

Mrs Deborah Urquhart, Cabinet Member for Environment	Ref No: ENV09 19-20
March 2020	Key Decision: Yes
Electric Vehicle Charging Procurement	Part I
Report by Executive Director Place Services and Director of Environment and Public Protection	Electoral Division(s): All
<p>Executive Summary</p> <p>In December 2019, the County Council adopted an Electric Vehicle Strategy which sets out an ambitious vision for electric vehicle take up across the county. The Strategy sets out that the County Council wants to see one consistent, affordable, easy to use, reliable, widely accessible and recognisable charging network across the county, providing renewable energy charging.</p> <p>Chargepoints will be located on-street, in public sector car parks, and on community assets county wide, providing charging primarily for those residents who do not have access to off road parking, and would be unable to switch to EV without public charging.</p> <p>The Strategy also makes it clear that any solution must be at zero cost to the Council.</p> <p>The County Council therefore needs to procure a market based supplier that will be responsible for planning, funding, building, marketing and operating publicly accessible chargepoint network across West Sussex, as well as providing an on-going 24/7 service (including the management of payments and support), maintenance and repair to ensure the network is fully operational at all times.</p>	
<p>West Sussex Plan: Policy Impact and Context</p> <p>Engaging a supplier to deliver the County Council’s Electric Vehicle Strategy will contribute to the following aims within the West Sussex Plan:</p> <ul style="list-style-type: none"> • Reduced carbon emissions • Improved air quality • Infrastructure that supports a successful economy • A place that provides opportunity for all; by focusing on those residents that do not have access to private driveways it enables all residents in the County to have the opportunity to switch to EV. • A great place to live, work and visit; by ensuring that West Sussex remains an attractive and accessible location for all. <p>In addition, it aligns with the County Council’s Energy Strategy and will support the delivery of the County Council’s Climate Change Pledge.</p>	
<p>Financial Impact</p> <p>The installation of the chargepoints will be via a concession contract and will be delivered entirely by the preferred supplier. As such there is no requirement for the County Council to provide any capital funding. The County Council may bid for</p>	

grants to assist the delivery of certain sites and, should it be successful, then this would be paid to the preferred supplier on delivery of the agreed sites.

All resources to deliver the contract can be met from within existing resources. A proportion of the income generated will be retained by the County Council to fund the management, and potential further development, of the contract.

The concession contract will return some revenue from the successful utilisation of the chargepoints but it is not expected to be significant.

Recommendations:

The Cabinet Member for Environment is asked to:

1. approve the commencement of the procurement process to procure a concession contract for a period of 7 years with the option to extend up to a further 3 years (on a 1 + 1 + 1 basis) as set out in section 2 of the report.
2. delegate authority to the Director of Environment and Public Protection, in consultation with the Director of Highways, Transport and Planning, to award the service concession contract to the successful bidder following the procurement exercise.

Proposal

1. Background and Context

- 1.1 On 13th December 2019, the County Council adopted an Electric Vehicle Strategy. This strategy sets out the County Council's vision for electric vehicles across the county, and the interventions required to deliver this vision.
- 1.2 The Council wants to see one consistent, affordable, easy to use, reliable, widely accessible and recognisable charging network across the county, providing renewable energy charging.
- 1.3 The locations of the chargepoints will reflect the County Council's aspirations around sustainable transport solutions. Chargepoints will be found on-street, in public sector car parks, and on community assets county wide, providing charging primarily for those residents who do not have access to off road parking, and would be unable to switch to EV without public charging. These users will be served by fast chargepoints.
- 1.4 The strategy also acknowledges the importance of being able to travel throughout the county without worrying that they will run out of charge. Rapid chargepoints will help resolve this issue.
- 1.5 The County Council has modelled the likely demand for EV chargepoints and estimate, to meet demand, West Sussex will need up to 3,169 fast, and 136 rapid chargepoints by 2025, and 7,027 fast and 319 rapid chargepoints by 2030.
- 1.6 The cost of chargepoint installation can vary dramatically but the potential total investment required is estimated to be in the region of £22million. It is anticipated that the private market will deliver a proportion of these chargepoints in locations such as existing petrol stations.

- 1.7 The EV Strategy makes it clear that any solution must be at zero cost to the Council.
- 1.8 The Council therefore needs to find a market based supplier that will be responsible for joint planning, sole funding, building, marketing and operating a publicly accessible chargepoint network across West Sussex, as well as providing an on-going 24/7 service (including the management of payments and support), maintenance and repair to ensure the network is fully operational at all times.
2. As the aspiration for this network extends beyond County Council owned land to that of other public and community landowners, the supplier must be willing and able to work with a variety of partners to achieve the overarching goal.

Proposal Details

2.1 Scope of Contract

A third-party supplier will be sought for the delivery, ongoing management, operation and maintenance of all chargepoint infrastructure and customer services, including promotion of the service. In order to meet the zero-cost stipulation, this will be via a 100% concession contract. The concession offered to the successful supplier, in return for its financial, planning and service input, is the availability to it of the County Council's assets.

2.2 Portfolio Approach

Key to the approach of the contract is considering all the county as one large portfolio, with all the sites considered together, not on a site by site basis.

- 2.3 Identifying the best locations for the quantity of chargepoints anticipated to be required is a significant task. From market engagement, it is clear that each supplier has their own models and ways of assessing site suitability and, in a situation where they would be required to fund the install, would carry out their own assessments before committing to installing chargepoints on sites we identify. There is therefore very limited value in the County Council carrying out site identification in isolation of the preferred supplier.

- 2.4 To overcome this, a planning year will be built into the contract to enable the supplier to develop and present a county wide network plan, which the County Council and its partners will approve, along with a 5-year delivery plan.

- 2.5 The supplier will still be expected to install chargepoints during this initial year, at agreed sites.

2.6 Partner Involvement

To make the offer as attractive as possible, the Council will commit as many assets as possible within the initial contract, including those of partner Councils.

- 2.7 The contract will be available to other defined Contracting Bodies, such as district, boroughs, parish councils and incorporate parish halls, community centres etc. enabling them to access the contract free of charge. Horsham District Council, Crawley Borough Council and Adur and Worthing District Council are working with us and Horsham in particular, have dedicated

resource to help shape the procurement. It is anticipated that all three authorities will have signed an inter authority agreement committing to work together prior to the start of the procurement process.

2.8 Options to define East Sussex, Kent and Brighton and Hove Authorities as Contracting Bodies on the contract are being explored, with particular reference to securing the necessary information to meet OJEU requirements.

2.9 **Added Value**

Ways to add value to the County Council, partners and residents, including the possibility of WSCC supplying energy to power the chargepoints will be explored during the contract.

2.10 **Contract Length**

Given the initial investment and resources required by the Service Provider to install the chargepoints, as well as the revenue return to the Council, an initial period of 7 years with the option to extend for a further maximum 3 years is considered proportionate. This analysis is also compatible with the requirements of the Public Concession Contracts Regulations 2016 ("PCC 2016") which indicate that a concession contract should not be longer than the time it would take a supplier to recoup its investment.

2.11 The concession contract and leases will contain appropriate termination provisions for any breach and will be co-terminus.

2.12 **Standards**

The supplier will be required to install chargepoints that meet Government standards and will be required to maintain the structure/s and location according to either West Sussex Highways and Transport standards, or standards for car park installations.

2.13 **Governance**

The contract delivery will be overseen by a partnership Governance Board chaired by a senior officer. They will agree and set the strategic direction for the contract, and review progress on a regular and appropriate basis.

2.14 **Timescales**

It is the intention to issue the tender documents in March/April and award the contract in July 2020.

2.15 **Infrastructure at the end of the contract**

The Council will have an option to purchase any infrastructure in the ground at the end of the contract. If we do not want to take up this offer the supplier will be expected to remove any above ground infrastructure and make good the area.

Factors taken into account

3. Consultation

3.1 A variety of consultation has taken place in order to inform and shape the proposal.

3.2 The work has been led by a cross service officer group including representatives from Highways, Legal, Procurement, Commercial Finance,

Energy and the Sustainability Team. Horsham District Council and Crawley Borough Council officers have also been part of this group.

- 3.3 A "Request for Information" to EV suppliers and subsequent supplier engagement sessions have taken place.
- 3.4 West Sussex District and Borough Councils have been consulted and engaged through-out the process.
- 3.5 The Energy Saving Trust (EST) is funded by the Department for Transport to run a Local Government Support Programme relating to EVs. The EST has acted as a critical friend, commenting on early drafts of the strategy to ensure all necessary factors have been considered.
- 3.6 Differing approaches and existing experience and knowledge has been sought from other local authorities.
- 3.7 The outcome of all these discussions have shaped the proposed procurement processes and the appropriate service specification.

4. Financial (revenue and capital) and Resource Implications

4.1 Revenue consequences of proposal

It is anticipated that the County Council will gain a small revenue stream from the installation of the chargepoints. It is proposed that this will be achieved by including a small increase in the price per kWh charged to the consumer. In addition, it is proposed that the concession will allow for full profit sharing once the supplier has made a return on the initial investment required to install the chargepoint. The total profit achieved from the portfolio of chargepoints will be distributed amongst the partners to this procurement in proportion to the number of chargepoints on their land, after a proportion of the income generated has been retained by the County Council to fund the management, and potential further development, of the contract.

4.2 Capital consequences

Given the nature of the procurement there is no requirement for any County Council investment. However, up to £100,000 of funds can be claimed per local authority from The Office for Low Emission Vehicles (OLEV) On-Street Residential Charging Scheme. The purpose of which is to increase the availability of on-street charging points in residential streets where off-street parking is not available. The County Council intends to bid for this Grant, and use any monies awarded to support sites that are deemed as uneconomical by the preferred supplier.

If any additional alternative funding becomes available, this will also be explored and bid for.

4.3 Human Resources, IT and Assets Impact

Contract Management

A proportion of the funds generated from the scheme will be retained by the County Council to contract manage the scheme.

Contract Management responsibility will sit within Highways Transport and Planning, and a post has been created within the Highways Structure.

Assets

The EV strategy states that the County Council will consider locating chargepoints on County Council owned land excluding:

- Residential homes;
- Schools, unless they specifically opt into providing chargepoints;
- Care sites offering residential services, or services to vulnerable people;
- Leased properties, where tenants fully control the site services and operation;
- Agricultural land;
- Secure sites;
- Sites where public access might impede service delivery or put the public at risk.

A review of all WSCC owned sites has taken place to assess sites suitability. 27 sites met these criteria. These sites will be included within the procurement documentation as potential sites for EV chargepoint installations.

The supplier will be responsible for assessing the viability of installing chargepoints, for example, assessing grid capacity and connection costs

If any new sites become available (leases end etc.) these will be shared with the supplier post contract award.

5. Legal Implications

- 5.1 The Public Concession Contracts Regulations 2016 govern public sector Concession Contracts. The advantage of a concession contract to the County Council is that there is no requirement for it to spend any upfront costs, as the successful concessionaire takes on all the funding risks, development and planning costs required in order to exploit the services and assets within the scope of the concession contract.
- 5.2 The value of a service concession contract is therefore determined by the amount that the Service Provider(s) could generate over the duration of the contract period. In addition, the length of the concession contract is calculated by reference to the reasonable amount of time it would be expected for the Service Provider (s) to recoup its upfront investment. The current OJEU threshold for concession contracts is £4,733,252 (or Euros5,350,000). The total value of this concession is likely to exceed the threshold amount and therefore the procurement will be processed via an OJEU-compliant Open Process.
- 5.3 The length of the contract is 7 years (initial term) with the option to extend for periods of one year to a maximum of 10 years. The feedback from market engagement indicates this is a reasonable time for the successful bidder to make a healthy return on investment.
- 5.4 The contract will be drafted so that defined Contracting Bodies can utilise the Concession Contract.

- 5.5 The district and borough councils, already committed to this project, namely Horsham District Council, Crawley Borough Council and Adur & Worthing District Council, will complete an Inter Authority Agreement before the tender process begins to commit assets and to the scope and vision of the procurement.
- 5.6 The County Council has the power to dispose of land for “best value” pursuant to section 123 of the Local Government Act 1972. The disposal would be by way of a lease to the successful Service Provider (s) to use the County Council owned land with the consideration for that lease being the rent and, where appropriate to the particular site and advertising medium, a share of the advertising income that is paid back to the County Council. Best value and rent amount/income share to be determined through the tendering process.
- 5.7 Disposal of County Council owned land by way of leases is not subject to the County Council’s Standing Orders on Procurement and Contracts nor the Public Contracts Regulations 2015 as leases are not services or works contracts.
- 5.8 For the sites initially within scope, Legal Services have carried out appropriate due diligence checks (including Land Registry documents), that the land is owned by the County Council and there are no covenants on the land preventing the proposals set out in this paper. Any land and/or assets identified by any of the Service Provider(s) during the period would be subject to the same due diligence checks prior to entering into any property lease, highways licence and, if applicable a service concession contract.
- 5.9 The lease/contract will ensure the Service Provider(s) is responsible for installation and all maintenance, repairs, replacement and health and safety obligations. The lease/contract will also require the Service Provider(s) to comply with all directions of the highways legislation, policy and guidance and allow access if needed.
- 5.10 There are no State Aid concerns as the funding for this project will be 100% funded by the concessionaire. Even if the County Council is successful in obtaining OLEV funding, this is not a substantial amount of funding and is likely to fall under the de minimis exclusion.

6. Risk Implications and Mitigations

Risk	Mitigating Action (in place or planned)
No supplier bids for the work	Supplier engagement has given confidence that suppliers will be interested in the offer planned to be put to market. By working with partners, a larger amount of sites will be available to any supplier, making the offer more attractive than working independently.

Risk	Mitigating Action (in place or planned)
New role within Highways to oversee contract management is not filled.	The post will be advertised externally if not filled at the end of the internal restructure process.
Supplier provides chargepoints only on the commercially attractive sites.	<p>By taking a portfolio based approach and leveraging OLEV grant monies less commercially attractive sites will be supported by other more viable sites.</p> <p>Signing of a network plan and delivery plan will ensure that the Council and partners are happy with the spread of sites.</p>

7. Other Options Considered (and reasons for not proposing)

7.1 Do nothing

Do nothing was rejected as it would not deliver on the long-term ambition and commitments set out in the EV Strategy.

7.2 Develop a network plan prior to commencing procurement

It was considered whether to either complete additional work in-house or pay for additional work to be done to identify suitable sites and develop a network plan.

Taking this approach was rejected for a number of reasons:

- The supplier engagement sessions demonstrated the willingness of suppliers to bid for tenders where sites hadn't been specified.
- The supplier engagement sessions demonstrated that all suppliers would carry out their own site assessment before fully funding any option, making any additional work the County Council carried out redundant. This assessment is shared with their funders and is the basis on which the suppliers can successfully invest in the concession contract.
- Completing this work would delay going to the market and delay installation of chargepoints across the county. This was not seen as acceptable.

7.3 Procure using an existing Framework

There are a number of frameworks the County Council could use: Hampshire Framework; Crown Commercial Framework; ESPO Framework.

Taking this approach was rejected as:

- not all the suppliers who are likely to apply are represented on these frameworks,
- all of frameworks require the Council to stipulate chargepoint location and numbers in advance, and 100% funding is not guaranteed,
- The ESPO Framework ends in June.

8. Equality and Human Rights Assessment

When the EV Strategy was in development an Equality Impact Assessment was completed to help shape the strategy. The procurement reflects the ambitions of the EV strategy, and where applicable disability access will be reflected in the specification.

9. Social Value and Sustainability Assessment

- 9.1 The supplier will be required to supply renewable energy to guarantee maximum reductions in carbon emissions.
- 9.2 Added social value will be assessed as part of the procurement process.

10. Crime and Disorder Reduction Assessment

None identified.

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Appendices

None