

## Item 7.

### Exemption from Tender - IT Maintenance and Support Contracts

**File No:** S064539

#### Summary

The City utilises a broad range of IT applications and appliances that are critical to the delivery of its business functions. Most of these have maintenance and support contracts in place that were established with suppliers at the time the products were procured and which have been updated as required since then.

A number of the maintenance and support agreements now require renewal. All of the agreements listed in Confidential Attachment A exceed \$250,000 (excluding GST) over a five-year period. In all cases listed in the attachment either:

- the existing supplier is the sole provider of the relevant maintenance and support, and a competitive tender process is not possible; or
- the existing supplier was evaluated as best value for money from a competitive tender process, and a repeat tender process is unlikely to yield a different outcome.

The requirement to invite tenders in section 55(1) of the Local Government Act 1993 does not apply to those contracts if Council decides by resolution that, because of the unavailability of competitive or reliable tenderers, a satisfactory result would not be achieved because of the unavailability of successful tenderers (section 55(3)(i) of the Local Government Act 1993).

This report recommends that Council grant exemptions from tender for the IT maintenance and support agreements with suppliers as listed in Confidential Attachment A.

## Recommendation

It is resolved that:

- (A) Council approve an exemption from tender for the provision of the maintenance and support of the software applications and hardware appliances as listed in Confidential Attachment A to the subject report upon the expiry of the current maintenance and support agreements, for a three-year period, with the option of an extension of two years if appropriate, noting that because of extenuating circumstances, a satisfactory result would not be achieved by inviting tenders;
- (B) Council note the reasons why a satisfactory outcome would not be achieved by inviting tenders are:
  - (i) the existing suppliers are the sole provider of the relevant maintenance and support, and a competitive tender process is not possible; or
  - (ii) the existing suppliers were previously evaluated as best value for money from a competitive tender process, and a repeat tender process is unlikely to yield a different outcome;
- (C) Council enter into maintenance and support agreements with the suppliers as listed in Confidential Attachment A to the subject report upon the expiry of the current maintenance and support agreements, for annual renewal (if applicable) over a three-year period, with the option of an extension of a two-year period if appropriate; and
- (D) authority be delegated to the Chief Executive Officer to negotiate, execute and administer (including exercising options if appropriate) the maintenance and support agreements with the relevant suppliers as listed in Confidential Attachment A to the subject report.

## Attachments

- Attachment A.** List of IT Maintenance and Support Agreements Requesting Exemption from Tender (Confidential)

## Background

1. The City has a number of software applications and hardware appliances that are in daily use and are critical to the delivery of its services to the community. The maintenance and support agreements associated with these applications and appliances have been established with suppliers and will soon require renewal. All of the agreements listed exceed \$250,000 (excluding GST) over a five-year period and either:
  - the existing supplier is the sole provider of the relevant maintenance and support, and a competitive tender process is not possible; or
  - the existing supplier was evaluated as best value for money from a competitive tender process, and a repeat tender process is unlikely to yield a different outcome.
2. Maintenance and support is essential to ensure the availability and reliability of software through guaranteeing suppliers availability to troubleshoot and rectify errors, and / or to extend the lifecycle of an application or appliance through product enhancement. In many cases, retaining maintenance and support payments is integral to the licensing of the software. Thus the expenditure is necessary.
3. A previous request for exemption from tender for a range of IT applications and appliances was granted by Council on 3 November 2014 for a period of three years, with the option of an extension for a two-year period, which was fully exercised.
4. The relevant IT applications and appliances were each originally procured via three quotes, a Request for Quotation( RFQ) or Tender at different times. The original maintenance and support agreements were established as part of the City's procurement process, usually covering a three-year period.
5. The IT applications and appliances are all still required by the City and the maintenance and support guarantees continuity of service. They are kept up-to-date with frequent patches to ensure that issues are rectified and new releases that provide the City with enhancements or new functionality are implemented.
6. Digital and Technology Services frequently examines the market to identify alternatives to ensure IT applications and appliances deliver the best value for the City, its residents and visitors.
7. This report recommends approval of the exemption from tender for an additional three years from the date the current contracts expire, with the option of an extension of a two-year period, if appropriate, for the renewal of contracts for the current required hardware appliances and software applications.

## Key Implications

### Organisational Impact

8. Without maintenance and support agreements, the City's operations that rely on these IT systems are exposed to a greater risk of system failure and the ability to respond quickly and efficiently to changing business requirements will be reduced.

**Social / Cultural / Community**

9. The City's IT applications and appliances form an integral part of the services that Council provides to its residents and businesses. Without maintenance and support, the applications and appliances that support these services may falter, and eventually fail.

**Economic**

10. No external economic impacts from this proposal have been identified.

**Budget Implications**

11. There are sufficient funds allocated for these maintenance and support agreements within the current year's operating budget and in future years' forward estimates.

**Relevant Legislation**

12. Attachment A contains confidential commercial information of the suppliers which, if disclosed, would:
  - (a) confer a commercial advantage on a person or company with whom Council is conducting (or proposes to conduct) business; and
  - (b) prejudice the commercial position of the person or company who supplied it.
13. 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.

**Critical Dates / Time Frames**

14. The resolution of Council dated 3 November 2014, exempted various maintenance and support agreements from tender for a five-year period.
15. The majority of the current maintenance and support agreements listed in Attachment A are due to expire on different dates within the next year (as further specified in Attachment A).

### **Options**

16. There are no other substantially different options to this proposal. Maintenance and support not only extends the lifecycle of an application or appliance through product enhancements, but in many cases is also integral to the licensing of the software.

### **Public Consultation**

17. No public consultation has been undertaken.

### **SUSAN PETTIFER**

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