#### London Borough of Hammersmith & Fulham

Report to: Cabinet Member for the Environment – Councillor Wesley Harcourt

**Date:** 20/12/2020

**Subject:** Procurement Strategy and Contract Award Approval – GULCS

Electric Vehicle Charge Points

Report author: Richard Hearle; Parking Policy Manager

**SLT Director:** Sharon Lea, Strategic Director for the Environment

#### Summary

The expansion of lamp column electric vehicle (EV) charge points in Hammersmith and Fulham forms an important part of the EV charging network, supports the Council's announcement of a Climate Emergency, will be beneficial for local air quality and reduced CO<sub>2</sub> emissions and the Business Plan commitment to become the greenest borough in Britain.

This report is seeking approval for a capital budget, the procurement strategy to procure Phase 3 of the residential lamp column charge points and the direct award of a concession contract to Siemens for a period of five years commencing in 2020, with the option for the Council to extend for a further two years.

#### Recommendations

- 1. To Approve a capital budget of £79,000 with final confirmation of funding delegated to the Director of Finance, and approval by Cabinet Member for the Environment.
- To Approve the procurement strategy set out in Appendix 1 for the procurement of a concession contract for the supply, installation, operation and maintenance of residential lamp column Electric Vehicle charge points by using the Electric Vehicle Charging Infrastructure Framework Agreement let by Transport for London (the "Framework").
- 3. To Approve a direct award of the concession contract to Siemens PLC for a contract period of five (5) years commencing in December 2020 with the option for the Council to extend for a further two (2) years, at an approximate cost of £315,000.

Wards Affected: ALL

H&F Priorities	Summary of how this report aligns to the H&F Priorities
Building shared prosperity	Supporting the growth in EV ownership in H&F and London-wide to support cleaner air and reduced transport related noise.
Creating a compassionate council	Supporting cleaner air initiatives for our residents and visitors to enjoy. Installing charge points that will support residents and businesses to change to EV.
Doing things with local residents, not to them	Responding to the needs and requests from our residents for more local charge points. Communication and consultation is at the heart of developing these charge points.
Being ruthlessly financially efficient	Generating income for the Council whilst providing charge points that are protected overnight for residential use only.
Taking pride in H&F	Helping the Council to maintain its status as one the leading UK local authorities for charge point provision.

#### **Financial Impact**

The capital costs of the purchase and installation of the electric vehicle charge point equipment is estimated at £315,000. Following a successful bid GULCS will contribute £233,000 (75%) and the balance of £79,000 (25%) will need to be match funded by the Council from Section 278. This funding strategy is intended to minimise new borrowing and additional capital financing expenditure.

It is estimated that the income that will be generated from charges is £230,450 (over a 5-year period based on annual income of £216 for each of the 130 charge points with an annual 'income growth' of 25% to reflect increasing conversion to electric cars). This income will be shared between the service provider (95%) to meet all operational and maintenance costs and the Council (5%). The income over the 5-year period to the Council is estimated at £11,500, £2,300 per annum (although weighted towards the end of the contract).

Should capital funding not be identified this will result in additional revenue costs of an estimated £4,000 per annum (external interest and MRP costs), offset by the £2,300 expected revenue, resulting in an average net annual revenue cost of £1,700.

The total contract value over 5 years is £545,450 (this includes the capital investment of £315,000 and the charge income of £230,450).

#### **Legal Implications**

This report is recommending the approval of a Procurement Strategy to use a Transport for London framework to directly award a concession contract for the supply of Electric Vehicle charging points located in lamp columns, and also recommends approval for the associated award of contract.

The proposed contract is a concession contract and as such it is covered by the Concession Contracts Regulations 2016 ("the 2016 Regulations") as opposed to the standard public procurement rules. A services concession contract is a contract which:

- entrusts the provision and the management of services to an economic operator, in consideration of the right to exploit the services that are the subject of the contract, either on its own or in combination with a right to receive payment; and
- the award of the contract sees a transfer of the operating risk (either supply and/or demand risk) in a way which genuinely exposes it to the vagaries of the market, such that its potential loss is more than negligible.

Here, the service being offered is for a resident to be able to charge their vehicle. The main consideration granted by the Council is for the concessionaire to exploit the infrastructure, and it is acceptable as indicated in paragraph 2c for this to be combined with a payment by the Council for the initial outlay on the lamp column infrastructure. It is also the case that the operating risk transfers to the concessionaire, who may or may not cover the cost of running and maintaining the infrastructure and the associated software platform.

Where the 2016 Regulations apply, the concession opportunity only has to be tendered under the EU rules where the value of the concession exceeds £4.733m. The value of the concession is the concession income received by the concessionaire, not just what the Council pays, so the two elements together have been estimated to be £545,450 (see Financial Implications) for 5 years, with a further sum of less than £100,000 if the 2-year extension is exercised. Therefore, it does not need to be tendered under the 2016 Regulations. However, it does qualify as a High Value Contract under Contract Standing Orders, and as such needs to be procured in accordance with CSO 19, including approval of a Procurement Strategy.

Under CSO 19, one of the permitted routes to procure is the use of an EU-compliant Framework, which can be utilised provided that the rules of the Framework are complied with. The Council's legal adviser has reviewed the proposed Transport for London framework for legal permissibility, and the conclusions of that review are set out in the Procurement Strategy at Appendix 1. The conclusion is that use of the Framework is legally permissible, provided that the consent of TfL is obtained for the direct award.

Assuming that the Procurement Strategy is approved, and the direct award decision taken, then the TfL Framework prescribes the format of the required Call Off Contract.

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#### **Finance**

Name: Sukvinder Kalsi Position: Head of Finance Telephone: 0208 753 1234

Email: kalsi.sukvinder@lbhf.gov.uk

Verified by: Emily Hill, Director of Finance

#### Legal

Name: Deborah Down

Position: Senior Associate with Sharpe Pritchard LLP on secondment to the Council

Email: ddown@sharpepritchard.co.uk

#### **Background Papers Used in Preparing This Report**

None

#### **DETAILED ANALYSIS**

#### **Proposals and Analysis of Options**

#### **Background**

- 1. Electric Vehicles (EV) have no tailpipe emissions of CO<sub>2</sub> or the air pollutants which have a detrimental effect on human health. The London Mayor's Air Quality Strategy (MAQS) focuses specifically on improving air quality by setting tough new standards to put London on course to meet legal limits and drive long-term progress, and commits the Mayor to working with partners to put 100,000 electric vehicles on London's roads by 2020.
- 2. H&F's Second Local Implementation Plan (2011-2031) commits to supporting the MAQS through Objective 4, which pledges 'To improve air quality in the borough'. H&F has announced a climate emergency and our business plan is committed to becoming the greenest borough in Britain. A key contributor to these targets is the promotion and support for EV ownership and use, supported by providing attractive charge point solutions for our residents that will directly benefit local air quality, reduce CO<sub>2</sub> and noise. Increasing the number of attractive on-street charge points in an efficient way, this will directly benefit many of our residents who do not have access to off-street parking.
- 3. H&F have developed an extensive and comprehensive on-street electric vehicle charging network however demand data demonstrates there is still a clear need for additional charging infrastructure in the borough. The lack of convenient charging options is one of the key barriers to the growth of electric vehicles, particularly for residents who do not have access to off street parking facilities. Lamp column charge points provide a cost effective and convenient charging solution for those residents and so form an important part of the charge point network.

#### **Reasons for Decision**

- 4. Three options exist for progressing the expansion of the residential lamp column electric vehicle charge point network in H&F:
  - Option 1 using the Call-Off Contract under the Electric vehicle Charging Infrastructure Framework Agreement let by Transport for London will enable LBHF to expand lamp column charge points at minimal risk to the council, and to expediently procure the supply, installation, operation and maintenance of the charge point infrastructure.
  - ii. Option 2 LBHF expand lamp column charge points without using the Call-Off Contract. Following this path will incur considerable costs for the Council (fees and capital) and extend the delivery timeframe by many months, potentially years, by requiring liaison with DNO, service providers and potential network operators.
  - iii. Option 3 do not expand lamp column charge point network in LBHF. This does not support the council's aspirations to become the greenest borough, improve air quality or realise the business plan targets for growing the electric vehicle charge point network in the borough.
- 5. It is recommended that Option one is adopted.
- 6. Expansion of the charge point network supports the London Mayor's Air Quality Strategy (MAQS), specifically on improving air quality by setting tough new standards to put London on course to meet legal limits and to achieve 100,000 electric vehicles on London's roads in 2020.
- 7. It also supports the Council's announcement of a Climate Emergency, will be beneficial for local air quality and reduced CO<sub>2</sub> emissions and the Business Plan commitment to become the greenest borough in Britain. A key contributor will be the continued promotion and support for EV ownership and use by providing charge point solutions for our residents without off-street parking.
- 8. As the only charge point operator on the framework to provide UKPN approved incolumn charge points, it is recommended that a direct award be made to Siemens that will also ensure network continuity of our lamp column charge points. Tendering for these services will add time and cost to the implementation programme for no benefit.

#### **Equality Implications**

9. 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 this proposed expansion of the electric vehicle charging infrastructure. Please refer to the Equality impact Assessment in Appendix 2.

Implications verified by: Fawad Bhatti, Social Inclusion and Policy Manager tel: 020 8753 3437

#### **Risk Management Implications**

10. The Council is committed to tackling the Climate Change emergency. Proposals will improve opportunities for electric vehicle charging in the local area, this would encourage decisions about next vehicular purchase, removing more petrol- and diesel-powered engines off the roads. Air pollution would reduce and as a consequence wider health benefits may be realised. The Covid-19 outbreak

means that Council financial resources are limited due to the settlement from HM Government not being sufficient to meet the ongoing costs. Funding has therefore been balanced between a TfL grant and Section 278 monies.

Implications verified by: Michael Sloniowski, Risk Manager tel: 020 8753 2587

#### **IT Implications**

- 11. IT Implications: No IT implications are considered to arise from the proposal in this report. However, if the installation, operation and maintenance of the residential lamp column Electric Vehicle charge points results in a requirement for new systems to be procured, existing systems to be modified, or IT enhancements to be considered Digital Services should be consulted.
- 12. As the data collected from this proposal may be of interest to the H&F Business Intelligence Team it is recommended that the H&F Parking Team contact the BI Team to discuss further.
- 13. IM Implications: A Privacy Impact Assessment should be completed to ensure all potential data protection risks resulting from this proposal are properly assessed with mitigating actions agreed and implemented.
- 14. The supplier will be expected to have a GDPR policy in place and all staff will be expected to have received GDPR training.
- 15. The contract should include H&F's data protection and processing schedule, which is GDPR compliant.

Implications verified by: Karen Barry, Strategic Relationship Manager tel: 020 8753 3481

#### Procurement (required for all contract awards)

- 16. This concession opportunity does not need to be tendered under the 2016 Regulations but does qualify as a High Value Contract under Contract Standing Orders, and as such needs to be procured in accordance with CSO 19, including approval of a Procurement Strategy.
- 17. Procurement will use an EU-compliant Framework provided the rules of the framework are complied with. The Council's legal adviser has reviewed the proposed Transport for London Framework for legal permissibility, and the conclusion is that use of the Framework is legally permissible.

Implications verified by: Andra Ulianov, Head of Procurement and Contracting tel: 07776672876

#### **List of Appendices:**

**Appendix 1** – Procurement Strategy **Appendix 2** – EqIA

# REPORT RELATING TO PROCUREMENT STRATEGY FOR ROUND TWO GULCS FUNDED CHARGE POINTS IN LAMP COLUMNS

The Procurement Strategy was reviewed by Andra Ulianov (Head of Procurement and Contracting) and approved by Deborah Down (Senior Associate with Sharpe Pritchard LLP on secondment to the Council)

#### **BUSINESS CASE**

The procurement of electric vehicle charge points is needed because H&F have developed an extensive and comprehensive on-street electric vehicle charging network. However, demand data demonstrates there is still a clear need for additional charging infrastructure in the borough. The lack of convenient charging options is one of the key barriers to the growth of electric vehicles, particularly for residents who do not have access to off street parking facilities. Lamp column charge points provide a cost effective and convenient charging solution for those residents and so form an important part of the charge point network.

The expansion of lamp column electric vehicle charge points in H&F complements other electric vehicle initiatives and forms an integral part of the residential electric vehicle charging network, supporting the climate emergency announcement, other air quality initiatives and contributing to our target to become the greenest borough.

The proposed contract leads to the award of a concession whereby the company awarded the contract makes the infrastructure available to the public to use. All charge points will be available for public use and for the purposes of electric vehicle charging only.

The charge points will be available for use 24 hours a day, 7 days a week. Parking zone restrictions and parking fees will apply. In certain locations resident permit priority will be provided.

The further development of electric vehicle charge points in the borough directly supports H&F Business Plan actions to support both air quality initiatives and growing electric vehicle ownership and use, particularly for residents.

The charge points will be owned, operated and maintained by the Concessionaire and operated under Licence. It will be sovereign to H&F in the sense that the charge points will be located only in the borough.

H&F does not have the resources to manufacture, supply and operate EV charge points without incurring significant costs and extending the delivery programme by years.

#### 1. FINANCIAL INFORMATION

The total cost of buying and installing the equipment in the lamp columns is estimated to be £315,000. It is intended that 25% of the cost will be funded from s278 funding and/or the parking policy team budget. The remainder (75%) of the cost has been secured through the Go Ultra Low City Scheme (GULCS) contribution of £233,000.

The proposed Contract will be revenue generating for the council receiving 5% turnover share. Officer fees is budgeted from the Parking Policy Team.

Revenue received will be 5% of turnover of the charge points. This is estimated to be £11,500 over five years but this level is very likely to increase as the EV market expands over the next few years.

#### 2. OPTIONS APPRAISAL AND RISK ASSESSMENT

Three options exist for progressing expansion of the residential lamp column electric vehicle charge point network in H&F:

Option 1 – calling-off via direct award from the Electric vehicle Charging Infrastructure Framework Agreement let by Transport for London will enable H&F to expand lamp column charge points at minimal risk to the council, and to expediently procure the supply, installation, operation and maintenance of the charge point infrastructure. See below for further information about this procurement route.

Option 2 – H&F expand lamp column charge points without using the framework agreement. Following this path will incur considerable costs for the Council (fees and capital) and extend the delivery timeframe by many months, potentially years, by requiring liaison with DNO, service providers and potential network operators. Tendering for this work at this stage will add time and cost to the implementation programme for no benefit.

Option 3 – do not expand lamp column charge point network in H&F. This does not support the council's aspirations to become the greenest borough, improve air quality or realise the business plan targets for growing the electric vehicle charge point network in the borough.

It is recommended that Option one is adopted.

#### 3. THE MARKET

The market remains relatively specialised and there are no local suppliers.

#### 4. **PROCUREMENT ROUTE**

Direct award Call-off Contract through the Electric Vehicle Charging Infrastructure Framework Agreement let by Transport for London; reference tfl\_scp\_001560.

Siemens (Ubitricity) is the only provider of charge point devices approved by the energy distributor, United Kingdom Power Networks (UKPN) to connect to the unmetered lamp column network or offer an EV charging point that can be housed safely inside a H&F lamp column. Therefore, a direct award is proposed.

The TfL Framework helps Boroughs fulfil commitments to delivering charge points by facilitating the award of a Call-Off Contract to Concessionaires who will supply, install, maintain and operate the charge points.

The proposed framework has been reviewed by a legal adviser from Sharpe Pritchard. This has confirmed that:

- 1. The Council's requirements are within the scope of the Transport for London framework.
- 2. All London boroughs are able to use the framework and its initial term runs until 30 July 2021. However, consent is required from TfL where a direct award is proposed.
- 3. The framework was advertised in OJEU in early 2018. Two lots were advertised and the relevant one is Lot 1 "Shared Power Supply Charge Points". The lots were set up so that they could lead to the award of either a fixed price contract for services or a concession contract (under which greater financial risk is passed to the operator). Here a concession contract is proposed for award.
- 4. The framework (across the two lots) was advertised as having a value of £15m. Recent European case law indicates that when a framework has reached the advertised value then this it is no longer available for call offs. It is assumed that as part of the process of seeking consent from TfL as referred to above, that this will be checked.
- 5. The company proposed for a direct award, Siemens, was appointed to lot 1 and this is confirmed in the OJEU contract award notice.
- 6. The framework agreement and framework guide require the use of a template call off contract, which the department has confirmed will be used to appoint Siemens.
- 7. See also below about the proposed length of the call off contract.

Referring to the Electric Vehicle Charging Infrastructure Framework, Direct Award Justification and Approval Form, that will be submitted to London Councils for approval for Lot 1 - shared power supply charge points (lamp column charge points), the following statements have been checked:

- The Provider with the lowest PAYG average price to the end user.
- The only Provider who is capable of offering the full scope of services requested by the Awarding Authority

### 5. CONTRACT PACKAGE, LENGTH AND SPECIFICATION

The contract will be for a period of five (5) years commencing in 2020, with the option for the Council to extend for a further two (2) years, for the supply, installation, operation and maintenance of the residential lamp column charge point infrastructure on land owned by the London Borough of Hammersmith & Fulham.

It is confirmed from the OJEU notice that this contract length is within the scope of the framework agreement as advertised, however the OJEU notice says that the standard term of call off contracts is 5 years and where an awarding authority wants longer it needs to submit a justification for this, with a maximum period of 10 years permitted. Therefore, in applying for TfL consent as referred to in the previous section, the Council will need to seek approval for this by supplying justification.

#### 6. SOCIAL VALUE, LOCAL ECONOMIC AND COMMUNITY BENEFITS

Development of the residential charge point network will support the switch to green, low and zero tailpipe emission vehicles that will have a positive effect on local air quality and other sustainability initiatives.

The supplier awarded under the framework will be required to fill in the Social Value Matrix prior to the award and the delivery of the social value aspect of the contract will be monitored via the Social Value Portal in accordance with the Council's Social Value Policy.

#### 7. OTHER STRATEGIC POLICY OBJECTIVES

The expansion of the residential charge point network in H&F complements other electric vehicle initiatives and forms an important part of the wider H&F electric vehicle charging network, supporting other air quality projects and contributing to our target to become the greenest borough.

#### 8. STAKEHOLDER CONSULTATION

All proposals are developed in consultation with the operator, and in response to requests from residents and/or Councillors collected through our online consultation portal. Location specific consultation with residents and businesses will take place through the formal planning and statutory TMO procedures that must be followed and reported to Cabinet Member for Environment.

#### 9. CONTRACT AWARD CRITERIA

The contract will be awarded to the first ranked supplier on the framework (?)

## PROJECT MANAGEMENT AND GOVERNANCE

#### 10. PROJECT MANAGEMENT

The project team is comprised of the following officers:

Name	Role
Richard Hearle	Parking Policy Manager

#### 11. INDICATIVE TIMETABLE

Date	Action	Progress
June 2020	Submit to Key Decision governance programme	Complete
June 2020	Prepare SLT report in discussion with legal and other H&F consultees	Complete
July 2020	SLT report signed by Strategic Director of Environment	Complete
December 2020	CAB approval	Complete
December 2020	Cabinet Member approval	In progress
Dec - Jan 2020	Charge point manufacture	
January 2020	Charge location assessments and point installation	
February 2021	Commencement Date of Call-Off Contract	

#### 12. CONTRACT MANAGEMENT

H&F and Transport for London will undertake performance monitoring of all the sites through the supply and analysis of demand and usage (and other) data supplied by the Concessionaire as required in the contract. This will also inform the value of turnover percentage to paid to the Council.

KPI include incident reporting and rectification, and data provision and are detailed in Schedule 3 (Service Levels) of the Framework Contract

Data will also be reported to London Councils who will keep a record under GULCS, and the Framework, and so provide reports, both for H&F and London wide, detailing overall charge point demand.

The Council will work with London Councils to address any demand for future provision of electric vehicle charge points.

#### 13. Specific Exit Plan and related requirement

The Exit Plan is submitted by the Concessionaire and is set out in Schedule 10 of the Framework Agreement (tfl\_scp\_001560).



## **H&F Equality Impact Analysis Tool**

## **Conducting an Equality Impact Analysis**

An EqIA is an improvement process which helps to determine whether our policies, practices, or new proposals will impact on, or affect different groups or communities. It enables officers to assess whether the impacts are positive, negative, or unlikely to have a significant impact on each of the protected characteristic groups.

The tool has been updated to reflect the new public sector equality duty (PSED). The Duty highlights three areas in which public bodies must show compliance. It states that a public authority must, in the exercise of its functions, have due regard to the need to:

- 1. Eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited under this Act;
- 2. Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- 3. Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Whilst working on your Equality Impact Assessment, you must analyse your proposal against the three tenets of the Equality Duty.

## **General points**

- In the case of matters such as service closures or reductions, considerable thought will need to be given to any potential equality impacts. Case law has established that due regard cannot be demonstrated after the decision has been taken. Your EIA should be considered at the outset and throughout the development of your proposal, it should demonstrably inform the decision, and be made available when the decision is recommended.
- 2. Wherever appropriate, the outcome of the EIA should be summarised in the Cabinet/Cabinet Member report and equalities issues dealt with and cross referenced as appropriate within the report.
- 3. Equalities duties are fertile ground for litigation and a failure to deal with them properly can result in considerable delay, expense, and reputational damage.
- 4. Where dealing with obvious equalities issues e.g. changing services to disabled people/children, take care not to lose sight of other less obvious issues for other protected groups.
- 5. If you already know that your decision is likely to be of high relevance to equality and/or be of high public interest, you should contact the Equality Officer for support.
- 6. Further advice and guidance can be accessed from the separate guidance document (on the intranet) or ACAS EIA. Or you can contact the councils Equalities Lead (see below).

Equality Lead: Fawad Bhatti (Policy &

Strategy)

Fawad.bhatti@lbhf.gov.uk

020 8753 3437

## **H&F Equality Impact Analysis Tool**

Overall Information	Details of Full Equality Impact Analysis
Financial Year and	First Quarter 2020
Quarter	
Name and details of policy, strategy,	Procurement Strategy and Contract Award Approval – GULCS Electric Vehicle Charge Points. July 2020
function, project, activity, or programme	To approve the recommendation in the above report.
Lead Officer	Name: Richard Hearle Position: Parking Projects and Policy Engineer Email: Richard.hearle@lbhf.gov.uk Telephone No: 020 8753 4651
Date of completion of final EIA	22/06/2020

Section 02	Scoping of Full EIA		
Plan for completion	Timing: December 2020 Resources: Parking Projects and Policy Team		
Analyse the impact of the policy, strategy, function, project,	As a result of the overall works, there may be benefits associated with certain groups and not others as detailed below:		
activity, or programme	Protected characteristic	Analysis	Impact:
	Age	N/A	Neutral
	Disability	N/A	Neutral
	Gender reassignment	N/A	Neutral
	Marriage & Civil	N/A	Neutral

Partnership		
Pregnancy &	N/A	Neutral
maternity		Neutrai
Race	N/A	Neutral
Religion/belief	N/A	Neutral
Gender	N/A	Neutral
Sexual	N/A	Neutral
Orientation		Neutrai
No	Children's Rights n Rights, as defined by the Human Rights Act 1998? en's Rights, as defined by the UNCRC (1992)?	

Section 03	Analysis of relevant data
	Examples of data can range from census data to customer satisfaction surveys. Data should involve specialist data and information and where possible, be disaggregated by different equality strands.
<b>Documents and data</b>	N/A
reviewed	
New research	N/A

Section 04	Consultation
Consultation	N/A
Analysis of	N/A
consultation outcomes	

Section 05	Analysis of impact and outcomes
Analysis	N/A

Section 06	Reducing any adverse impacts and recommendations
<b>Outcome of Analysis</b>	N/A

Section 07	Action Plan
Action Plan	N/A

Section 08	Agreement, publication and monitoring
Chief Officers' sign-off	Name: Bram Kainth
	Position: Chief Officer for Public Realm
	Email: bram.kainth@lbhf.gov.uk
	Telephone No: 0208 753 1145
<b>Key Decision Report</b>	Date of report to SLT: July 2020
(if relevant)	Key equalities issues have been included: Yes/ <del>No</del>
<b>Equalities Lead (where</b>	Name: Bram Kainth
involved) (ACTING)	Position: Chief Officer for Public Realm
	Email: bram.kainth@lbhf.gov.uk
	Telephone No: 0208 753 1145