



## Notice of KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt and Appendix A is not available for public inspection as it contains or relates to exempt information within the meaning of paragraph [3 of Schedule 12A to the Local Government Act 1972. It is exempt because it refer(s) to information relating to the financial or business affairs of any particular person (including the authority holding that information) and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

<b>Subject Heading:</b>	Approval to appoint Connected Kerb to deliver 148 Electric Vehicle Charging Points across the borough.
<b>Decision Maker:</b>	Neil Stubbings- Strategic Director of Place
<b>Cabinet Member:</b>	Councillor Barry Mugglestone Cabinet Member for Environment
<b>SLT Lead:</b>	Neil Stubbings – Strategic Director Place
<b>Report Author and contact details:</b>	Daniel Douglas Team Leader Transport Planning <a href="mailto:daniel.douglas@havering.gov.uk">daniel.douglas@havering.gov.uk</a> 01708 43322
<b>Policy context:</b>	Mayor’s Transport Strategy 2018 Local Implementation Plan 2019 (LIP3) Havering Local Plan 2021
<b>Financial summary:</b>	The procurement of Electric Vehicle Charging Point infrastructure will not result in a financial cost to the Council. £0.346m of the cost of the infrastructure is being paid for through grant funding from the Office of Zero

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	Emission Vehicles, and the remaining will be paid for through the appointed provider.
<b>Reason decision is Key</b>	Indicate grounds for decision being Key:  (a) Expenditure or saving (including anticipated income) of £500,000 or more
<b>Date notice given of intended decision:</b>	21/11/2022
<b>Relevant Overview &amp; Scrutiny Committee:</b>	Environment
<b>Is it an urgent decision?</b>	No
<b>Is this decision exempt from being called-in?</b>	No

### **The subject matter of this report deals with the following Council Objectives**

People - Things that matter for residents - X

Place - A great place to live, work and enjoy - X

Resources - A well run Council that delivers for People and Place- X

### **Part A – Report seeking decision**

#### **DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION**

This paper seeks authority to:

Direct award a contract to Connected Kerb Limited as the Charge Point Operator (CPO) to deliver 68 Electric Vehicle Charging Points in Council car parks, and 80 on street Electric Vehicle Charging Points through the Kent County Council Services (KCS) Framework.

## **AUTHORITY UNDER WHICH DECISION IS MADE**

Part 3 [Responsibility for Functions]

3.3 Powers of Members of the Senior Leadership Team

Members of the Senior Leadership Team (SLT) have delegated authority to act as follows within the assigned service service/portfolio of responsibilities, subject to the general provisions and limitations set out in section 3.1 above.

Contract Powers

(b) To award all contracts with a total contract value of between £500,000 and £5,000,000 other than contracts covered by Contract Procedure Rule 16.3

## **STATEMENT OF THE REASONS FOR THE DECISION**

### **Background**

1. The Government has previously allocated £20m to support the installation of electric vehicle charge points, through the Office of Zero Emission Vehicles (OZEV).
2. Councils were able to bid for funding through the On-Street Residential Charge Scheme (ORCS) for charge points that will allow those who cannot charge at home and visitors to the Borough to charge an electric vehicle. The ORCS scheme is the most appropriate opportunity to deliver charge points in those settings using central Government funds.
3. Delivery of Electric Vehicle Charging Point Infrastructure is a priority for the Council and is identified in the Havering Local Plan, Air Quality Action Plan and Adopted Climate Change Action Plan. The Council is currently developing an Electric Vehicle Charging Point Strategy and Implementation Plan.
4. Through the ORCS funding mechanism, the Council has received two funding allocations to deliver Electric Vehicle Charging Point Infrastructure across the borough. Specifically this is:
  - £176,390 for 68 Electric Vehicle Charging Points (34 double socket chargers) to be installed in a number of Council owned car parks across the borough
  - £170,100 to deliver up to 80 on street charging points to be connected to lamp columns across the borough.
5. The funding the Council has received from OZEV accounts for a portion of the total value of the two projects. For both the car park and on street projects the

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appointed Charge Point Operator (CPO) will be required to provide the remaining costs.

6. The Council has received up to 75% of the funding allocated by OZEV to date, with the remaining funding to be received once the project has been delivered.

### **Procurement Process**

7. Following award of funding, the next stage in the project was to undertake a procurement process to appoint a charge point operator. The contract would cover the supply, delivery and installation of the charging points and for the operation and maintenance of the charging infrastructure for an initial 15 year period, with the potential of up to an additional five years which would be dependent on satisfactory performance against key performance indicators.
8. The Council was seeking tenders to supply, install, operate and maintain up to 148 EV charging points. These would be located on street (up to 80) and in Council owned car parks (68). In accordance with the terms of the funding, the prospective tenderers were required to fund the remaining cost of the charging infrastructure.
9. During the spring of 2022, Officers ran a mini-competition through the Kent County Council (KCC) Electrical Vehicles Charging Points and Associated Services framework. Out of this framework Lot 1 Electrical Vehicle Charging Points & Associated Services was used, which is the suitable Lot for this project.
10. Whilst the Council received two bids from suppliers, the content of the tender submissions was not sufficient to be able to award the contract to a supplier.
11. Earlier this year, officers ran a mini-competition through the same framework. Unfortunately, the Council received no tenders from any of the 11 suppliers on the framework.

### **Direct Award Approach**

12. Given officers have undertaken a mini competition process twice, but have been unable to appoint a supplier, officers now propose to appoint a supplier through a direct award through the Framework.
13. Officers have sought advice on the feasibility of awarding the contract through a direct award process, to a supplier on the Kent County Council framework. Officers have been advised that a direct award to a supplier can be made so long as the specific supplier in question meets at least one of the following criteria:
  - *Customer is satisfied that, following their own due diligence, they can identify the supplier that offers best value for their requirement*
  - *The supplier is able to supply the required goods/services within the customer's timescales*

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- *The supplier scored the highest mark for price/quality in the framework evaluation*
- *Goods/services required are unique/exclusive to one vendor/supplier*
- *Continuity of existing goods/services from an awarded supplier*

14. Connected Kerb meet criteria 2 above as they are able to supply the required goods/services within the Council's timescales. Exempt Appendix A sets out the detail of what Connected Kerb will be providing

### **Main Elements of Contract**

15. The contract to be awarded covers the following elements:

- Supply and installation of 34 doublet socket 7kw charge points across Council operated car parks
- 80 Charging Points on the public highway
- The suppliers contributing the shortfall in funding the project in full. Further details of the funding Connected Kerb is putting forward can be found in Exempt Appendix A.
- 15 year contract for the operation and maintenance of the charging infrastructure with the potential for a five year extension, dependent on satisfactorily meeting Key Performance Indicators (KPI's).
- Supplier will be responsible for all costs, including but not limited to, installation, servicing, maintenance and back office function, for the duration of the contract.
- A Net Revenue share with the Council will be applied to the contract on any revenue generated from the charging points installed (details in Exempt Appendix A).

### **Key Performance Indicators**

16. There are a number of Key Performance Indicators relating to the contract which can be found in Appendix B of this report. The Council will hold quarterly progress meetings with Connected Kerb to discuss progress against these KPIs and discuss usage levels.

17. The contract will include reference to the Council reserving the right to purchase the supply, installation, and maintenance of up to a further 1000 Electric Vehicle Charging Points throughout the lifetime of the contract. This is subject to sufficient funding being available for such charging points, and is not guaranteed.

### **End User Tariff**

18. Whilst Connected Kerb have put forward an *end user tariff* proposal of 50 pence per kilowatt of charge, given the length of the contract, this potentially could change. The Tariff will be reviewed every 6 months starting from the date of the Contract agreement, and every 6 months thereafter. Any changes that the supplier proposes to the end user tariff will need to be backed up with evidence.

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### **EV Charging Point Locations**

19. Ward Councillors will be consulted on the locations for the charging point infrastructure, prior to any installation taking place. Locations will also be assessed by the appointed Charge Point Operator from a deliverability perspective.

### **Next Steps**

20. Following approval of this Key Executive Decision, officers will finalise the contract documentation.

21. After an inception meeting and period of mobilisation, delivery and installation of the Charging Point Infrastructure is expected to be completed before the end of the current financial year.

### **OTHER OPTIONS CONSIDERED AND REJECTED**

22. The option of undertaking a competitive tender competition for the third time was considered and rejected. Given the Council has undertaken a competitive procurement process twice within the last 15 months and been unable to appoint a Supplier, there is a high likelihood that the same outcome would happen if the process was undertaken again.

23. In addition, there is a time constraint on the external funding the Council has received and it is imperative that the project is completed by the end of the financial year. Awarding the contract through a Direct Award is considered the most appropriate process in order for the project to be completed within these timescales.

### **PRE-DECISION CONSULTATION**

24. The Cabinet Member for Environment was consulted prior to this Executive Decision being signed.

### **NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER**

Name: Daniel Douglas

Designation: Team Leader Transport Planning

Signature:

Date: 28<sup>th</sup> September 2023

*D. Douglas*

## **Part B - Assessment of implications and risks**

### **LEGAL IMPLICATIONS AND RISKS**

25. Under the Greater London Authority Act 1999 the Council is required to produce a Local Implementation Plan that sets out how it will deliver the Mayor of London's priorities at a local level. The Mayor of London has identified delivery of electric vehicle infrastructure as a key priority.
26. Section 16 of the London Local Authorities and Transport for London Act 2013 sets out the Council's power, as a London local authority, to appoint a person to provide and operate charging apparatus for electrically charged vehicles in any public off-street car park under the management and control of the traffic authority (S.16(2)(a)) or on any highway for which they are responsible as highway authority (S.16 (2) (b)). Award of this contract is in accordance with that power.
27. S17(2) of the same Act sets out the notices Connected Kerb is required to publish prior to installation, such notices must be affixed at the location where charge points will be installed, must be published for at least 28 days and must give people the right to make representations.
28. This report seeks approval to appoint Connected Kerb Ltd to deliver the Electric Vehicle Charing Point Contract in Havering and to operate and maintain these facilities for a period of 15 years, with a potential 5-year extension.
29. The Public Contracts Regulations 2015 (as amended) (PCR) requires contracts over the relevant threshold to comply with the Regulations. This is a mixed contract for supply of goods and services and works, The predominant element is for the supply of goods and services for which the threshold is £213,477. The proposed contract is above the relevant threshold and therefore subject to the full rigours of the PCR.
30. The body of this report confirms that the procurement is compliant with Regulation 33(8) of the PCR.
31. The procurement complies with the Council's Contracts Procedure Rules (CPR 20.4)

**FINANCIAL IMPLICATIONS AND RISKS**

32. ORCS funding mechanism has offered the Council two funding allocations, £176,390 for 68 Electric Vehicle charging points, £170,100 to deliver up to 80 on street charging point infrastructure across the Borough.
33. The OZEV grant award provides a proportion (up to 75%) of the total project cost for both projects, with the remaining project cost to be secured and confirmed from a Charge Point Operator (CPO) through the procurement process, so no Council funds will be required. Also, no expenditure against the OZEV grant funding award will be made until the remainder of the project cost is secured from the CPO
34. A revenue share arrangement over the lifetime of the contract has been agreed with the supplier as set out in Exempt Appendix A. The revenue will be paid by the supplier to the Local Authority in arrears on an annual basis every January 31st.
35. Any agreement with the charge point operator will be checked by the Legal team.

**HUMAN RESOURCES IMPLICATIONS AND RISKS  
(AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

36. There are no HR implications.

**EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

37. The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:
- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
  - (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
  - (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, sexual orientation.

38. The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce.



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39. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

40. Delivery of Electric Vehicle Charging Points across the borough will support residents who have purchased Electric or Hybrid vehicles and encourage those residents wishing to switch to electric vehicles from Petrol or Diesel cars to do so.

41. An equalities assessment has not been carried out as there are no implications at this time

### **HEALTH AND WELLBEING IMPLICATIONS AND RISKS**

42. Encouraging the use of Electric Vehicles through delivery of Charging Points will support the Council's ambition to improve air quality. Improving the air that Havering residents' breath has associated health benefits.

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**ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS**

43. Delivery of Electric Vehicles Charging Point infrastructure supports the Council's adopted Climate Change Action Plan and Air Quality Action Plan.
44. Increasing the number of publically available EV Charging Points will support the expected increase in electric and hybrid vehicles that will be operating in the borough in the future and helping to facilitate this increase will have positive impacts on local air quality.

**BACKGROUND PAPERS**

None

**APPENDICES**

Appendix A      Connected Kerb Ltd Proposal - Exempt  
Appendix B      Key Performance Indicators - Open

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**Part C – Record of decision**

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

**Decision**

Proposal agreed

**Details of decision maker**

Signed 

Name: Neil Stubbings – Strategic Director of Place

Cabinet Portfolio held:  
CMT Member title:  
Head of Service title:  
Other manager title:

Date: 28<sup>th</sup> September 2023

**Lodging this notice**

The signed decision notice must be delivered to Committee Services, in the Town Hall.

**For use by Committee Administration**

This notice was lodged with me on \_\_\_\_\_

Signed \_\_\_\_\_