JUSTIFICATION TO PURCHASE GOODS OR SERVICES AS A SOLE MANUFACTURER / SUPPLIER – KOCH MEMBRANE SYSTEMS, INC.

S. Pedersen: 24/19/36-17:#2357688.

RECOMMENDATION:

That Council:

1. Resolves in accordance with Section 486(1)(a) of the Local Government Act 1993, that it is satisfied that Koch Membrane Systems, Inc is the only supplier reasonably available to it to supply Ultrafiltration Cartridges to Council.

2. Resolves that recommendation 1 remain in place for a period of two (2) years upon which time it is to be reviewed.

3. Delegate authority to the Mayor and Chief Executive Officer in accordance with Section 472 of the Local Government Act to negotiate and finalise any and all matters in relation to this supplier facility.

INTRODUCTION

This report seeks a resolution of Council to make use of the exceptions to the requirement to seek written quotations or tenders under the Local Government Act 1993.

BACKGROUND:

It is a requirement of the Local Government Act 1993, (The Act), to invite written quotations or tenders where the carrying out of works or the supply of goods or services involves a cost greater than $15,000 or $150,000 respectively.

The Act provides a number of exceptions to this requirement. Some of the exceptions include -

- Where the Council resolves that it is satisfied that there is only 1 supplier reasonably available to it;

- The Council resolves that an emergency exists; or

- The contract is made with the Federal, State or Local Government or a government entity.
COMMENT:

In June 2001, the former Douglas Shire Council (DSC) commissioned the design and construction of three water treatment plants. All three treatment plants were commissioned at the same time, with performance testing completed in October 2004. The Mossman/Port Douglas Water Supply Scheme, Whyanbeel Water Supply Scheme and the Daintree Water Supply Scheme service approximately 90% of the area’s 11,000 population.

The treatment system selected for all three treatment plants was the Koch Ultrafiltration Membrane System, with disinfection provided by a Hanovia Ultraviolet Disinfection System (UV).

The membranes are capable of removing the potential contaminants of sediment and other particulate matter, bacteria, Giardia, cryptosporidium, and most large viruses.

Over time the performance of the membranes reduces as the individual fibres clog up and this leads to the membranes failing system integrity tests. The integrity tests are the indicators that the filters are no longer meeting their requirements in the water treatment process. Systematically the filters need to be replaced as they age and fail the integrity tests. A large number of filters now require replacement at the water treatment plants in Mossman, Whyanbeel and Daintree.

The membrane filtration system at the Mossman, Whyanbeel and Daintree water treatment plants utilises the proprietary Koch Membrane Systems (KMS) ultrafiltration membrane modules (or cartridges). No other manufacturer of membrane systems is able to supply membrane modules that are interchangeable with the KMS cartridges. Replacement membrane modules therefore need to be sole sourced from Koch Membrane Systems.

CONSIDERATIONS:

Corporate and Operational Plans:

Corporate Plan 2009 – 2014

4.1 – Provide a robust, secure, high quality water supply to meet the growing needs of the community.

4.4 – Deliver effective long-term maintenance and renewal of existing infrastructure and community assets.

Operational Plan 2009 – 2010

1. Potable Water – Connections to the Regional water supply system; supply of potable water to a quality equal to or better than the Australian Drinking water Guidelines; water supply systems include:
   - Freshwater Supply System
   - Behana Creek Supply System
   - Mossman & Port Douglas Supply System
   - Whyanbeel Supply System
   - Minor Rural Supply Systems
   - Distribution System
2. Infrastructure Management – maintenance of water infrastructure to service demands; principle assets are:
- Freshwater Treatment Plant
- Daintree Treatment Plant
- Whyanbeel Treatment Plan
- Intakes
- Numerous pump stations
- Distribution network
- Reservoirs and storages.

**Statutory:**


Section 486(1) (a) of the *Local Government Act 1993.* This section provides for the allowable exceptions to the requirement of Council to seek tenders or quotations.

**Policy:**

Council General Policy No. 1:02:23 - Procurement applies.

**Financial:**

The price received from Koch Membrane Systems, Inc for the supply of UF Cartridge Filters is AUD $435,955.00, exclusive of GST (subject to the exchange rate). The total price, including delivery, in US dollars is $392,360.00. Koch Membrane Systems, Inc have stated that the exchange rate will not vary more than between 0.89 – 0.92.

GST and import duty will be payable by Council to Customs on arrival in Australia. The last order from Koch Membrane Systems, Inc for the same number of UF Filter Cartridges incurred a charge of $35,000.00.

A budget of $515,000.00 has been included in the Cairns Water and Waste capital works budget for the purchase the UF Cartridge Filters.

**Delivery**

The delivery and installation of the UF Cartridge Filters after acceptance of the quotation is expected to take approximately 4 weeks (subject to overseas freight and customs).

**Risk:**

The prices for the UF Cartridge Filters are quoted in US dollars and there is some financial risk associated with the exchange rate. Between the submission of the quotation, and the final approval and placing of the purchase order for the system, the exchange rate may change to either the detriment or benefit of Cairns Water and Waste.
Koch Membrane Systems, Inc has supplied UF Filter Cartridges to Council previously (pre-amalgamation to Douglas Shire Council).

**Sustainability:**

It has been noted in the report to the Water & Waste Committee on 22 May 2008 in the report “Water Supply Issues in the Former Douglas Area (document #1707413, page 12) that the ultrafiltration membrane treatment process has a high per-unit operating cost and high replacement cost for membrane cartridges.

**CONSULTATION:**

In consultation with Council’s Water Services Coordinator and Zlatko Tonkovic of Yabbie Pond Pty Ltd, a specialist in membrane technology, it has been confirmed that Koch Membrane Systems, Inc are a sole supplier of UF Filter Cartridges that can be used in the Mossman, Whyanbeel and Daintree Water Treatment Plants. Furthermore, all the systems on the market are of a proprietary origin to the extent that individual membrane modules are not interchangeable between proprietary systems.

Mr Tonkovic has previously provided an analysis of the performance of the Mossman Water Treatment Plant to Cairns Regional Council at the time of the Douglas and Cairns Councils amalgamating. Mr Tonkovic was also involved in the original delivery of the Daintree, Whyanbeel and Mossman Water Treatment Plants.

**OPTIONS:**

Council's options are:

1. To Resolve in accordance with Section 486(1)(a) of the *Local Government Act 1993*, that it is satisfied that Koch Membrane Systems, Inc is the only supplier reasonably available to it to supply UF Filter Cartridges for Mossman, Whyanbeel and Daintree Water Treatment Plants.

or

2. Proceed to call tenders for the provision of UF Filter Cartridges knowing that officers believe that no other manufacturer of membrane systems is able to supply membrane modules that are interchangeable with the cartridges supplied by Koch Membrane System, Inc being used at the Mossman, Whyanbeel and Daintree Water Treatment Plants.

**CONCLUSION:**

It is recommended that Council:

1. Resolve that it is satisfied Koch Membrane Systems, Inc is the only supplier reasonably available to supply UF Filter Cartridges to Council.

2. Resolves that recommendation 1 remain in place for a period of two (2) years upon which time it is to be reviewed.
3. Delegate authority to the Mayor and Chief Executive Officer in accordance with Section 472 of the Local Government Act to negotiate and finalise any and all matters in relation to this supplier facility.

ATTACHMENTS:

Nil

Terry Spurrier  
**Executive Engineer – Project Delivery**

Jon Turner  
**Manager Infrastructure**

Bruce Gardiner  
**General Manager – Cairns Water & Waste**