

Commissioning and Procurement Executive Committee – 13 February 2024

Subject:	ANPR enforcement maintenance contract with 3G device upgrades		
Corporate Director:	Sajeeda Rose – Growth and City Development		
Portfolio Holder:	Cllr Angela Kandola – Highways, Transport and Planning		
Report author and contact details:	Mark Lethbridge mark.lethbridge@nottinghamcity.gov.uk 0115 876 5766		
Other colleagues that provided input:	Paul Rogers - Commercial Finance Business Partner Tony Heath - Senior Solicitor, Contracts and Commercial Holly Fisher - Lead Procurement Officer Mark Jenkins - Head of Traffic & Flood Risk Management Sue Thorpe - Service Manager, Technical Services & Systems		
Key Decision	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Subject to call-in
			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Reasons: <input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £750,000 or more taking account of the overall impact of the decision		<input type="checkbox"/> Revenue <input type="checkbox"/> Capital	
Significant impact on communities living or working in two or more wards in the City		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Type of expenditure: <input type="checkbox"/> Revenue <input type="checkbox"/> Capital Neither as ringfenced PCN income budget, where spend must be primarily on maintaining the enforcement system. Any surplus must be spent on traffic / travel initiatives only as per legislation			
Total value of the decision: £894,449.06 (over 3 years - £298,483.02 per annum)			
Section 151 Officer expenditure approval			
Has the spend been approved by the Section 151 Officer? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/a			
Spend Control Board approval reference number: 4783			
Wards affected: All			
Date of consultation with Portfolio Holder: 23/11/2023			
Relevant Council Plan Key Outcome:			
Green, Clean and Connected Communities	<input type="checkbox"/>		
Keeping Nottingham Working	<input type="checkbox"/>		
Carbon Neutral by 2028	<input type="checkbox"/>		
Safer Nottingham	<input type="checkbox"/>		
Child-Friendly Nottingham	<input type="checkbox"/>		
Living Well in our Communities	<input type="checkbox"/>		
Keeping Nottingham Moving	<input checked="" type="checkbox"/>		
Improve the City Centre	<input type="checkbox"/>		
Better Housing	<input type="checkbox"/>		
Serving People Well	<input type="checkbox"/>		
Summary of issues (including benefits to citizens/service users):			
Yunex provides NCC with fixed ANPR enforcement devices which activate when a vehicle passes through a trigger point and records a video pack for evidential review. All suppliers in this market operate a 'one stop shop' or 'closed system' for enforcement to meet DfT licencing requirements. This means only they or their accredited engineering provider can work on their whole system maintaining the integrity of said system to preserve the DfT certification.			
Attached is the written proposal from Yunex to fix costs for 3 years of maintenance and the essential modification of 19 devices that currently communicate using 3G technology, which the government intends is to phase out in 2024 meaning these units will no longer communicate with the system.			

The Yunex proposal also includes a move to a hosted review/fault management platform to improve efficiency in data management and evidence processing.

Moving to a hosted platform and taking the software off NCC servers where the platform currently resides will aid data management and security, improve operational efficiency because Yunex will no longer have to apply to NCC's IT team for access onto the server to fix an issue affecting the system.

Upgrading to this hosted platform will ensure data integrity, removing the risk of evidence packs or encryption keys being lost when we have NCC server issues. The upgrade will also lessen the workloads on NCC's IT department, and of MTE colleagues reporting faults, etc., freeing them up to concentrate on further efficiency and performance improvements.

Exempt information: An appendix to the report is exempt from publication under paragraph 3 of Schedule 12A to the Local Government Act 1972 because it contains information relating to the Council's anticipated expenditure and, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

It is not in the public interest to disclose this information because it may impact on value for money to be achieved in future negotiations.

Recommendation:

- 1 To approve that Nottingham City Council purchase a 3-year 'maintenance agreement', modifications to 19 ANPR devices, and provision of a hosted server, from the current supplier (Yunex) to enable continuation of a Department for Transport compliant enforcement system that is fully certified to issue Penalty Charge Notices to motorists that contravene bus lane and other moving traffic restrictions.
- 2 To note that a formal review of future ANPR purchase / maintenance arrangements will be undertaken by Procurement and Traffic colleagues.

1. Reasons for recommendations

- 1.1 DfT require a formal maintenance arrangement to be in place to enable the enforcement system to be fully certified. Due to the integrity of the enforcement systems, 3rd parties cannot undertake any repair or maintenance activities on these closed systems. Therefore, in line with previous years we are seeking approval to renew the maintenance contract with our current supplier.
- 1.2 To address some essential modifications to 19 ANPR devices and improve reliability and efficiency of the server platform, we are looking to secure a 3-year maintenance arrangement (October 2023 to September 2026) which would provide 'Best Value' and spread these modification costs over an extended period.
- 1.3 The costs related to this proposed 3-year maintenance proposal are fully funded through the annual PCN income and underwritten by the ring-fenced reserve.
- 1.4 The essential modifications to the 19 ANPR devices and the upgrade to a hosted review/fault management platform, ensures enforcement activities can be maintained, data security enhanced, operating efficiencies improved and

PCN income is not adversely affected. (These essential modifications and upgrades can only be carried out by the current supplier due to DfT certification guidance).

2. Background (including outcomes of consultation)

- 2.1 As previously stated, DfT require a formal maintenance arrangement to be in place to enable the Bus Lane and Moving Traffic enforcement system to be fully certified.
- 2.2 Therefore, financial approval and an associated 'exemption' has been required annually to allow us to renew the maintenance contract with the current supplier to ensure our enforcement system is fully certified by the DfT.
- 2.3 The requirement to undertake essential modifications to 19 ANPR devices (due to imminent Government changes to the 3G communications platform) and upgrade to a fully hosted server, has meant that we are looking for an extended maintenance arrangement over a 3-year period, which would help set future budgets and spread certain costs over this extended term.
- 2.4 The renewal of the maintenance agreement with our current supplier was finally approved by Procurement.
- 2.5 The S151 Officer has subsequently authorised the 'exemption' to allow the purchase, and the proposal was approved at the Commercial Oversight Board on 22 December 2023.
- 2.6 CPEC is the final approval stage to allow NCC to raise the appropriate PO to ensure a DfT compliant maintenance process is in place for the next 3 years.

3. Other options considered in making recommendations

- 3.1 Other options of changing operational arrangements and supplier were considered (with the help of Procurement colleagues). However, due to the complex DfT compliance rules (no other company can maintain other suppliers' enforcement equipment or systems) and the scale of the existing set-up with our current supplier, no suitable alternative could be achieved within the current renewal timeframe.

4. Consideration of Risk

- 4.1 The current maintenance contract expired at the end of September 2023, and we are already at risk of losing our DfT certification should our current supplier withdraw their interim maintenance support whilst we seek this contract renewal. Yunex are currently maintaining our estate on 'good faith' based on our long-standing commercial relationship.
- 4.2 Any further delay in approving this expenditure could lead to the loss of their interim maintenance support, and thereby the enforcement system will no longer be DfT compliant, lose its certified status and we will no longer be able to issue PCN's in relation to Bus Lane and other Moving Traffic contraventions.
- 4.3 Further delays also make the risks related to the 3G switch off, more acute. We have already moved into the period of time that the government has

indicated for the cessation of 3G telecommunications, and it will take time for Yunex to undertake the modifications for the 19 ANPR devices that use this technology. Again, we would lose the ability to capture contravention evidence and issue PCN's from these 19 locations.

- 4.4 Both of these identified risks would carry with them a significant impact on income to the authority, meaning any shortfall on operational expenditure would need to be met by the General Fund.

5. **Best Value Considerations**

- 5.1 Formal maintenance arrangements of this ANPR enforcement estate have to be in place to preserve the DfT certification, which allows NCC to continue to issue Moving Traffic Enforcement PCNs.
- 5.2 Failure to have formal maintenance arrangements in place will result in NCC losing the DfT certification, which would mean we cannot legally issue PCNs and in turn lead to a significant loss of PCN income.
- 5.3 2022/23 annual maintenance costs for NCC's moving traffic enforcement ANPR system were £233,379.02.
- 5.4 The new annual fixed cost set over 3 years is £298,483.02. These costs include annual maintenance of the current ANPR estate plus essential modifications to 19 ANPR devices that will be upgraded to the latest communications technology. These costs also include moving the existing review/fault management software, currently installed on NCC's servers, to an AWS hosted system.
- 5.5 The decision to seek a 3-year maintenance contract enables the costs of the essential modifications to the 19 ANPR devices and the upgrade to a fully hosted server to be spread over the 3 annual payments, instead of it all being paid for in Year 1.
- 5.6 In real terms, NCC are getting the essential modifications to 19 ANPR devices plus the hosted system for circa £60k per annum over 3 years instead of an additional £180k on the maintenance budget should a 1-year maintenance contract be agreed.
- 5.7 (Please note we are undertaking essential modifications to these 19 ANPR devices, not purchasing new devices. Therefore, as previously mentioned in this document, only Yunex are permitted to work on their products to maintain the integrity of the system and keep our DfT certification).
- 5.8 Being asked to go to market for this proposal would mean losing this Yunex quotation for these essential modifications and server upgrade. It would also mean that any provider, including Yunex, wishing to tender would have to quote their best price for 19 new ANPR devices plus a hosted system. There would also be other costs related to integration into the 'Back Office' (Taranto) debt management system and the inefficiencies of operating multiple platforms.
- 5.9 The estimated cost of this, based on the requirements of Procurement, could cost anywhere between £800,000 - £1,170,000.
- 5.10 If a full tender process for these 19 ANPR devices is required then a substantial delay to their replacement is likely, with a significant increase in risk of an inability

to enforce at these 19 locations and the associated loss of income for an extended period.

- 5.11 To mitigate these risks, it is essential to renew the maintenance arrangements with our current supplier, ensuring enforcement operations are not disrupted and income adversely affected.
- 5.12 We are fully committed to work with Procurement on a formal program to test the market moving forward to ensure any new ANPR devices purchased represent best value for NCC and meet our fiscal and legal obligations.

6. Finance colleague comments (including implications and value for money/VAT)

- 6.1 The decision to continue and update a 3-year ANPR contract with Yunex from September 2023 to September 2026 for the total cost of £894,449 or £298,483 per year, with £154,241 relating to this financial year 2023/24, is supported.
- 6.2 The contract will help mitigate risk by updating technology and safeguarding data on secure external servers, reducing the workload and cost of Nottingham City Council's I.T. department.
- 6.3 The previous one-year contract was approved in November 2022 on DD4784. The cost appears the same and Traffic have negotiated improved terms in line with best value.
- 6.4 DfT require a formal maintenance arrangement to be in place to enable the Bus Lane and Moving Traffic enforcement system to be fully certified; losing Certification would mean losing PCN status and income for Nottingham City Council's Traffic department which then may impose a risk of expenses to the General fund of Nottingham City Council.
- 6.5 The ANPR Contract with Yunex will be fully funded from the Ring fenced Bus lane and moving traffic enforcement reserve (Code N-94558), meaning no effect on the general fund. Therefore, the proposal will not add financial pressure to the MTFP and can be contained within Traffic and is supported. This will be monitored by the service for any variance and reflected in the forecast and budget for the service.

Paul Rogers, Commercial Finance Business Partner - 25/01/2024

7. Legal colleague comments

- 7.1 This report seeks a modification to an existing contract to extend that contract by 3 years and vary the maintenance services to be provided under that contract to include the modification of 19 devices that currently communicate using 3G technology, which the government intends to phase out in 2024, meaning these units will no longer communicate with the system.
- 7.2 This contract started in 2008 – the proposed modification means the contract will have been in place for 18 years once this extended period elapses without the Council having tested the market in any way.

- 7.3 Procurement colleagues have, I understand, explained the significant risk the Council takes in extending this contract – that position is supported by Legal Services – and the terms of the Exemption are noted. At this stage it is very difficult to see any justification for the continuance of this arrangement post 2026 without market engagement in accordance with the prevailing Regulations.
- 7.4 The report refers to “Yunex are currently maintaining our estate on ‘good faith’ based on our long-standing commercial relationship”. It is likely that the existing contract would be deemed to have been varied by conduct, namely Yunex continuing to provide the services set out in the contract and the Council continuing to pay for such services as set out in the contract.
- 7.5 This report seeks to vary the services to be provided under the modified contract. It is essential that the modified contract contains all necessary terms (varied if required in accordance with the relevant provisions in the contract) to give the Council appropriate protection and assurance for the modified services to be provided. It would potentially create a significant risk for the Council to vary the contract as proposed without considering what other variations are required to protect the Council’s position.
- 7.6 In particular, the Council should ensure that appropriate transition provisions are included in the contract should another provider be identified to take over this service from 2026.
- 7.7 The Council should also assure itself that these modifications do not artificially restrict the potential market that the Council will be engaging in the future.
- 7.8 The Council should also assure itself that the variation to the Services do not, or do not risk as being perceived as, restricting the market when the market is engaged in due course. This may be seen as artificially limiting the market to benefit of certain providers; this seems unlikely from the detail of the report but some consideration at this stage would be helpful should any such challenge be intimated or made.

Tony Heath, Senior Solicitor, Contracts and Commercial - 23 January 2024

8. **Other relevant comments**

8.1 Procurement comments

This requirement satisfies the criteria stipulated to undertake a direct award under regulation 32 (2) (b), also accepting the exemption from the procurement regulations.

Undertaking the direct award enables the Council to maintain their camera estate and the DfT Certification – protecting the income and also the use of the ringfenced budget social initiatives.

Due to the value, it is advised that all future contracts for this requirement (and associated services, such as installations and replacements) need to go through a compliant procurement process with a clear exit and mobilisation strategy in place.

Holly Fisher, Lead Procurement Officer - 25 January 2024

9. Crime and Disorder Implications (If Applicable)

9.1 N/A

10. Social value considerations (If Applicable)

10.1 To work with the supplier of the maintenance contract to ensure the fleet of vehicles used to maintain and repair the on-street devices are either fully electric or low emissions vehicles.

10.2 By also purchasing a hosted system, it allows the maintenance supplier to potentially fix a fault via an online interrogation, which lessens the number of visits to Nottingham.

10.3 By ensuring the ANPR units remain working, Nottingham's bus lanes remain clear to ensure timetables are maintained and restricted areas are also maintained, which reduces potential conflict between vehicles and pedestrians plus cleaner air.

11. Regard to the NHS Constitution (If Applicable)

11.1 N/A

12. Equality Impact Assessment (EIA)

12.1 An EIA has been completed and due regard will be given to any implications identified in it.

13. Data Protection Impact Assessment (DPIA)

13.1 A DPIA has been completed and due regard will be given to any implications identified in it.

14. Carbon Impact Assessment (CIA)

14.1 A CIA is not required because the system is already in situ, therefore the Council are not changing or adding to the system, so it is net neutral.

15. List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

15.1 None.

16. Published documents referred to in this report

16.1 DD4784 (dated 25/11/2022) for the maintenance contract 2022/23.