

**CITY OF MARION
GENERAL COUNCIL MEETING
27 February 2007**

**REPORT RELATING TO:
A leader in the delivery of the Community Vision**

Originating Officer: Sue Pirone, Manager Contracts and Projects

Director: Peter Tsokas, Director City Development

Subject: Provision of advertising bus shelters to the City of Marion

Reference No: GC270207F01

File No: 14.21.3.1

If the General Council so determines, this matter may be considered in confidence under Section 90 (3)(d) of the Local Government Act 1999 on the grounds that the report details commercial information of a confidential nature.

Jeff Rittberger
Acting Chief Executive Officer

RECOMMENDATION:

That 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 persons *[insert names of Council staff present]* be excluded from the meeting as the Committee receives and considers information relating to the agreement for the provision of Advertising Bus Shelters upon the basis that the Committee 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 consideration of the matter confidential given the information is of a commercial nature

STRATEGIC OBJECTIVES:

Community Wellbeing – CW3 A well planned city to improve character, amenity and safety

REPORT OBJECTIVE AND EXECUTIVE SUMMARY:

The objective of this report is to seek Council endorsement for the recommendation to contract with Claude Group for the provision of 35 advertising bus shelters over a three year period and maintenance of those shelters for a 10 year period.

RECOMMENDATIONS:

That Council:

- 1. Endorse the recommendation to contract with Claude Group for the provision of 35 bus shelters over three years and the ongoing maintenance of those shelters for a 10 year period commencing on execution of the contract;**
- 2. Pursuant to Section 37(b) of the Local Government Act 1999 authorises the Chief Executive Officer to enter into and execute all documentation necessary to contract with the Claude Group;**
- 3. In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that this report, including Appendix 1, and the minutes arising from this report be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting on the basis that it deals with information the disclosure of which will involve the unreasonable disclosure of information concerning contracts for the supply of goods, the provision of services or the carrying out of works.**

DUE DATES:

Recommendation 1	13 February 07
Recommendation 2	13 February 07
Recommendation 3	13 February 07

Update / review report to Council: N/A

BACKGROUND:

The City of Marion currently has a contract with Adshel Pty Ltd for the supply and maintenance of advertising bus shelters within the City at no cost to Council. The contract was signed in 1999 for a period of 15 years. For the first 5 years, the contract granted Adshel exclusive rights to supply advertising street furniture. This right expired in 2004.

For the remaining 10 years of the contract, Adshel has a first right of refusal for any offer made by a third party for street furniture. This means that should Council be approached by a third party offering Council street furniture, Council must negotiate in good faith with Adshel for Adshel to provide a similar offer. If the parties fail to reach agreement, then Council must provide the terms of the third party offer to Adshel. Adshel can then choose to sign the third party agreement. If it fails to do so, Council is at liberty to contract with the third party.

In early 2005, Council was approached by Claude Group with an offer to supply advertising bus shelters to the City. After extensive negotiations with Adshel, Adshel were unwilling to match the final offer made by Claude Group.

A report went to the General Council meeting on 27 September 2005 requesting Council endorse a policy position on the maximisation of bus shelters for the benefit of the City of Marion. In essence, this was to allow any other third parties to provide bus shelters advertising local businesses and events in the City.

Council endorsed a policy position of maximising the number of bus shelters within the City, advertising of local businesses and events and requested the final agreement with the third party be presented to Council for endorsement.

The third party agreement was sent to Adshel in October 2005. Since then, there has been a protracted period of negotiation with Adshel due to a number of factors including the suitability of the sites proposed by Council for the Adshel bus shelters, as well as Adshel's preference for an exclusivity clause.

DISCUSSION:

In December 2006, all avenues of negotiation with Adshel were exhausted and terminated leaving Council free to sign a contract with Claude Group for the provision of 35 bus shelters over a three year period and the subsequent maintenance of those shelters for a 10 year period. The only cost to Council is the potential provision of up to 10 concrete pads for the shelters. A copy of the agreement to be signed with the Claude Group is attached as Appendix 1 and includes a concept photo.

INTERNAL ANALYSIS:

Legal / Legislative and Risk Management:

Legal advice has been sought throughout the process of negotiating with Adshel and Claude Group to ensure that Council's contractual requirements have been met.

However, should Council requires changes to the Claude Group contract and the Claude Group agree to the changes, it would be considered a new offer and Council would therefore be obliged to present the revised offer to Adshel and negotiate in good faith yet again.

Negotiating with Adshel has been a protracted process and any further extension will result in the Claude Group revoking its offer. Under those circumstances, Council is unlikely to gain any additional benefit from Adshel.

Financial Implications:

The only cost to Council is for the construction of up to 10 concrete pads over the three year installation period.

Resource (capacity) Impact:

The resource impact is in managing two street furniture contracts which is considered minimal and the provision of concrete slabs if required.

EXTERNAL ANALYSIS:

Social / Cultural Impact:

The provision of additional bus shelters at minimal cost to Council improves community outcomes for public transport users including shelter from inclement weather. In addition, the bus shelters have undercover space for a wheel chair or pram for disabled and young passengers.

Economic Impact:

Adshel currently has a monopoly position in the Adelaide market for advertising bus shelters which they have fought very hard to protect. In many cases, the Council contracts are exclusive for the entire terms of the contract. The City of Marion contract is different in that it contemplates the potential for other suppliers to provide street furniture within the City.

The introduction of a second provider of bus shelters into the Council area and into the Adelaide market will ensure competition and should provide options when the current Adshel agreement expires in 2009. As the first Council to provide Claude Group with an opportunity to enter the Adelaide market, Claude are keen to ensure they provide a good product backed up with good service.

CONCLUSION:

Council endorsement of the contract with the Claude Group will meet Council's objective of maximising bus shelters within the City, provide for local business and event advertising and introduce a level of competition into the Adelaide market which should provide benefits to Council when the current Adshel contract expires. The above outcomes are seen as positive for the residents of the City of Marion as they come at negligible cost.

APPENDIX 1
AGREEMENT WITH THE CLAUDE GROUP