



RECORD OF DELEGATED DECISION (OFFICER)

CONTRACT EXEMPTION

1. Decision Reference No.	CEX279	
2. Name/Title of Officer	Dawn Garton Director for Corporate Services Kieran Stockley Assistant Director for Governance & Democracy	
3. Email address of Officer	dgarton@melton.gov.uk Kstockley@melton.gov.uk	
4. Contract Title / Subject Matter:	Maintenance Contract for Car Park Machines	
5. Type of Decision:	Public	
6. Key Decision?	No	
7. Contract type:	<input type="checkbox"/>	Goods
	<input checked="" type="checkbox"/>	Services
	<input type="checkbox"/>	Works
8. Decision Taken:	<p>1. Authority to use a Contract Exemption as detailed below to allow Melton Borough Council to appoint Flowbird Smart City UK Ltd. to continue to provide the Council with the servicing, maintenance and repairs of the car parking machines on the Council operated car parks within the town.</p> <p>2. Authority for the Corporate Property and Assets Manager to award and enter into any necessary agreements with Flowbird Smart City UK Ltd.</p>	
9. Contract Details		
Service area	Corporate Property & Assets	
Short contract description	Fully inclusive Maintenance Agreement	
Length of Exemption (months)	36 months maximum	

Exemption start date	01.02.2023
Exemption end date	31.01.2026
Total exemption value (£)*	£34,230 for the maximum term of the contract
Cumulative value of all previous Exemption requests (if applicable)	N/A

* Where the total value of the contract is £5,000 or more, the resultant contract must be added to the Contract Register to ensure compliance with Transparency Regulations.

An award notice is required on Contracts Finder for all Contracts with a total value of £20,000 or above. Welland Procurement is responsible for such award notices. Officers must formally advise Welland of the award details, so that they can publish the award notice.

10. Exemption Details

Type of Exemption:	<input type="checkbox"/> New Requirement <input checked="" type="checkbox"/> Change to Existing Requirement <input type="checkbox"/> Replacement to Existing Requirement <input type="checkbox"/> Other
Which rule are you seeking an exemption from?	<input type="checkbox"/> To advertise <input checked="" type="checkbox"/> To follow a competitive process
Name of Proposed Provider:	Flowbird Smart City UK Ltd
Has the requirement been subject to a previous Exemption?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes [If yes give details below]
Applicable Exemption:	<input checked="" type="checkbox"/> (1) No genuine competition: proprietary or patented goods or services; requirement of such a specialist nature that it can genuinely only be fulfilled by one person or organisation; compatibility with existing goods or services is required and where those existing goods or services can only be sourced from the same supplier.
Details of benchmarking or market testing carried out	<p>There are a limited number of other companies on the market that deal with the general servicing, repair and maintenance of car parking machines but some are not the same make, model and age of those operated by the Council.</p> <p>Flowbird are the Council's current provider. The Council is currently undertaking a review of its existing car parking machines. There is a</p>

		<p>budget set aside for this work and it is anticipated that this project will be taken forward in the next financial year.</p> <p>If this project does proceed then we may only require the services of Flowbird Smart City UK Ltd. for part of the 36 month term.</p> <p>We have discussed this matter with Welland Procurement who have advised that due to the circumstances, in this instance they are comfortable with us taking this approach.</p> <p>Additionally, we have investigated other Council and Local Authority tenders to see if there are any other companies able to supply servicing, maintenance and repairing contracts. This has highlighted that Flowbird Smart City have been awarded a significant number of comparable contracts, for instance parking machine maintenance contracts to the value of £90k with Plymouth City Council and £25k contract with Derbyshire County Council. There are other companies entering the market but they tend to be suppliers of new equipment rather than maintaining our existing older generation parking meters.</p> <p>On this basis, there is no genuine competition and the requirement is of such a specialist nature that it can genuinely only be fulfilled by one company to ensure continuity and compatibility with the existing machines.</p>
	<p>How will value for money be secured?</p>	<p>Over the period of our previous contract with Flowbird Smart City UK Ltd. they have proved to be reliable and efficient. Due to the age of the existing machines, replacement parts are often required for the machines and Flowbird Smart City UK Ltd. have always been able to source appropriate parts and repair machines. The risk of moving to an alternative provider (if indeed such a provider can be identified) is that they may not be able to offer a comparable service or be available and confident to repair and maintain the Councils stock of older generation machines. This contract therefore offers value for money because of knowledge and compatibility with current machines.</p>

11. Reasons for Decision:

Flowbird Smarty City UK Ltd., (previously trading as Cale Briparc) are the manufacturers of the existing car park machines and carry out the fully inclusive maintenance for the Council. They have been providing parts and maintenance to the Council for over 15 years. Flowbird Smart City UK Ltd. are considered to be the best provider of car park tickets machines and maintenance contracts throughout the UK. The risk of migrating towards an alternative provider would mean that we cannot be assured the products are adaptable for the machines or that their engineers would have the knowledge to work on the make and model of machine located at our car parks.

The principle of selecting Flowbird Smart City UK Ltd. for the continued maintenance is based on their previous efficient and affective service and value for money. As a Council we are looking at options to replace all car parking meters within our car parks within the next financial year. Therefore this proposal may only be required for 12 months. Monies are set aside each year to cover the costs of new machines but there is a small deficit, until this gap can be filled we require continuance of the service provided by Flowbird Smart City UK Ltd.

12. Authority / Legal Power:

CPR 16.4 Exemptions must be approved by the Director for Corporate Services and the Assistant Director for Governance & Democracy

13. Background Papers attached?

No

14. Alternative options available / rejected:

1. Doing nothing will result in car park machines not serviced or repaired, this will affect car park income.
2. Continue to search the market for an alternative provider. There is a risk that there are no suitable alternative providers or that there are providers but their costs are significantly higher. A delay in making an appointment could cause significant problems (and potentially a loss of income) if there are faults or issues with the current parking meters and a repair cannot be dealt with.

15. Implications:

<p>Legal</p>	<p>The Council has the power to enter into contracts in order discharge its functions (Local Government Act 1972, s111 and the Local Government (contract) Act 1997, s1). The Local Government Act 1972 requires the Council to have regulations for how it enters into contracts. In addition to complying with all relevant UK and EU legislation every contract entered into on behalf of the Council must also comply with the Council's Contract Procedure Rules and the Council's Financial Regulations. The Contract Procedure Rules provide exemptions but the exemptions listed do not apply to procurements valued above the relevant EU Threshold.</p> <p>Exemptions must be approved by the Director for Corporate Services and the Assistant Director for Governance & Democracy and are subject to one of more of the criteria being fulfilled. VFM has been secured through negotiations which make it cheaper than awarding through a framework. Compatibility with existing car parking machines is key.</p> <p>[Legal Approval - 08 February 2023]</p>
<p>Finance</p>	<p>The annual cost is expected to be £11,410 of which the budget for 2023/24 is £10,410 leaving a slight shortfall on the budget provision in place which will need to be covered from existing budgets. The increase in the contract price is not unexpected with the national inflationary pressures and the new budget will be rebased in 2024/25.</p> <p>[Finance Approval – 7 February 2023]</p>
<p>HR</p>	<p>There are no HR implications as a result of this decision [HR Approval – 31 January 2023]</p>
<p>Procurement</p>	<p>Current contract states Flowbird have exclusivity on maintenance of machines purchased from them and all machines used by MBC are from Flowbird. Furthermore, as they manufacture the machines they control spare parts meaning reduced market and inflated costs for anyone else supplying the service.</p> <p>ESPO Framework 502 would give a complaint route on this however we receive a better price via this exemption saving £3570 over the three years.</p>
<p>16. Signature of relevant Service Director:</p>	<p>Dawn Garton Director for Corporate Services</p>
<p>17. Signature of Decision Maker with authority to sign</p>	<p>Signature redacted Dawn Garton Director for Corporate Services</p>

18. Consultation with:	Email approval received Kieran Stockley Assistant Director for Governance & Democracy
19. Date:	28 March 2023

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