as the case may be
		Not Applicable	Not Applicable
19	Legislative requirements		
	(a) Those excepted (subclause 11.1)		

	(b) Identified <i>WUC</i> (subclause 11.2(a)(iii))	
20	Insurance of <i>the Works</i> (clause 16)	Principal Controlled Insurance applies
	(a) Alternative applying	Principal Controlled Insurance applies
	If Alternative 1 applies	
	(b) Provision for demolition and removal of debris	
	(c) Provision for consultants' fees <i>and</i> Principal's consultants' fees	
	(d) Value of materials or things to be supplied by the Principal	
	(e) Additional amount or percentage	
21	Public liability insurance (clause 17)	
	(a) Alternative applying	Alternative 1 applies
	If Alternative 1 applies	
	(b) Amount per occurrence shall be not less than	Ten Million Dollars ( \$10,000,000)
22	(a) Time for giving access (subclause 24.1)	Within 5 days of <i>date of acceptance of tender</i>
	(b) Time for giving possession (subclause 24.1)	Within 14 days of <i>date of acceptance of tender</i>
23	Qualifying causes of delay, causes of delay for which EOTs will not be granted (page 3, paragraph (b)(iii) of clause 1 and subclause 34.3)	Nil
24	Liquidated damages, rate (subclause 34.7)	Nil
25	Bonus for early practical completion (subclause 34.8)	Nil
	(a) Rate	
	(b) Limit	
26	Delay damages and other compensable causes (page 1, clause 1 and subclause 34.9)	
27	Defects Liability period (clause 35)	Twelve (12) months

28	Progress Claims (subclause 37.1)	
	(a) Times for progress claims	The first (1 <sup>st</sup> ) Thursday of each month for <i>WUC</i> done to the last day of the preceding month
	OR	
	(b) Stages of <i>WUC</i> for progress claims	Not Applicable
29	Unfixed plant and materials for which payment claims may be made (subclause 37.3)	.....
30	Interest rate on overdue payments (subclause 37.5)	.....
31	(a) Time for Principal to rectify inadequate possession (subclause 39.7)	14 days
32	Arbitration (subclause 42.3)	
	(a) Person to nominate an arbitrator	President of the Institute of Arbitrators & Mediators Australia
	(b) Rules for arbitration	(a) rules 5–18 of the Rules of The Institute of Arbitrators & Mediators Australia for the Conduct of Commercial Arbitrations;
	(c) Appointing Authority under UNCITRAL Arbitration Rules	President of the Institute of Arbitrators & Mediators Australia

**ANNEXURE PART B TO GENERAL CONDITIONS OF CONTRACT AS 4000 - 1997**

<p><b>Annexure to the Australian Standard General Conditions of Contract</b></p>	<h1>Part B</h1>
<p><b>Deletions, amendments and additions</b></p>	
<p>(i)</p>	<p>The following clauses have been deleted from AS 4000—1997</p> <p>.....</p> <p style="text-align: center;">Nil deletions</p> <p>.....</p>
<p>(ii)</p>	<p>The following clauses have been amended and differ from the corresponding clauses in AS 4000—1997</p> <p>.....</p> <p style="text-align: center;">Nil amendments</p> <p>.....</p>
<p>(iii)</p>	<p>The following clauses 44 to 54 have been added to those of AS 4000 – 1997</p> <p><b>44. Provisional Sums</b></p> <p>Further to Clause 3, payment for a Provisional Sum item will only be made on receipt of an invoice issued by the <i>Contractor</i> for work done in response to a specific written direction to the <i>Contractor</i> by the <i>Superintendent</i>.</p> <p>Any variation to the work to which a <i>provisional sum</i> relates shall be dealt with in accordance with Clause 36 (Variations).</p> <p><b>45. Provisional Quantity Items</b></p> <p>If, in respect of any work included in the <i>Contract</i> as a provisional quantity item, the <i>Superintendent</i> directs that a greater or lesser quantity shall be carried out or that no work shall be carried out, the value of the difference between the <i>provisional quantity</i> and the quantity carried out pursuant to that direction, calculated at the rate for that item, shall be certified by the <i>Superintendent</i> and shall be taken into account in determining the final <i>Contract sum</i>.</p>

**46. Measurement and Payment of Extra Costs for Delay**

The *Contractor* shall use all reasonable endeavours to mitigate the extent and actual cost of delay and to the extent that the *Contractor*:

- (a) incurs additional costs in doing so then the *Contractor* will be entitled to payment of those costs; and
- (b) does not do so, then the *Contractor's* entitlement to payment hereunder shall be reduced by the period by which the delay should accordingly have been reduced as assessed by the *Superintendent*

Payment of extra costs for delay will be in full recompense for any *compensable cause of delay*.

The *Contractor's* entitlement to payment for extra costs for delay shall be as follows:

Where the date for *practical completion* of *WUC* is varied in accordance with any provision of the *Contract*, the *Superintendent* shall determine any adjustment to the construction periods that the *Superintendent* deems reasonable consequent upon the matters resulting in that variation.

Payment for delays to non critical activities caused by any act, default or omission of the *Superintendent* or the *Principal* or its employees, professional consultants or agents will be assessed under the provisions of Clause 41.

**47. Occupational Health and Safety (OHS)**

The *Principal* is obligated to provide and maintain, so far as is practicable, a working environment for its employees and members of the public, that is safe and without risk to health. As a condition of this contract, the *Principal* requires that the *Contractor* or any subcontractors that may be engaged to perform *WUC* shall at all times identify and exercise all necessary precautions for the health and safety of all persons including the *Contractor's* employees, the *Principal's* employees and members of the public who may be affected by *WUC*.

The *Contractor* shall inform itself of all occupational health and safety policies, procedures or measures implemented or adopted by the *Principal* and/or the occupiers of any premises at or within which the *Contractor* shall perform *WUC*. The *Contractor* shall comply with all such policies, procedures or measures; and in the event of any inconsistency, shall comply with such procedures or measures as those that produce the highest level of health and safety.

The *Contractor* shall forthwith comply with any and all directions by the *Superintendent* relating to occupational health and safety.

**47.1 Legislative Compliance**

The *Contractor* shall comply with and ensure that its employees, subcontractors and agents comply with any legislation, regulations, local laws and by-laws, codes of practice, Australian

Standards and local municipal OHS policy and procedures that are in any way applicable to the *Contract* or the performance of *WUC*. In particular the *Contractor* shall comply with the current Victorian Occupation Health and Safety Act, 2004.

#### **47.2 Non Compliance**

If during the performance of *WUC* the *Superintendent* informs the *Contractor* that it is the opinion of the *Superintendent* that the *Contractor* is:

- (a) not conducting the *WUC* in compliance with the *Contractor's* health and safety plan, health and safety management procedures, relevant legislation or health and safety procedures provided by the *Principal* from time to time, or
- (b) conducting the *WUC* in such a way as to endanger the health and safety of any person or property, the *Contractor* shall promptly remedy that breach of health and safety

The *Superintendent* may direct the *Contractor* to suspend *WUC* until such time as the *Contractor* satisfies the *Superintendent* that *WUC* can be resumed in conformity with applicable health and safety provisions. If the *Contractor* fails to rectify any breach of health and safety for which the *WUC* has been suspended, or if the *Contractor's* performance has involved recurring breaches of health and safety, the *Principal* may at its option terminate the *Contract* forthwith, without further obligation to the *Contractor*. In this event, the *Principal's* liability shall be limited to payment for the *WUC* performed and costs incurred by the *Contractor* up to the time of termination or an earlier suspension of works.

#### **48. Environmental Management**

The *Contractor* shall comply with the current Environment Protection Act and associated regulations and shall take all measures necessary to protect all environmental assets which may be affected by *WUC* in accordance with its approved project specific *Construction Environment Management Plan*.

#### **49. Industrial Relations**

The *Contractor* shall be responsible for industrial relations with its workforce and shall keep the *Principal* informed of any disputes with or demands by its workforce and any other circumstances which could result in industrial action affecting the progress of *WUC*. The *Contractor's* employees shall be employed in accordance with the relevant awards, site agreements and the arrangements in place from time to time between the *Contractor* and its employees.

The *Contract sum* shall be deemed to include the cost of all wages and other costs arising from the requirements of the awards, certified agreements and enterprise flexibility agreements to which it is bound. No adjustment shall be made to the contract on account of such requirements or any new matter introduced into an award or any certified agreement or enterprise flexibility agreement except if otherwise provided for in the *Contract*.

Persons below the Victorian statutory minimum school leaving age shall not be employed on

*WUC.*

#### **49.1 Work bans and limitations**

The *Contractor* shall keep the *Superintendent* informed concerning any industrial matter that could affect the progress of *WUC*.

The *Contractor* shall inform the *Superintendent* immediately if bans are applied to *WUC* or if *WUC* ceases due to industrial action and shall also inform the *Superintendent* of measures being taken to resolve such action.

The *Contractor* shall make no claim against the *Principal* and shall have no entitlement to any claim for any costs, loss, expense or damage arising from any industrial action outside the control of the *Contractor*.

#### **50. Representations and Warranties**

Each of the parties represents and warrants to the other that:

- (a) it has full power and authority and the legal right to sign and deliver the *Contract*, and to perform its obligations under the *Contract*;
- (b) the *Contract* has been duly signed and delivered on its behalf; and
- (c) the obligations undertaken by it are enforceable against it in accordance with the terms and conditions under the *Contract*

#### **51. Severability**

If at any time any provision of the *Contract* is or becomes illegal, invalid or unenforceable in any respect, the remaining provisions shall in no way be impaired or affected thereby.

#### **52. Security of Payment Legislation**

Both parties to the *Contract* shall comply fully with the Building and Construction Industry Security of Payment Act 2002 and associated regulations.

##### **52.1 Definitions**

**Security of Payment Act** means the Building and Construction Industry Security of Payment Act 2002 (Vic) legislation that has amongst its objectives the creation of a statutory entitlement to progress payments for the performance of construction work or provides procedures for determining or securing payment of that entitlement, pending any final assessment under the *Contract*

**52.2 Payment****52.2.1 Payment Claims**

The Contractor may submit a Payment Claim to the Superintendent only on each Reference Date defined in the **time for progress claims** in **Item 28(a) Annexure Part A**.

The Contractor warrants to the Principal that Payment Claims will:

- (a) include the evidence reasonably required by the Principal of the value of work completed in accordance with the Contract and the amount claimed;
- (b) set out the total value of work completed in accordance with the Contract to the date of the Payment Claim, the amount previously paid to the Contractor and the amount then claimed;
- (c) the Reference Date for the purposes of the Security of Payment Act shall be the same day on the following month

**52.2.2 Payment of Workers and Subcontractors**

The Contractor warrants it will not include in a Payment Claim amounts in respect of the Contractor's workers or employees unless it has provided to the Principal:

- (a) a statutory declaration (together with any supporting evidence which may be reasonably required by the Principal) by the Contractor or, where the Contractor is a corporation, by a representative of the Contractor who is in a position to know the facts declared, that in connection with the Works up to the date of the declaration and for all periods prior to that date:
  - (i) as to whether the Contractor is a principal contractor, in that it has engaged Subcontractors to carry out some part of the Works on its behalf;
  - (ii) all workers who have at any time been employed by the Contractor have been paid all moneys due and payable to them;
  - (iii) all Subcontractors have been paid all moneys due and payable to them;
  - (iv) all payroll taxes due in respect of wages paid or payable to employees of the Contractor have been paid;
  - (v) all workers compensation premiums in respect of employees of the Contractor have been paid;
  - (vi) all Subcontractors have provided the Contractor with a statutory declaration in the same form as required by this clause; and
  - (vii) all contributions to any portable long service leave scheme has been

paid; and

- (b) documentary evidence that:
  - (i) at the date of the claim all workers who have been employed by a Subcontractor have been paid all moneys due and payable to them in respect of their employment on the Works;
  - (ii) it has current certificates of currency in respect of relevant workers compensation policies; and
  - (iii) that it is either exempt from or has a current registration for any payroll tax legislation; and
- (c) any additional information, statements, certifications or evidentiary material in the form of a statutory declaration, as the Principal may reasonably require or consider is desirable, to satisfy any Legislative Requirement applicable to the Principal or the Works

### 52.2.3 Security of Payment

The Contractor must ensure that the Superintendent immediately receives a copy of any written (including electronic) communication the Subcontractor delivers or causes to be delivered to or which the Contractor receives from any other party in relation to the Security of Payment Act.

- (a) If the Contractor makes an application under the Security of Payment Act for any form of adjudication and the parties are permitted to agree under their contract:
  - (i) on the identity of the person or organisation to carry out or to nominate to carry out the adjudication, it is hereby agreed that such adjudicator or nominating person shall be the person or organisation specified in **Annexure Part A**; and
  - (ii) on the type of security to be given by a respondent to secure payment of a determination by an adjudicator in lieu of direct payment, it is hereby agreed that such security shall be an unconditional undertaking from a recognised Australian Bank
- (b) Where the Contractor suspends the Works pursuant to the Security of Payment Act:
  - (i) the Date for Completion shall not be effected and the entitlement to suspend shall not of itself be a Extension Event;
  - (ii) the Contractor shall not be entitled to any delay damages; and
  - (iii) the Principal may in its sole discretion invoke its right to terminate the

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- (c) In the event the Contractor refers a Payment Claim to adjudication under the Security of Payment Act, then:
- (i) the amount of any determination by an adjudicator appointed under the relevant Act in respect of that Payment Claim will be the maximum amount of the Contractor's entitlement in respect of the work, things or matters comprising the Payment Claim; and
  - (ii) the Contractor shall be bound by the determination, and forever releases and holds harmless the Principal in relation to any amount greater than that determined by the adjudicator

**53. Victorian Industry Participation Plan (VIPP) Compliance**

The information contained in the VIPP Plan (Plan) submitted by the Contractor as part of the Tender and the measures of the Contractor's compliance with the Plan shall be provided to the Department of Business and Innovation (DBI) to be included in a register of VIPP performance.

The Contractor shall comply with the conditions of the VIPP and with the information contained in the Contractor's certified Plan, and shall make the details of the Plan available to the Superintendent in accordance with **Clause 8** of the Contract. The outcomes to be used to measure and monitor the Contractor's compliance with the Plan shall be provided to the central agency in the (DBI) for inclusion in their register of VIPP performance by the Contractor prior to Contract Commencement date.

The Principal will monitor the Contractor's performance measured against the Plan outcomes set out in the Plan. The Superintendent will exercise his or her reasonable discretion in assessing the Contractor's performance under this Clause and shall take into account any issues raised by the Contractor which fairly represents a cause of failure to comply beyond the Contractor's reasonable control.

**54 Document Ownership and Record Keeping**

Documents that comprise the Tender submission will become the property of the Principal.

The Contractor shall:

- (a) Maintain a full and accurate record of the business conducted under the contract.
- (b) Manage the information in (a) in accordance with the standards and associated specifications of the Public Record Office Victoria (PROV) including current, reissued, amended and new standards as though the Contractor were a public office (see [www.prov.vic.gov.au](http://www.prov.vic.gov.au) for copies of these documents).
- (c) Manage the information in (a) in accordance with the requirements of the office, in

particular by complying with;

- (i) legislative and regulatory compliance;
  - (ii) storage, maintenance and retention of records;
  - (iii) preservation of electronic records;
  - (iv) access to records;
  - (v) security of records;
  - (vi) transfer of records to the office
- (d) Maintain a register of and index to information in (a), and provide this to the Principal at the request of a Principal's Representative
- (e) Retain the information in (a) for the period described in the following Retention and Disposal Authorities and agree to consult with the Principal's Representative regarding any records not covered to agree on a disposal schedule.
- (f) Provide access to the records and copies of information to the Principal's Representative on request for as long as the information is required to be in existence.
- (g) Provide information regarding the context of the creation of the records and the system of retention as is required for the purposes of storage and retrieval of records.
- (h) Maintain the information in (a) in formats that support its preservation and accessibility.
- (i) Transfer all records to the Principal in (a), including physical and digital objects, in accordance with acceptable formats either during or at the conclusion of the contract

#### **54.1 Legal and Beneficial Ownership**

The Principal retains both legal and beneficial ownership of records and information created in the course of business conducted under the contract.

#### **54.2 Loan of Records to Contractor**

Any records that are loaned to the Contractor are to be retained in the custody of the Contractor until the end of contract or until they are no longer required, under arrangements for their management which meet all the conditions of PROV standards and requirements. These records remain the property of the Principal and custody will be returned to the Principal on request or by the end of contract, whichever is earlier.

#### **54.3 Ownership of Intellectual Property**

	<p>The ownership of all Intellectual Property in all information created as a result of the supply of goods or the provision of services under this Agreement shall vest in the Principal. The Contractor hereby assigns ownership of all Intellectual Property rights in such information to the Principal and will ensure that its employees, subcontractors and agents execute all documents necessary to assign those rights to the Principal.</p>
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