

<b>Subject:</b>	<b>Metro Wireless Network</b>		
<b>Date of Meeting:</b>	<b>29<sup>th</sup> November 2012</b>		
<b>Report of:</b>	<b>Strategic Director Place</b>		
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<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE**

**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 Wireless solutions are increasingly beginning to form a key layer in how the retail and tourism and public sectors engage with customers through the delivery of digital services and applications. With the provision of a digital platform this can start to deliver commercial, operational and value added opportunities for both the public and private sectors.
- 1.2 Wireless is a key component of a digital platform for the city and presents an opportunity for the Council to be an enabler for enhancing the customer, visitor and retail experience, supporting economic development and for driving social and economic value.
- 1.3 As access to the internet via mobile handsets and devices increases, wireless networks have increasingly moved away from a chargeable subscription model for internet access towards a value added free service with revenue being derived from sponsorship, advertising and other digital services.
- 1.4 To deploy a city wireless network there is a requirement for access to numerous sites at street level. As an owner of such assets including street furniture, the Council is ideally placed to enable the delivery of such a network.
- 1.4 This report seeks Policy & Resources Committee approval to appoint a network preferred partner to develop a Next Generation Wireless network within Brighton & Hove under a service concession contract which requires the operator to pay the Council a concessionary licence fee and a percentage share of the total revenue.

**2. RECOMMENDATIONS:**

- 2.1 That approval be given to let a service concession for the use of council owned assets (primarily street furniture) to deliver a Wireless Network for a 5 year initial period with the option to extend for 2 years plus a further period of up to 12 months (5 plus 2 plus 1)

- 2.2 That the Strategic Director Place be granted delegated authority to award a service concession contract to deliver a Metro Wireless network and, subject to satisfactory performance of the appointed contractor, to extend the 5-year contract by a maximum of 3 years (2 years, then 12 months).
- 2.3 That the Head of ICT in conjunction with the Strategic Director Place be authorised to agree any minor amendments to the draft contract deemed necessary and to conclude the contract accordingly.

**3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 Reports indicate that 1 in 7 adults globally now have a mobile smartphone and this is expected to double in the next 3 years. Increasing use of smart phones connecting to the Internet is generating increasing demand for wireless network capacity. From the point of view of residents, business and visitors, mobile access to the internet, especially where free of charge, is very valuable, and can bring economic benefits. In particular for visitors to the City, being able to have mobile access to information and services around travel, events, accommodation and entertainment is a great benefit
- 3.2 In terms of the end user greater emphasis is now being placed on delivering free access to the end user through a variety of commercial models including unlimited free access to local information including tourism. It is anticipated that multiple commercial services could be delivered to mobile handsets and digital screens all of which could generate a potential revenue stream.
- 3.3 In this respect it is envisaged that by supporting the enablement of a digital platform, Brighton & Hove City Council will promote an enhanced visitor experience; supporting retailers and other business to advertise, present promotions etc; drive economic development by supporting Digital SME's and attracting inward investment; and delivering social and economic value, for example, by supporting channel shift for the delivery of council services and addressing digital exclusion. This approach has been reflected in a recent SOCITM report on the role of local government and enabling 4G.
- 3.4 The increasing demand for Wireless broadband, public space WiFi, 3<sup>rd</sup> and 4<sup>th</sup> Generation (3G and 4G) mobile internet services in the City and the emergence of new commercial offerings from leading telecommunication companies offers a real opportunity for the Council to embrace metro wireless opportunities by becoming the catalyst for deployment. By providing access to its assets including street lighting/cctv, infrastructure/property assets through a concessionary agreement the Council seeks to:
- Develop a long term partnership through a public service concession which is excluded from the scope of the 2006 Public Contracts Regulation
  - Generate long term revenue through an annual rental and revenue share agreement
  - Enable the development of a digital platform to support business, retail, tourism and community engagement.

- 3.5 The opportunity exists through partnership for the Council to deliver a metro wireless network within Brighton & Hove which be driven by commercial opportunities from the private sector rather than through public financial investment.
- 3.6 The contract will be structured so that the contractor can generate income revenue for the Council by the service concession through activities such as wholesaling spare network capacity to other mobile network operators, and Internet based advertising.
- 3.7 The Next Generation Wireless network is to be rolled out and bedded-in by a date to be agreed with the successful Bidder. The installation, support, maintenance and monitoring (capital and on-going revenue) of the network shall be at no cost to the Council. The contractor will be required to fully fund an assurance team to support the Council during the installation process.
- 3.8 It is envisaged that the initial coverage will be in high footfall areas including the Seafront, major tourist destinations, and the main retail areas of Brighton and Hove however the concession is not prescriptive to these areas.
- 3.9 The proposal will provide the facility for an option of exclusivity which will form the basis of the tender responses and negotiation. The provision of exclusivity will be on the basis that the long term interests of the Council are maintained. In consideration for this access, the contractor will pay the Council a fee and a percentage share of the total gross revenue. The contractor will operate open-book accounting and will be liable for all costs.
- 3.10 The concession holder will be required to meet the Council's competency requirements to work on the wireless network, e.g. HERS (NHSS8) accreditation, plus CDM 2007 (if applicable). Further details of the Councils' requirements will be included in the specification, which shall form part of the Invitation to Tender ('ITT') documentation issued to shortlisted suitably qualified bidders.
- 3.11 The wireless network shall be made available, accessible and usable to all individuals, regardless of the identity of their network provider. The user experience and quality of service shall be the same for all users, regardless of the identity of their network provider. Further details of the Council's requirements in this regard will be included in the specification.

#### **4. THE PROCUREMENT PROCESS**

- 4.1 The structure of the Metro Wireless contract will be that of a public service concession, i.e the Council grants an operator the right to use Council assets and street furniture to develop a wireless communications network. Rather than pay the operator for providing the network, the Council transfers the opportunity to exploit the market to the operator, along with the demand risk (the risk that there will be little or no market to exploit). Revenue from fees paid by third party users to the operator is then used to meet the costs incurred and to make a profit.
- 4.2 Public service concession agreements are excluded from the scope of the 2006 Public Contracts Regulations and are therefore not formally regulated, although

the EC Treaty principles of proportionality, mutual recognition, transparency, non-discrimination and equal treatment apply to the procurement process. The Council is therefore free to negotiate with tenderers, is not bound by minimum tender periods, is not required to adhere to a standstill period and is not obliged to advertise in the OJEU.

- 4.3 However, as a matter of good commercial practice the Council is advised to follow a structured competitive tendering process, including an OJEU notice and incorporating elements of competitive dialogue. Dialogue meetings will take place with each bidder before final tenders are submitted, in order to discuss the bidders draft proposals and to provide an opportunity for commercial negotiations. Each bidder's proposals will be treated confidentially and a robust evaluation process followed to ensure that equal treatment of bidders can be demonstrated. Feedback will be provided to all bidders upon announcement of the decision to award.
- 4.4 This approach to procurement allows the Council to test the market, ensures that the Council benefits from the maximum possible revenue, and that future technology developments be included in any proposals. Given the specialist nature of these services a technology expert, Regional Network Solutions (RNS) have been engaged to support the procurement.
- 4.5 The preferred bidder will be identified as the supplier capable of meeting the Councils' requirements through a Service Concession Tender Process.
- 4.6 A Pre-Qualification Questionnaire ('PQQ') was published to the market on 15<sup>th</sup> October following a supplier briefing day on 25<sup>th</sup> September. The key objective of this PQQ is to assess evidence provided by bidders of their experience in designing wireless networks using street furniture assets and working with Planning Authorities. Shortlisted Bidders will be issued with an ITT including further information on the concession and requested to submit initial bids. There will be an initial evaluation in line with the criteria set out in the ITT documentation and each bidder will be invited to participate in a 'dialogue' phase. Following this, bidders will be invited to submit their final bids.
- 4.7 The PQQ sets out the information which is required by the Council in order to assess the suitability of potential bidders in terms of its technical knowledge and experience, capability/capacity, organisational and financial standing to meet the requirement and select Bidders to proceed to the next stage of the process.
- 4.8 During the PQQ stage, the intention is to arrive at a shortlist of 6 qualified providers for formal Invitation To Tender ('ITT') against the requirement as advertised in the voluntary OJEU Notice 2012/S 198-326014 dated 11.10.12
- 4.9 The indicative timetable for this process is outlined below:

Supplier Engagement Day	25 <sup>th</sup> Sep 2012
PQQ Issued	15 <sup>th</sup> Oct 2012
Evaluation of PQQ submissions	15 <sup>th</sup> Nov 2012
Issue of Invitation to Tender	1 <sup>st</sup> Dec 2012
Evaluation of Tender Submission	End Jan 2013
Concession commencement	Mar 2013

## 5. COMMUNITY ENGAGEMENT AND CONSULTATION

- 5.1 Extensive engagement has taken place with both internal and external stakeholder groups with a view to sharing the proposed wireless strategy and gaining a shared understanding of the benefits for the City resulting in a good level of support from local business partners, community and voluntary groups. These include the universities of Brighton and Sussex, local Chamber of Commerce, CVSF, Brighton BID and the Federation of Small Business.
- 5.2 A process of due diligence has been undertaken with internal stakeholders with regard to detailed planning, asset management and procurement. This information will be provided to potential operators as part of the procurement process.
- 5.2 On 25<sup>th</sup> September a number of local and national suppliers were invited to attend an Information Day entitled Enabling Wireless Next Generation Access to Brighton and Hove. The event served to share with attendees the Councils vision for achieving a wireless digital platform and was supported by local business and community group representatives.

## 6. FINANCIAL & OTHER IMPLICATIONS:

### Financial Implications:

- 6.1 There are no tax and accounting implications relating to this recommendation.
- 6.2 The cost of consultancy services provided by Regional Network Solutions will not exceed £15,000. This cost will be offset against the income generated.

*Finance Officer Consulted: Michael Bentley Date: 19/10/12*

### Legal Implications:

- 6.3 The legal position regarding the procurement process is fully set out in paragraph 4 above.

If the appointed provider requires access to council-owned assets to install, maintain and repair the equipment providing the wireless network, all necessary land-owner consents will need to be included in the contract.

*Lawyer Consulted: Oliver Dixon Date: 19/10/12*

### Equalities Implications:

- 6.4 Equalities and diversity policies will be considered as part of the process to confirm selection of the operator.

#### Sustainability Implications:

- 6.5 The wattage on the equipment deployed is low. The operator will meet all power costs. Sustainability has formed part of the weighting criteria outlined in the PQQ and will include power, recycling, use of local businesses and innovative ways for reducing carbon footfall.

#### Crime & Disorder Implications:

- 6.6 There are no crime and disorder implications associated with this contract.

#### Risk and Opportunity Management Implications:

- 6.7 By adhering to a structured competitive tendering process, incorporating elements of competitive dialogue the risk of a successful challenge to the process by a disappointed bidder will be minimal and would almost certainly need to be brought within 30 days of the announcement of the decision to award.
- 6.8 The possible application of state aid to the project has been reviewed but is not considered to arise because:
- 6.8.1 The Council will receive the market value based on open market validation for access to its street furniture
- 6.8.2 The Council will have run a competition to establish the identity of the operator.
- 6.9 The Council will receive a share of the revenue generated by the operator from the exploitation of the Metro Wireless network. This payment forms part of the consideration payable by the operator in exchange for the right to use Council property and therefore does not amount to trading by the Council.
- 6.10 The level of exclusivity in the conditions will be drafted so as not to create a conflict with the Council's other contractual and statutory obligations.
- 6.11 Risks associated with the legal and finance implications of this contract are noted in the relevant sections of this report.

#### Public Health Implications:

- 6.12 In May 2000, the Independent Expert Group on Mobile Phones (IEGMP) chaired, by Sir William Stewart, concluded that the balance of evidence to date indicates there is no general risk to the health of people living near base stations as RF exposures are small fractions of international public exposure guidelines. His subsequent report has not changed this view.
- 6.13 The wireless units operate at very low power. An individual wireless antenna will typically operate at just 2 watts, about the same power output as a mobile phone. Even at full capacity, with server mobile operators using the same network, the power output is just 6 watts, resulting in emissions at street level between a thousand and a million times below that of a mobile phone, and typically 100 times below the established guidelines set by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). The ICNIRP guidelines –

recognised as a standard for safety by the World Health Organisation – are designed to protect everyone and include a large safety margin as a precautionary measure.

- 6.14 The typical exposure is 1% of the ICNIRP standards even on a fully loaded Wi-Fi system with several operators using each antenna. This has been independently verified using power levels equivalent to several operators using each antenna, on a 10 meter high lamppost installation. The results indicated a maximum exposure at the base of the lamppost of 0.14% of the ICNIRP standards.
- 6.15 Due to the nature of this contract, health and safety in relation to service supply and maintenance of software is not a relevant factor. The Metro Wireless evaluation criteria will require Tenderers to provide Health and Safety working policies and insurances. These will be assessed as part of the pre-qualification process.
- 6.16 In both the PQQ and ITT Health and Safety will be a compliant or non-compliant issue in respect to the type of hardware being proposed.

Corporate / Citywide Implications:

- 6.17 The Council is committed to enhancing the availability of wireless broadband across the city. Creating a seamless digital zone at the heart of the city will help to drive economic growth, stimulate regeneration and enable more effective delivery of public services.
- 6.18 It is envisaged that an Assurance Team consisting of one member of staff will be funded by the Operator during the implementation period. This is an additional cost to the contractor and is not included in the guaranteed concession fee.
- 6.19 The contract is at no cost to the Council. The preferred bidder will incur all relevant costs.

**7. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 7.1 The Council could opt to invest in providing its own Wireless network infrastructure by running a procurement and selling wireless services using its own assets. The telecommunications market place is a heavily regulated, specialist and dynamic environment. Adopting this option would require significant investment by the council and adoption of the risk of managing such a service.

**8. REASONS FOR REPORT RECOMMENDATIONS**

- 8.1 Benefits from this recommendation can be directly quantified in terms of potential revenue streams. In addition the creation of such a digital platform will deliver benefits which are less tangible in commercial terms but potentially will add value to the way public services are delivered, the way in which digital inclusion is addressed and local business benefits from improved broadband connectivity.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

. None

### **Documents in Members' Rooms**

Photographs of the wireless equipment

### **Background Documents**

None