

<p style="text-align: center;"><b>London Borough of Hammersmith &amp; Fulham</b></p> <p style="text-align: center;"><b>CABINET</b></p> <p style="text-align: center;"><b>3 DECEMBER 2018</b></p>	
<p><b>AWARD OF H&amp;Fs NON-RESIDENTIAL PROPERTY WATER CONTRACT TO WATER PLUS</b></p>	
<p><b>Report of the Cabinet Member for Finance and Commercial Services: Councillor Max Schmid</b></p>	
<p><b>Open report</b> A separate report on the exempt part of the Cabinet agenda provides financial information.</p>	
<p><b>Classification - For Decision</b></p> <p><b>Key Decision:</b> Yes</p>	
<p><b>Consultation</b> Corporate Property Services and Commercial Property &amp; Income Management have consulted with Council departments and Industry bodies regarding non-residential asset water usage and the Water Deregulation 2017.</p>	
<p><b>Wards Affected:</b> All wards</p>	
<p><b>Accountable Director:</b> Hitesh Jolapara, Strategic Director of Finance &amp; Governance</p>	
<p><b>Report Author:</b> Sebastian Mazurczak, CFM Property Services &amp; Compliance Manager</p>	<p><b>Contact Details:</b> Tel: 0208 753 1707 E-mail: <a href="mailto:sebastian.mazurczak@lbhf.gov.uk">sebastian.mazurczak@lbhf.gov.uk</a></p>

## 1. EXECUTIVE SUMMARY

- 1.1. Following Cabinet approval 15<sup>th</sup> January 2018 for the council to use its energy purchasing body's (Laser) framework to procure a water utilities provider for water and sewage services to its non-residential property portfolio as part of the Water Deregulation 2017 for non-domestic supply. The council has completed a successful procurement exercise, reviewed the winning tenderer's terms and is in a position to award the contract.

## 2. RECOMMENDATIONS

- 2.1 That Cabinet approves the contract to be awarded to Water Plus for a four-year period (with a penalty-free break clause after year two) at an estimated contract value of £0.92m over the 4-year period.

### **3. REASONS FOR DECISION**

- 3.1 In accordance with the procurement strategy approved by Cabinet 15<sup>th</sup> January 2018, the Council commissioned LASER Energy (a commercial trading arm of Kent County Council) to run a mini-competition through their water procurement framework to find a water utilities provider for the Council for its non-residential properties. The procurement was successful with five interested suppliers competing. After evaluation of the tender responses, it was found that Water Plus won by scoring the highest, making it the most economically advantageous supplier meeting the H&F requirements with regards to price, quality of service and added value.

### **4. PROCUREMENT DETAILS AND RESULTS**

- 4.1 Once cabinet approval was obtained, the Council entered into an agreement with LASER Energy to manage the tender process on the council's behalf and provided Laser with its current non-domestic supply portfolio from both Corporate Property Services and Housing Non-Commercial Properties that it wished to be included in the water supply tender.
- 4.5 Through LASER's mini-competition, Water Plus scored the highest overall. This included scoring the highest in the Quality of Service section and the second highest in the Pricing and Added Value sections.
- 4.6 The Council also carried-out its own analysis of the results and tender submissions provided by LASER Energy for each tender application to provide additional verification.
- 4.9 When the non-household water and waste water market opened to competition in April 2017, all organisations moved to a default tariff on a deemed contract with their existing supplier which for the council was Castle Water. The default tariffs are published in the market and enable water retailers to be able to calculate the potential savings, based on previous consumption data, that an organisation can make.

### **5 BACKGROUND TO WATER PLUS**

- 5.1 Water Plus are to take over as the council's water and sewage services provider as from December 2018, based on approval of this report. They were specifically set up to meet the water services of business customers and organisations in open water markets and have a good reputation in the industry. Water Plus is an amalgamation of Severn Trent Water and United Utilities who joined forces to create a new enhanced water retail company. This came about as a response to the water market reform that came into effect on 1<sup>st</sup> April 2017.
- 5.3 For business as usual operations (such as billing queries and supply additions), LBHF will liaise directly with Water Plus. LASER will also collect contractual management information and will escalate queries in the case of continued poor retailer performance.

## **6 CONSULTATIONS**

- 6.1 Corporate Property Services have been consulting with other departments in relation to non-residential asset water usage in addition to Local Authorities and industry bodies. This has been in order to gauge how the market is responding to water deregulation.

## **7 EQUALITY IMPLICATIONS**

- 7.1 As required by Section 149 of the Equality Act 2010, the Council has considered its obligations regarding the Public-Sector Equality Duty and it is not anticipated that there will be any direct negative impact on groups with protected characteristics, as defined by the Act, from the awarding of this contract.
- 7.2 Implications completed by: Peter Smith, Head of Policy & Strategy, tel. 020 8753 2206.

## **8 LEGAL IMPLICATIONS**

- 8.1 Following the Water Act 2014, water supply to businesses in England was deregulated on 1 April 2017. The procurement by the council of its water supply is therefore governed by the Public Contracts Regulations 2015. As the value of the contract is above the threshold for services (currently £181,302) the council must procure this contract in accordance with the full regulations, which includes by way of a call-off contract from a framework agreement.
- 8.2 The council has used the LASER framework to procure this contract with Water Plus, which is compliant with the full regulations.
- 8.3 The final call-off contract is a combination of the template call-off contract under the LASER framework agreement and Water Plus' standard business terms, both heavily amended by Hector Denfield of Sharpe Pritchard solicitors.
- 8.4 Legal implications completed by: Hector Denfield, solicitor with Sharpe Pritchard LLP, on secondment to the council - ([hdenfield@sharpepritchard.co.uk](mailto:hdenfield@sharpepritchard.co.uk)).

## **9 FINANCIAL AND RESOURCES IMPLICATIONS**

- 9.1 As set out in the exempt part of the agenda.

## **10 IMPLICATIONS FOR BUSINESS**

- 10.1 As set out in the exempt part of the agenda.

## **11 RISK MANAGEMENT**

- 11.1 Market testing and ensuring the Council meets its statutory obligations for health and safety and business continuity are corporately identified risks. Their ongoing management ensures that the Council continues to deliver the best possible services at the most competitive cost to the local taxpayer.
- 11.2 The Drinking Water Inspectorate (DWI) monitors and enforces water quality regulations on behalf of the Department for Environment Food and Rural Affairs

(DEFRA). Their job is to assess the wholesomeness of drinking water and carry out audits of all water suppliers, with a view to examining all aspects of water quality, treatment, monitoring and analysis. The quality of drinking water is determined by standards set out in the Water Supply (Water Quality) Regulations 2000 (and associated amendments). It can be seen, therefore, that feasible health and safety issues in relation to water wholesomeness, are monitored and regulated by external bodies.

- 11.3 Should a water shortage occur due to a drought or major disruption, contingency plans, for the medium and long term for a potential water supply shortage, need to be in place. In the event of a mains failure, it is essential that the roles and responsibilities of all key parties are clearly understood. This is specifically relevant to mitigating any impact, and to ensuring a resilient recovery.
- 11.4 Implications have been verified and completed by Michael Sloniowski, Risk Manager tel. 020 8753 2587.

## **12 COMMERCIAL AND PROCUREMENT IMPLICATIONS**

- 12.1 The estimated value of the contract is over the statutory threshold set at £181,302. Therefore, the procurement is subject to the full Public Contracts Regulations (PCR) 2015.
- 12.2 The LASER framework the Council called-off from to procure the contract is compliant with the Regulations.
- 12.3 The mini competition has been conducted by the Framework contracting authority in consultation with LBHF officers. Water Plus represents the most economically advantageous tenderer as a result of the procurement exercise.
- 12.4 A contract entry shall be entered on the Council's e-tendering system, capital-Esourcing.
- 12.2 Implications were verified and completed by Andra Ulianov, Procurement Consultant, tel. 02087532284.

## **13 PROPERTY IMPLICATIONS**

- 13.1 The Council's asset transformation programme will see the core operational property estate foot print will reduce as assets are used for external letting, conversion to affordable housing or community use. The contract allows closer monitoring of water consumption that will help drive energy efficiencies too.
- 13.2 Implications verified/completed by: Nigel Brown, Head of Asset Strategy and Portfolio Management, tel. 02087532835.

## **14. IT IMPLICATIONS**

- 14.1. As set out in the exempt part of the agenda.

## BACKGROUND PAPERS USED IN PREPARING THIS REPORT

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1.	Laser Recommendation Report (EXEMPT)	Kal Saini, Utilities & Commercial Properties Manager	Growth and Place
2.	Councils, Score verification matrix (EXEMPT)	Kal Saini, Utilities & Commercial Properties Manager	Growth and Place
3.	Laser's framework process (EXEMPT)	Kal Saini, Utilities & Commercial Properties Manager	Growth and Place

## LIST OF APPENDICES:

Appendix 1: Laser Framework scoring matrix summery (*contained in the exempt part of the agenda*).