

Subject:	Bus Shelters Concession Agreement		
Date of Meeting:	16th January 2014		
Report of:	Executive Director – Environment, Development and Housing		
Contact Officer:	Name:	Neil Fearnley	Tel: 294597
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 The report seeks approval for the tendering of a concession agreement for the installation, maintenance and cleaning of bus shelters in Brighton & Hove with the successful bidder having the exclusive right to advertise on the bus shelters.
- 1.2 The concession agreement will replace the current 15 year concession agreement operated by Clear Channel (previously trading under the name of Adshel) since 1st March 1999.

2. RECOMMENDATIONS:

That the Policy and Resources Committee:

- 2.1 Approves the procurement of the bus shelters concession agreement with a term of 10 years from 6th September 2014 to 5th September 2024 and the option to extend by a further three years to 5th September 2027;
- 2.2 Grants delegated authority to the Executive Director Environment, Development and Housing –
 - (i) to carry out the procurement of the concession agreement referred to in 2.1 above including the award and letting of the concession agreement; and
 - (ii) to grant an extension to the concession agreement referred to in 2.1 above of three years should he/she consider it appropriate at the relevant time.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Council has a power to provide and maintain bus shelters under section 4 of the Local Government (Miscellaneous Provisions) Act 1953, and may make arrangements for bus shelters to be provided by another organisation, commercial or otherwise.
- 3.2 The current bus shelters concession agreement with Clear Channel expires on 5th September 2014 after having operated for a period of 15 years since March

1999. Recently, there has been a significant change in market conditions and various technological advances within the industry. The Council now has the opportunity to approach the market to gain the best possible service outcome to meet the needs of the city.

- 3.3 In order to ensure continuity of the service of bus shelter provision throughout the city beyond the expiry of the current arrangement, it is therefore necessary to commence procurement for a new concession agreement. It is proposed that the new concession agreement will operate for a 10 year period from 6th September 2014 to 5th September 2024 with the option to extend for a further three years to 5th September 2027. The reason for having a long concession arrangement is to allow the successful service provider the opportunity to obtain a reasonable return on their investment in new or replacement bus shelters, and modern developments in advertising such as digital advertising.
- 3.4 The concession agreement will maintain the existing level of bus shelter provision and include the installation of new shelters at agreed locations, along with the maintenance and cleaning of the shelters. The successful bidder will have the exclusive right to advertise on the bus shelters at specific sites agreed with the Council.
- 3.5 The conditions contained in the current concession agreement are that bus shelters erected by Clear Channel during the contract remain in their ownership. The number of shelters and the level of advertising provision is as follows:

Clear Channel owned shelters	424	Advertising	241
		Non-advertising	183
BHCC owned shelters	62	Advertising	0
		Non-advertising	62
Total			486

Arrangements for the potential transfer of bus shelters should the incumbent service provider be unsuccessful will be included in the new concession agreement. The new agreement will also ensure that there are robust exit and handover arrangements at the expiry of the new agreement, in order to provide a seamless transition between agreements, so that a continuous service is provided to the public.

- 3.6 The new concession agreement will set out the level of service that the service provider must deliver in the specification, which will also be written to encourage innovation from those submitting bids. Provision for new bus shelters will be included in the agreement. 40 sites across the city have been identified as benefitting from a new shelter, however, the number of new shelters that can be installed will need to be off-set by income generated through the concession agreement. New sites will be prioritised based on their potential usage, accessibility of alternative sites, frequency of bus service and exposure to weather conditions.

- 3.7 The procurement is to award a service concession agreement. It is intended that this will be 'cost neutral' to the Council and the Council will not be required to expend money, save for investment in staff resources. All costs and risks associated with the operation of the service concession will be borne by the successful supplier. This concession agreement will support the Council's aim to achieve value for money as the provision of bus shelters and the cost of maintenance is borne by the service provider. The Council will also receive a net income from the concession agreement that helps support the Council's budget.
- 3.8 Provision of high quality, well-maintained bus shelters supports the Council's priority to create a more sustainable city by promoting and encouraging the use of public transport. It also demonstrates a modern Council creating a vibrant place to live and work as well as encouraging tourism.

Procurement Process

- 3.9 The concession agreement will be tendered via an open tender procedure advertised in the Official Journal of the European Union (OJEU).
- 3.10 The tender process will follow a transparent methodology which gives fair and equal access to all suppliers in the market, and will evaluate suppliers' bids on a combination of price and quality criteria (most economically advantageous bid) in line with EU Procurement Rules. It is envisaged that the evaluation criteria will be split between 40% on price and 60% on quality. Within the 60% on quality, the plan is to give a weighting of 10% to sustainability. Further research needs to be conducted prior to confirmation of the evaluation weightings but it is envisaged that these weightings outlined above give a relatively accurate guide to the likely final weightings.
- 3.11 A two-stage process will be used, where potential suppliers will be required to pre-qualify themselves via online qualification. Following which, only those potential suppliers which pass the required criteria will progress to the second stage and be invited to submit proposals. It is intended that the procurement will be carried out via the Council's e-procurement portal, which will reduce the process timescale.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The option to bring the whole service in-house was considered with the Council taking responsibility for bus shelter provision, maintenance and cleaning as well as the coordination of advertising. This option was discounted due to the large capital investment required to transfer the bus shelters from Clear Channel or to replace with the Council's own shelters across the city. There would also be a requirement to establish a new management team and potentially TUPE staff across from Clear Channel. Managing advertising on this scale is not part of the Council's core business and would require recruitment of specialists in this field. Taking into account the potential costs of establishing such specialists and the positive feedback on the way the service has been delivered by external suppliers, it was considered more beneficial to continue with this concession arrangement.

- 4.2 Consideration was also given to splitting the concession agreement into separate contracts for installation, maintenance, cleaning and advertising. This could provide greater opportunity for smaller companies to be involved. This option was discounted as there would not be clear accountability for ownership of the whole service and would require more in-house resource to manage the various contracts.
- 4.3 It is considered that the proposed concession arrangement provides the best opportunity for delivering a successful service from which the Council has the potential to receive an ongoing income to support the Council's budget.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Consultation has taken place with the passenger interest group, Brighton Area Buswatch, and with the Quality Bus Partnership, to obtain their views on the current contract standards and future options. Other Local Authorities with similar types of concession arrangements have also been consulted along with service suppliers in the market. Feedback has reinforced the proposal to continue with a similar concession agreement and has been used to influence the contract standards set out in the specification.

6. CONCLUSION

- 6.1 The procurement and award of this concession agreement will help the Council deliver its priorities to achieve value for money and to provide high quality services. The new agreement will also ensure that any future re-letting of the service will be undertaken to ensure a seamless transition between agreements, so that a continuous service is provided to the public.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The proposed procurement of the bus shelter concession agreement is subject to compliance with the Council's Contract Standing Orders and Financial Regulations. The procurement process will be prepared on a basis to award to the most economically advantageous bid and to ensure effectiveness, and will therefore support achieving value for money. Future financial implications of this service will be dictated by the procurement process.
- 7.2 The Council currently receives net income from the service provider for fulfilling the requirements of the concession agreement which is reflected in the current revenue budget. This figure is not revealed in the report as it is commercially sensitive information that would make the report excluded from the press and public.

Finance Officer Consulted: Steven Bedford

Date: 11/12/13

Legal Implications:

- 7.3 The Council currently enables the provision of bus shelters under its existing powers and this concession agreement will ensure that the Council's current

service provision is maintained throughout the city. The Council has a power to provide and maintain bus shelters on the public highway under section 4 of the Local Government (Miscellaneous Provisions) Act 1953, and may make arrangements for bus shelters to be provided by another organisation, commercial or otherwise. Shelters may require Advertisement Consent depending on the type of advert (e.g. illuminated advertising).

- 7.4 The Council has a duty to secure 'economy, efficiency and effectiveness' in all its activities. Supply of this service in a manner that attracts the most economically advantageous bid supports this principle and is in line with the EU Procurement rules.
- 7.5 The proposal is to award the arrangement as a service concession with the successful supplier being fully responsible for all of the costs associated with the concession. Although it is a concession agreement which is not strictly subject to the UK Public Contracts Regulations, it is an arrangement which also has a service element to it. In view of the nature of the arrangement, it has been decided that the Regulations should be applied as if it were a services contract and therefore they will apply in full to the procurement of the concession agreement. The tender will need to be advertised in OJEU. The tender will be scored on the criteria of quality and price as part of the procurement process.
- 7.6 Under the existing concession agreement, Clear Channel currently own the bus shelters but the Council can require Clear Channel to remove them 6 months after the end of the contract, if agreement has not been reached with the new supplier for the purchase of the shelters. As the existing concession agreement does not set out what is to happen to the bus shelters during this 6 month period, it will be necessary for the Council to negotiate terms for any new supplier to be able to have access to the shelters for the purpose of both maintenance and advertising. This will need to be addressed before commencing any procurement.
- 7.7 Consideration must be given during the procurement to ensure that the new concession agreement contains robust transitional arrangements to avoid any unnecessary costs to the Council and disruption to the public at the end of the contract period.

Lawyers Consulted: Elizabeth Culbert / Johann Wyllly Date:13 December 2013

Equalities Implications:

- 7.8 The Council's Code of practice on Equalities and Workforce Matters is enforced in all procurement and is incorporated within this concession agreement.

Sustainability Implications:

- 7.9 Sustainability will be promoted in the concession agreement's specification in line with the Council's One Planet Living principles. Many sustainability opportunities will be considered for this concession agreement. This will include but not be limited to the use of materials in the specification of the bus shelters as well as the recycling of materials from old shelters, the use of sustainable energy sources in the power needed for lighting and other technologies in the shelters

and the carbon emissions from transport used in the delivery of the concession agreement (for example, when needed to conduct the repairs and cleaning schedules for the concession agreement). Contractors will be invited to submit their innovative ideas detailing how they can play a key role in driving forward our sustainability agenda.

- 7.10 Living wage standards will also be considered as a requirement of this concession agreement.

Any Other Significant Implications:

Crime and Disorder Implications:

- 7.11 If the current concession agreement was left to expire and no new concession agreement put in place, then this would result in bus shelters falling into disrepair creating a more unsavoury environment which would not help in the reduction of crime in the surrounding area.

Risk and Opportunity Management

- 7.12 The provision of high quality bus shelter facilities creates the opportunity to enhance the experience of people using public transport.
- 7.13 There is a risk that should the incumbent service provider be unsuccessful in retaining the concession agreement, they may wish to remove their own bus shelters. These would be replaced by bus shelters from the incoming service provider. This situation could lead to some disruption on the highway but it is intended that this would be discussed well in advance with the existing supplier and that it would be managed appropriately so as to minimise any disruption to the public.

Public Health Implications

- 7.14 Provision of bus shelters will help protect the public from the weather.

SUPPORTING DOCUMENTATION

1. None