



CABINET

19TH JULY 2018

AGENDA ITEM (10)

ELECTRIC VEHICLE CHARGING POINT FRAMEWORK

Accountable Member	Councillor Chris Hancock Cabinet Member for Enterprise and Partnerships
Accountable Officer	Claire Locke Group Manager - Council Advisory Services 01285 623000 claire.locke@cotswold.gov.uk
Purpose of Report	To report on the progress to date with the Electric Vehicle Charging Point (EVCP) procurement and the financial implications for developing a framework; and to agree a way forward.
Recommendations	That Cabinet agrees to either:- (a) allocate up to £35,000, from the Council Priorities Fund, to enable legal work to be procured to put a Framework for EVCPs in place (this allocation will be reduced by half or by two-thirds if WODC and/or FoDDC also agree to-part fund these costs - the total costs then to be shared equally between each partner); or (b) cease work to prepare a Framework and procure EVCPs via an ESPO Agreement.
Reason(s) for Recommendation(s)	To enable procurement work to progress.
Ward(s) Affected	To be confirmed - likely to be one or more Wards within Tetbury and Cirencester.
Key Decision	No
Recommendation to Council	No
Financial Implications	<p>When the Council previously procured EVCPs, government grant was available. However, little or no funding is currently available, although opportunities will be reviewed before EVCPs are actually purchased.</p> <p>The capital and revenue costs of installing and maintaining the EVCPs will be covered in a subsequent report, following procurement.</p> <p>The breakdown of costs for the legal agreements is set out below.</p>

	<p>Whilst the total cost is £30,140, funding approval of up to £35,000 is requested to provide some contingency should additional legal work be required. This will be shared if WODC and/or FoDDC agree to continue as partners in this procurement.</p> <p>The funding will be made available through the Council Priorities Fund.</p>
Legal and Human Rights Implications	<p>The report sets out the work deemed necessary to prepare the legal agreements for each element of the framework. As the draft legal agreements must be supplied to bidders along with the ITT, these costs must be incurred before the procurement.</p> <p>Unfortunately, until the procurement has taken place, the Councils will not know what the cost for each Lot will be and, therefore, which Lot may be preferable - so all the agreements need to be prepared for both Lot 1 and Lots 2/3.</p>
Environmental and Sustainability Implications	<p>The environmental benefits of the EVCPs will be covered in a future report, once procurement has been completed. Putting a Framework in place will enable EVCPs to be installed once the procurement is complete and then, thereafter, as demand grows.</p>
Human Resource Implications	<p>This project is being delivered from existing Publica resources.</p>
Key Risks	<p>Failure to secure appropriate legal advice and draft agreements exposes the Council(s) to considerable risk of reputational damage, spiralling revenue costs, loss of control or services which do not meet their needs once the EVCPs are installed.</p> <p>Without draft legal agreements, the procurement process may be flawed, quotes may not be comparable or capable of being fairly evaluated, and the process could be challenged.</p>
Equalities Impact Assessment	<p>Not relevant to this report</p>

Related Decisions	None
Background Documents	None
Appendices	None

Performance Management Follow Up	<p>(i) Implement Cabinet decision(s).</p> <p>(ii) The outcome of the procurement process will be reported to Cabinet, so that a decision on procurement options can be made.</p>
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<p>Background Information</p> <p>1. <u>General Background</u></p> <p>1.1 In 2014, following a successful bid for central government funding, the Council installed two EVCPs, one at Moreton-in-Marsh and one in the Beeches car park, Cirencester. The usage of these points has been good and the Council is seeing demand increase year on year, rising by 49% from 2015/16 to 2016/17 and by a further 20% by 2017/18. The intention was to expand this network should there prove to be sufficient demand for them.</p>

1.2 Following interest from Members at CDC to expand its EVCP network and at WODC to introduce a network, work commenced to consider options, particularly as the market offers differing subsidies for EVCPs depending on the funding arrangements and degree of control retained by the authority.

1.3 The EVCPs could be procured using an existing ESPO Framework, but this would only provide for fully funded purchase by the Councils and would not enable the Councils to consider opportunities presented by different manufacturers who offer various subsidies. These varying financial arrangements may enable the Councils to facilitate the installation of additional EVCPs across a wider network area, providing greater benefit to motorists.

1.4 Initially, the intention was to procure EVCPs based on each Council's current need but, in consultation with the Procurement Team, it was decided that more investment in time now, preparing and procuring a Framework agreement, would mean each Council could procure its current needs but also continue to call off from the Framework over the next few years if the first few EVCPs are successful and the decision is made to install more.

1.5 The Framework Agreement Invitation To Tender (ITT) has been prepared which includes the specification and different Lots asking bidders to price for different options where the Council would pay full costs and have total control on location, charging etc. or where they part fund but would then impose conditions, i.e. where EVCPs are located. Members can then make an informed decision based on costs and the related conditions, which option they wish to pursue.

1.6 The Forest of Dean DC was approached as it was understood that their Members also wished to install some EVCPs and they have joined the draft Framework, which means WODC, CDC, FODDC and Publica will be able to call off from the Agreement. There will be flexibility as each authority may wish to call off different options. Publica could call off from the contract on behalf of other authorities, for which fees could be charged.

1.7 Following discussion with Legal Services regarding the draft contract that would be required to accompany the ITT, it became apparent that significant specialist legal advice would be required, which was not available in-house. Legal Services have therefore obtained a cost from an external legal firm who can assist with this work. The costs are set out below. If the decision is made to buy in this legal support and commence procurement, bids for each Lot will then be brought back to Members and a decision can be made on which funding arrangement Members wish to pursue. A site specific 'quick and easy' mini tender can then be completed based on the number of EVCPs required.

2. Scope of Legal Work and Financial Implications

2.1 The following sets out the work deemed necessary to prepare the legal agreements for each element of the framework. As the draft legal agreements must be supplied to bidders along with the ITT, these costs must be incurred before the procurement. Unfortunately, until the procurement has taken place, the Councils will not know what the cost for each Lot will be and, therefore, which Lot may be preferable - so all the agreements need to be prepared for both Lot 1 and Lots 2/3.

- Lot 1 (EVCP fully funded by Council):
 - Framework Agreement: To prepare a suitable framework agreement (either fully bespoke or based on the FAC-1 Framework Alliances Contract), discuss to align with the Council's preferred process and incorporate one round of comments - fee of **£4,200** (plus VAT and disbursements).
 - Delivery Contract (Supply and Install): To prepare a suitable schedule of amendments to the JCT Design and Build Contract (2016), discuss these and incorporate one round of comments - fee of **£4,580** (plus VAT and disbursements)

- Maintenance Agreement: To prepare a suitable bespoke maintenance agreement, discuss and incorporate one round of comments - fee of **£3,700** (plus VAT and disbursements). Based on assumption that bidders will have standard services and will bid on the basis of an agreed fee structure.
- Lot 2/ 3 (EVCP part funded by Council):
 - Concession Agreement: To discuss the requirements for the concession agreement, prepare an initial draft (with a list of key points for instructions), discuss and incorporate one round of comments - fee of **£14,440** (plus VAT and disbursements). Assuming a substantially similar approach on the contract documents for both Lot 2 and Lot 3. Concession document will be relatively complex, setting out both parties' obligations, processes for performance measurement and drafting dealing with investment and funding claw back risk. The need for bespoke drafting to capture the Council's requirements, particularly around the issues of choice of location.
 - Property documents: Assuming that Lot 2 includes Council sites, it is assumed the Provider would want the additional security of a lease and/or easement covering the footprint of the installation. A fee estimate of **£3,220** (plus VAT and disbursements) for property flow down issues for the tender document.

2.2 The above fees do not cover negotiation/clarification of the documents with the preferred bidder, which would be on the basis of the agreed hourly rates.

2.3 A decision must now be made whether to allocate funding to enable the legal agreements to be put in place to facilitate the Framework procurement or whether this work should cease and, instead, EVCPs should be procured via an ESPO – however, this will mean the Council would have to fund the full cost of the EVCPs and could not take advantage of any partnership funding that may be available.

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