

**CITY OF MARION
GENERAL COUNCIL MEETING
26 March 2013**

Originating Officer: Abby Dickson, Manager Libraries and Cultural Development

Director: Vincent Mifsud

Subject: Commercial Arrangements

Ref No: GC260313F02

If the Council so determines, this matter may be considered in confidence under Section 90(2) and (3)(d) of the Local Government Act 1999 on the grounds that it relates to commercial information of a confidential nature the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage to a third party.



Mark Searle
Chief Executive Officer

1. Pursuant to Section 90(2) and (3)(d) of the Local Government Act 1999 the Council orders that all persons present, with the exception of the following Mark Searle, Chief Executive Officer, Vincent Mifsud, Director, Heather Montgomerie, Director, Kathy Jarrett, Director, Abby Dickson, Manager Library and Cultural Development, Mark Gibson, Manager Governance, Victoria Moritz Council Support, Craig Clarke, Unit Manager Communications, Marg Edgecombe, Unit Manager Arts & Cultural Development, David Barrett, Marion Cultural Centre Coordinator be excluded from the meeting as the Council receives and considers a report in relation to proposed Commercial Arrangements upon the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep the receipt / discussion / consideration of the matter confidential as disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage to a third party.

REPORT OBJECTIVE AND EXECUTIVE SUMMARY:

This report provides Council with a summary of the tender process undertaken to source a private operator to manage the operations of Signatures Cafe and the assessment undertaken to identify a preferred operator for Council's consideration. At the 11 December 2012 General Council Meeting Council resolved to undertake a third EOI in early 2013 and to include an attraction incentive of 12 month rental free period. The intention was to attract a larger field of applicants given the current market conditions while not detracting from Council's objectives to source a high quality operator who has the capacity to grow the business and contribute towards the overall vibrancy of the Marion Cultural Centre and wider Domain Precinct. The tender process attracted a high level of interest, with two applicants being assessed as highly competent and considered appointable. Mr Anthony Francis Hoffert is the operator recommended to Council and a five year lease is proposed with the right to renew for another five years.

RECOMMENDATIONS (3):

That:	Due Date:
1. Council enter into a new lease with Mr Anthony Francis Hoffert for a term of 5+5 with years over portion of the land contained in Certificate of Title Volume 5880 Folio 722, known as the 'Cafe', located at 287 Diagonal Road, Oaklands Park.	26 March 2013
2. Council pursuant to Section 37(b) of the <i>Local Government Act 1999</i> authorises the Chief Executive Office to enter into and execute all documentation necessary to prepare and implement the above lease.	26 March 2013
3. In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Committee orders that this report, the minutes arising from this report and any other information distributed at the meeting having been considered in confidence under Section 90(2) and (3)(d) and (k) of the Act be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting. This confidentiality order will be reviewed at the General Council meeting in December 2013.	December 2013

DISCUSSION:

Background

Signatures Café is an integral component of the Marion Cultural Centre (MCC) acting as a vibrant café and meeting place and providing catering services which complement the theatre, function rooms, library and gallery. It provides a central anchor point for the multiple services and activities which occur within the Centre. The recent community engagement undertaken in the second half of 2012, as part of the Design by Competition process for the plaza redevelopment, confirmed that the provision of a dining experience is a critical component in activating the Domain.

At the 23 August 2011 General Council Meeting, Council resolved to undertake an EOI to tender the operations of Signatures Café to a private operator. The decision to lease to a private operator has been supported by two independent reviews of the café conducted by both Savills Property Management (2011) and Utopia Consulting (2010).

Council has been seeking to secure an operator for the café since September 2011. Following two unsuccessful EOI processes Council considered its options regarding Signatures Café at the 11 December 2012 General Council Meeting and resolved to undertake a third EOI in early 2013 and to include an attraction incentive of 12 month rent free period. Council also requested that any requirements regarding healthy eating options and trading hours be removed from the lease and information memorandum. The intention was to attract a larger field of applicants given current market conditions where retail confidence is low while not detracting from Council's objectives to select a high quality operator who would grow the business and contribute towards the overall vibrancy of the MCC.

The outcome of the third tender process has been very positive. The process attracted a high level of interest resulting in submissions from quality operators. This report provides Council with an overview of the tender process and its outcomes for Council's consideration.

Discussion:

The EOI process was managed by Savills Property Management and ran from 22 January 2013 to 28 February 2013. During the EOI period Savills received 26 enquiries, and 4 proposals were lodged.

As part of the EOI process operators were required to supply the following information within their proposal:

- Relevant experience
- Demonstrated customer service
- Marketing and business management strategies
- Overview of their service brand and the type of menu they would bring to the café
- Rental Offer
- Consideration of purchase of plant and equipment
- Lease term proposal
- Rental increases
- Settlement

All four applicants who submitted written proposals were interviewed.

Applicants were assessed using the following criteria and weighting.

Criteria	Weighting
Customer Service & appreciation of café and centre functions	30%
Capacity <ul style="list-style-type: none"> Liquor Licence Experience Experience in café/restaurant industry/function centre 	30%
Approach/Business Plan <ul style="list-style-type: none"> Opening hours Menu options Menu pricing Approach to catering Marketing strategies Business Acumen 	30%
Financial and Lease <ul style="list-style-type: none"> Terms of lease Rental Offer to purchase Plant and Equipment 	10%

An assessment of the operators was based on their written application and information provided at interviews conducted by City of Marion Staff and Savills.

Summary of Assessment:

	Applicant 1		Applicant 2		Applicant 3		Applicant 4	
Criteria	Raw score /10	Weighted score	Raw score /10	Weighted score	Raw score /10	Weighted score	Raw score /10	Weighted score
Customer Service & appreciation of café and centre functions	8	24	7.5	22.5	5	15	4	12
Capacity	8.5	25.5	8	24	7	21	4	12
Approach	7.8	23.3	6.8	20.3	6	18	5.3	15.8
Financial and Lease	6.7	6.7	7	7	4.7	4.7	4	4
Total Score		79.42%		73.75%		58.67%		43.75%

Applicants 1 and 2 are both considered appointable as operators for Signatures Café.

Applicant 1, Mr Anthony Francis Hoffert, is recommended as the preferred applicant for Council's consideration due to his extensive experience both in cafes and catering. He has been employed as a head chef at quality venues across Adelaide and been owner operator of both cafes and catering businesses within South Australia. His experience includes operating the café and catering services at the Northern Festival Centre at Port Pirie, South Australia. Mr Hoffert presented a sound business and marketing plan for developing the

catering arm of the business aiming to attract additional business through functions. This would deliver an additional financial return to Council with the applicant offering a percentage of function profits after six months of operating the business.

Applicant 2, Mr Micheal Duff, is also considered appointable as an operator for Signatures Café. Mr Duff has over 30 years of experience as a café proprietor and as a head chef in quality venues. This has included being the proprietor of a successful small café in the Adelaide CBD for over eight years.

The following section discusses the assessment of all four applicants under each main criterion and provides Council with further insight into the assessment process.

Customer Service and appreciation of café and centre functions

Applicant 1 and 2 were the stronger candidates under this criterion demonstrating a sound understanding of customer service in the café and catering industry. Both applicants demonstrated service quality which is achieved through staff skills; quality menus; and efficient service delivery.

Applicant 1 scored slightly higher in this category due to their experience in managing catering and cafes in cultural and function centres.

The remaining two applicants (3 and 4) indicated a good understanding of customer service principles. However the extensive experience of applicant 1 and 2 resulted in their understanding of customer service within the café/restaurant and catering industry being of a higher standard.

Capacity

The capacity criterion considered the applicant's experience in managing a liquor licence and experience in the café/restaurant and catering industry.

Applicant 1 scored the highest in regards to capacity, closely followed by Applicant 2 and 3. Applicants 1 and 2 have extensive experience in hospitality both as head chefs and as café proprietors. They have held positions for significant periods of time demonstrating their capacity to manage and operate profitable businesses. Applicant 1 scored slightly higher in this criterion compared to Applicant 2 due to their extensive experience in catering and managing dining services within a cultural centre.

Applicant 3 has managed a successful café within Adelaide and scored well under this criterion but does not have chef experience or catering and function experience.

Applicant 4 has no experience in managing a café or restaurant and therefore scored low under this criterion.

Approach

This criterion considered business acumen of applicants, marketing strategies, menu and catering approach and the proposed opening hours.

Applicant 1 scored the highest under this criterion. They have extensive experience in the provision of catering services for cultural venues and function centres as well as working as a head chef and managing a café. They presented quality menu options and indicated they would raise the standards of catering for functions to appeal to the corporate sector. They indicated they would seek to expand the catering arm of the business through the promotion of functions. This included a willingness to invest in marketing strategies to grow the business & increase functions. Applicant 2, though highly experienced as chef and in running successful cafes was less experienced in catering for the corporate sector. Applicant 3

scored lower under the approach criterion and failed to demonstrate a well-developed business plan. Applicant 4 due to limited experience did not score highly under this criterion.

Applicants 1, 2 and 3 indicated they would operate on Sundays when a function was being held to support the event. They did not consider it profitable to open on Sundays when a function was not being held. This is considered a reasonable and sound business management decision for an incoming operator to make.

Financial Terms and Conditions of Lease

Applicants 1 and 2 scored almost evenly with a 0.3 variance under this category presenting sound offers to Council which are summarised below.

	Applicant 1	Applicant 2	Applicant 3	Applicant 4
Rental Offered	\$█████ + GST	\$█████	\$█████	Based on percentage profit
Consideration of Plant & Equipment (P&E)	Lease P&E with a once off \$█████ payment. City of Marion to retain ownership with responsibility for replacement and maintenance transferred to Operator	\$█████ paid over 5 years no interest	Price to be determined by independent valuer. Would undertake full responsibility for P&E in first year.	No offer supplied
Lease Term Proposal	5+5	5+5+5	Not specified	To be negotiated after 12 month rent free period
Settlement	Available	Available	1 st July 2013	1 st July 2013

The rental and plant and equipment offers supplied by Applicants 1, 2 & 3 are in line with current market value as advised by Savills Property Management.

Applicant 1 has offered to lease plant and equipment with a once off \$█████ payment after the first 12 months. Under this type of arrangement maintenance and replacement of plant and equipment rests solely with the operator with ownership of plant and equipment remaining with the City of Marion.

Referee and company history checks:

Referee checks have been conducted and a company search has been undertaken to meet due diligence in regards to considering Applicant 1 and 2 who are both considered appointable as Operators.

Referee checks were conducted with recent employers and contracting partners (ie. within the last 3 years) and covered the following areas:

- Business acumen
 - Capacity to grow the business – marketing, forward planning
 - Financial management
 - Customer service
- Their capacity as employer – staff wellbeing and retention, service standards
- Relationship management – how would you rate the person's ability to establish professional and effective relationships
- Professional integrity

Referee checks were positive for both Applicant 1 & 2 and confirmed their suitability.

Business Name Change

Council should note that Applicant 1 wishes to negotiate an alternative name for the café as part of their marketing plan. This will form part of the lease negotiations and Council will be kept informed regarding the proposed name change.

Time frames

A period of up to ten weeks will be required to finalise the transfer of the Liquor Licence.

Given this requirement it is anticipated that the new operator will be in place commencing 1 July 2013.

The available time leading up to the handover date will be utilised to ensure a smooth transition to the new operator.

Legal / Legislative and Risk Management:

Legal advice was sought in devising the terms of the lease agreement. The attached agreement meets all legal requirements, and mitigates and or transfers any risks to ensure business continuity.

Savills Property Management will develop a sale of business contract and legal advice will be sought in formulating this final document.

Financial Implications:

The costs associated with outsourcing Signatures Café to a private operator are covered by the current operational budget of the MCC.

The leasing of the café delivers a positive financial return to Council delivering significant annual savings and income. The financial return if Council resolves to enter into a lease with Applicant 1 are summarised below:-

Savings:

- An on-going annual operating saving of approximately \$ [REDACTED] with the removal of the café operating deficit as of 1 July 2013.
- Annual services and property maintenance charges of approximately \$ [REDACTED] (figure based on 2011-12 budgeted expenditure).
- Transfer of replacement and renewal costs of café equipment to the operator.

Income:

- Once off payment for the lease of plant and equipment of \$ [REDACTED] to be paid at the end of the first 12 months of the lease
- Annual rental of \$ [REDACTED] per annum (to be paid after first 12 month rent free period)
- On-going profit sharing contribution of [REDACTED] % Gross Profit from function catering after the first 6 months of operation

Finalisation of Terms and Conditions of the Lease

There are minor amendments required to finalise the terms and conditions of the lease which cannot occur until Council endorses the recommended operator. Such final amendments will not detract from the overall intent of the attached lease and include such things as start and end dates and operational procedures which will be attached as addendums to the final lease.

This report seeks Council authorisation for the Chief Executive Officer to enter into and execute all documentation necessary to prepare and implement the lease.

CONCLUSION:

The outsourcing of Signatures Café to a commercial operator will ensure that the Café is well placed to meet the expanding commercial opportunities within the newly developed Domain Precinct. It is a financially sustainable model for the delivery of café services from a Council owned facility. The appointment will achieve a higher standard of customer service from the café, further activating the space and contributing to the overall vibrancy of the MCC and Domain Precinct.

The operator recommended to Council has presented an exciting business plan for the facility seeking not only to grow the business of the café but to look at ways of growing the the function arm of the business targeting the corporate sector which will in turn increase usage of the centre and add to the vibrancy of the MCC.

Appendix 1 Terms and Conditions of the lease

Appendix 2 Indicative Menu Proposal