

**ITEM 9. EXEMPTION FROM TENDER - PARKING METER SERVICE AND MAINTENANCE**

**FILE NO: X006775**

**SUMMARY**

This report seeks an exemption from inviting tenders for the provision of parking meter service and maintenance, inclusive of card payment gateway services, due to the unavailability of competitive or reliable tenderers.

The City owns and operates 1,452 parking ticket machines which are serviced and maintained by the supplier of the ticket machines. The machines are all programmed and managed remotely using a hosted system developed, maintained and operated by the service provider. In addition, the service provider facilitates payment processing through a third party provider in compliance with various payment card scheme requirements. There are currently no other compliant providers available for this service using the existing hardware.

Around 1,000 machines are serviced and maintained pursuant to a contract (No. 1163) which is due to expire on 20 December 2016 (inclusive of all options, which have been exercised).

The remainder of the machines are serviced and maintained under a contract (No. 1295) which also includes the supply of machines, and is scheduled to expire on 11 June 2017, with the option of one further year. This contract is currently in its first option year.

Variations were made to both contracts to combine their schedule of rates, as the machines are effectively serviced and maintained as one group. Should this report be approved, it is intended that both contracts would be combined into a single new contract for the service and maintenance of all ticket machines.

There are no providers who could service and maintain the ticket machines inclusive of management systems and payment gateway services other than the original equipment manufacturer, and conducting a tender process would not produce competitive or reliable tenderers.

This report recommends that Council approve an exemption from tender for the provision of service and maintenance of the City's parking ticket machines.

**RECOMMENDATION**

It is resolved that:

- (A) Council approve an exemption to tender in accordance with section 55(3)(i) of the *Local Government Act 1993* noting that, because of the unavailability of competitive or reliable tenderers, a satisfactory result would not be achieved by inviting tenders to provide service and maintenance of the City's ticket machines;
- (B) Council note the reasons why a satisfactory result would not be achieved by inviting tenders are:

- (i) going to tender would not deliver a competitive process due to the inability of any other tenderer to provide service inclusive of an integrated management and reporting system using the existing hardware; and
  - (ii) the service includes provision of compliant payment gateway processing, which can only be enabled by the same provider as that providing the management system;
- (C) Council enter into a contract with the existing service and maintenance contractor for a maximum five year term (three years plus two options of one year each, subject to satisfactory performance); and
- (D) authority be delegated to the Chief Executive Officer to negotiate and approve the terms of the contract of the services agreement with the contractor provided that the contract is consistent with this resolution.

## **ATTACHMENTS**

**Attachment A:** Financial Implications (Confidential)

**(As Attachment A is confidential, it will be circulated separately from the agenda paper and to Councillors and relevant senior staff only.)**

**BACKGROUND**

1. The City operates 1,452 parking ticket machines.
2. The current fleet of machines are all the same type of machine, although purchased at different times. Due to different purchase dates, they are serviced and maintained under two different contracts (No. 1163 and No. 1295). Both contracts have a common schedule of rates.
3. When the City previously tendered, the only responses received for the provision of service and maintenance was from the supplier of the machines.
4. The machines are all in communication with a central management system to enable them to be programmed, communicate with payment systems, report on the status of the machine, and provide transaction information. The provider of the ticket machines has developed the system over a number of years and currently maintains and operates this management system.
5. The management system facilitates links to payment gateway services, and is required to be compliant with various international payment card scheme mandates for security of card data, and processing of payments. Only the supplier of the management system can enable such links. Currently, there is only one approved gateway service which operates in conjunction with the City's transactional bank, Westpac. There may be more in future, however, any such gateway would need to be linked and configured to the management system by the supplier.
6. No other supplier could provide service and maintenance to the ticket machines to the standard required by the City because:
  - (a) there would be no link to a centralised management and reporting system to identify faults and display automated alarms from the ticket machines;
  - (b) programming of the machines could not take place when tariffs and restrictions change;
  - (c) card payments would not be possible as the centralised communications and management system is required to provide this capability; and
  - (d) even if another supplier were to 'reverse engineer' such a management system, the cost of doing so would be prohibitive, and an unacceptable risk to the operation of the ticket machine network.
7. Therefore, a satisfactory result would not be achieved by inviting tenders to provide service and maintenance of the City's ticket machines because of the unavailability of competitive or reliable tenderers.
8. Accordingly, this report recommends that the existing supplier be engaged to service and maintain the existing ticket machines inclusive of a management and communications system.

**FINANCIAL IMPLICATIONS**

9. There are sufficient funds allocated for this project within the current year's operating budget and future years' forward estimates, based on allowances in line with current agreements.

10. Market testing of service and maintenance fees, as well as payment gateway fees, has taken place and confirmed that current fees are in line with other providers.
11. The financial implications are outlined in confidential Attachment A.

### **CRITICAL DATES / TIME FRAMES**

12. The existing service and maintenance contract for around 1,000 of the ticket machines ends on 20 December 2016.
13. It is anticipated that, if the recommendations set out in this report are adopted by Council, a new agreement would be in place by that date to enable continuous services to be provided.

### **RELEVANT LEGISLATION**

14. Section 55(3)(i) of the *Local Government Act 1993*.
15. Attachment A contains confidential commercial information of the current tenderer which, if disclosed, would:
  - (a) confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business; and
  - (b) prejudice the commercial position of the person who supplied it.
16. Discussion of the matter in an open meeting would, on balance, be contrary to the public interest because it would compromise Council's ability to negotiate fairly and commercially to achieve the best outcome for its ratepayers.

### **OPTIONS**

17. Council may decide to reject the exemption from tender report, and the services would need to be tendered. This process is likely to take around three months, which may require the existing contract to be extended month-to-month until the tender process is complete. However, for the reasons set out in this report, a different result would not be achieved. Even were another tenderer to respond, without the cooperation of the existing provider, there would be a need to:
  - (a) reverse engineer the entire communication and management system which records and reports on events, faults, technician attendance, transactions and alarms;
  - (b) understand and reverse engineer the programming capabilities of the machines in relation to tariffs, rates and timings;
  - (c) certify the credit card facilities with the City's transactional bank for EMV; and
  - (d) obtain a supply of spare parts.

18. Some of the above tasks could be expected to take between six and 12 months, and incur significant expense. Refer Confidential Attachment A for financial implications. During that time, the operation of the City's ticket machine network would be at high risk of failure.

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