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Report to the Policy, Finance and Strategy Committee
From Murray Kennedy, Strategy and Asset Manager, Utility Services Division

Licence for Use of WRC Communications Duct

1. Purpose

To report on an agreement that will allow UnitedNetworks Limited to use a communications duct between Petone and Thorndon.

2. Public Excluded

Grounds for exclusion of the public under Section 48(1) of the Local Government Official Information Act 1987 are:

That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reasons for withholding would exist, i.e.: commercial negotiations.

3. Background

The predecessor of this report, Report PE02.330 was briefly considered by the P, F & S Committee on 13 June, then withdrawn. Between the time Report PE02.330 was sent out to Councillors and the Committee meeting, UnitedNetworks Ltd (UNL) made a public announcement that UNL was for sale. UNL then indicated that this created some uncertainty for the company with regard to a number of projects that were about to start.

UNL has now advised that it wishes to proceed with the project to lay a cable between Wellington and the Hutt Valley, but is now seeking a licence term that provides less revenue certainty for the WRC. Previously a term of 10 years had been included in the agreement with a right of renewal for another 10 years. It has revised this to 2 years with 2 year rights of renewal to provide a maximum of 10

years.

Because of the shorter guaranteed term, a higher annual rental of \$80,000 plus GST has been negotiated. This is \$6,000 a year more than the previous rental.

UnitedNetworks Limited is the network distribution company in the Wellington area. The company, as part of a diversification programme, has been moving into wholesaling of communication services. An approach was made to the Council about 18 months ago to see if the Council had a disused water pipe available between Wellington and the Hutt Valley. As it happens, a 100mm diameter communications duct runs between the Waterloo Water Treatment Plant and the Thorndon Pumping Station. The duct is in the same trench as the main water pipeline and carries a Council-owned communication cable that was specifically designed for control between the Thorndon Pumping Station and the Waterloo Water Treatment Plant.

The cable is currently in use, but in the event that it failed, it would probably not be replaced directly, but another type of communications technology employed.

4. **Proposal**

UnitedNetworks approached the Council about inserting a fibre optic cable within the duct, as part of its communications distribution system. The Council's legal advisors, Oakley Moran, were consulted and indicated that the Council did not have to go to public tender for the use of the duct, but could negotiate directly with any one party. Enquiries were made at the time, to see if there was any interest from the other main communications providers, namely Telecom, Saturn Communications as it was then, and Clear Communications. All three companies already had links between Wellington and the Hutt Valley.

UnitedNetworks put the issue on hold because of the uncertainty of the profitability of a new cable. However, a few weeks ago they again approached the Council and indicated they would like to proceed with laying a cable, as they had conditional arrangements with a number of potential customers.

A deed has been prepared with the assistance of O'Brien Property Services and Oakley Moran. This would license UnitedNetworks Limited to put a single cable in the duct between the Thorndon Pumping Station and Victoria Street, Petone. The term of the agreement is for 10 years with a right of renewal for a further 10 years. If for some reason UnitedNetworks finds that it is unable to insert its fibre optic cable into the duct, then the agreement would be void.

5. **Financial**

The annual license fee will be \$80,000 plus GST, payable in arrears and increased annually by the producer's price index. The fee for the first year has been rebated by \$10,000 plus GST because there are some short sections of duct that will probably have to be bypassed. UnitedNetworks is taking the construction risk with regard to these. This means that the total revenue to the Council over the 10 year

term in today's dollar values will be \$790,000 if the agreement runs for the full 10 years. The minimum sum the Council will receive is \$150,000, which is for a 2 year term.

The revenue for the first year has not been included in the 2002/03 budgets as negotiations were only recently concluded. Also, the revenue remains uncertain until the cable is laid.

6. **Comment**

The capitalised sum from the annual payment represents about half the construction cost of laying a new duct over the route. Effectively, the benefits from using the existing duct have been shared on a 50/50 basis. The agreement has been prepared on the basis that the Council will take all care but no responsibility regarding the use of the duct. In the unlikely event that UnitedNetworks cable had to be cut in order to carry out repairs on the water main that is adjacent to the duct, then the reinstatement costs for the cable would be paid for by UnitedNetworks.

A further section of duct exists between Victoria Street and the Waterloo Water Treatment Plant, and UnitedNetworks has expressed an interest in the possibility of using this at a later date.

7. **Communications**

UnitedNetworks has indicated that the wholesaling of communications services is competitive and that they have requested the Council treats the matter with commercial sensitivity. Accordingly, there are no media opportunities arising from the agreement.

8. **Recommendations**

That the Policy, Finance & Strategy Committee recommend that Council:

- (1) Receives the report and notes its contents.*
- (2) Approves the affixing of the Wellington Regional Council seal to the license agreement prepared by the Council's solicitors Oakley Moran.*

Report prepared by:

Approved for submission by:

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