

CORPORATE SERVICES DEPARTMENT
Director – Caroline Holland



**Democracy Services
London Borough of Merton
Merton Civic Centre
London Road
Morden SM4 5DX**

**Direct Line: 0208 545 3616
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Date: 13 August 2020

Dear Councillor

Notification of a Key Decision taken by the Director of Corporate Services and the Chief Executive

The attached key decision has been taken by the **Director of Corporate Services and the Chief Executive** with regards to the **Extension of Contract for Water Supply and Sewerage Services** and will be implemented at **noon on Tuesday 18 August 2020** unless a call-in request is received.

The [call-in](#) form is attached for your use if needed and refers to the relevant sections of the constitution.

Yours sincerely

**Louise Fleming
Democracy Services**

KEY DECISION TAKEN BY AN OFFICER UNDER DELEGATED AUTHORITY

See over for instructions on how to use this form – all parts of this form must be completed. Type all information in the boxes. The boxes will expand to accommodate extra lines where needed.

1. Title of report

Extension of Contract for Water Supply and Sewerage Services

2. Reason for exemption (if any)

N/A

3. Decision maker

Chief Executive and Director of Corporate Services

4. Date of Decision

11/08/2020

5. Date report made available to decision maker

04/08/2020

6. Decision

That the contract for the Supply of Water, Wastewater and Ancillary Services with Anglian Water Business (National) Ltd trading as Wave be extended until 30th April 2022 in accordance with the provisions of Crown Commercial Services Framework Agreement RM3790, and authority to undertake the extension be delegated to the Energy & Sustainability Manager

7. Reason for decision

Please refer to the officer report

8. Alternative options considered and why rejected

Please refer to the officer report

9. Documents relied on in addition to officer report

None

10. Declarations of Interest

None

11. Signature

Signature



Date 11/8/20

Director of Corporate Services

Signature



Date 12 August 2020

Chief Executive

Chief Officer Key Decision Report

Date: 03/08/2020

Wards: All

Subject: Extension of Contract for Water Supply and Sewerage Services

Lead officer: Mark Humphries - Assistant Director, Infrastructure and Technology

Lead member: Councillor Mark Allison

Contact officer: Richard Neal - Energy & Sustainability Manager

Recommendations:

1. The Council's contract with Anglian Water Business (National) Ltd trading as Wave be extended in line with the provisions of the framework from 13 December 2020 until 30 April 2022 at an estimated cost of £200k.
 2. That authority to undertake the above be delegated to the Energy & Sustainability Manager.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. Officers are seeking approval to take up the optional extension allowed for within Merton's Original call-off contract with Wave (Anglian Water Business (National) Ltd).
- 1.2. Once executed in accordance with the Framework the contract end date would be extended from 13/12/2020 until 30th April 2022.
- 1.3. The contract value is estimated as £150,000 per annum, meaning the extension is worth an estimated £200,000 in total.

2 DETAILS

- 2.1. Merton appointed Wave to provide water, wastewater and ancillary services on the 14th December 2018 via a further competition run by the London Energy Project (LEP) on the Crown Commercial Services Framework RM 3790.
- 2.2. This procurement route was chosen for a number of reasons, chiefly that due to the small retail margins on these services (approximately 10% of invoiced cost) any financial benefit to the council from running an in-house procurement was likely to be limited, and that greater benefit could be extracted, primarily around customer and ancillary services, by leveraging the economies of scale of buying in to a collective procurement exercise. Officers do not consider that these key drivers have changed since the point the contract was awarded.
- 2.3. The initial period of the call-off contract ends on 13th December 2020, and there is a single option to extend the contract until 30th April 2022.
- 2.4. As an essential utility Merton is required to have an appointed supplier for these services, and due to good performance by the incumbent supplier, officers believe there is little value in re-tendering the services at this time. Merton will be required to re-tender the services at the conclusion of the extension period. Were a supplier not to be appointed at the end of the initial

contract period with Wave, Wave would continue to provide Water and Wastewater services on an 'out of contract basis', but Merton would not have access to any of the additional benefits of the current contract e.g. Account Management, Leakage Find and Fix services. Such an approach would also likely be deemed non-compliant with The Public Contracts Regulations 2015 (PCR 2015)

- 2.5. While the LEP has now been closed down (though discussions continue about it continuing in some form), the ability of Merton to continue buying services via this contract, and taking up the optional extension, is unaffected.

3 ALTERNATIVE OPTIONS

- 3.1. Do Not Extend or Vary the Contract. As an essential service, water supply and sewerage services would continue to be delivered to sites under 'deemed contract' terms upon the expiry of the Council's current contract. These terms will be inferior to those available under an extension, and such an approach would not be compliant with Public Contracts Regulations 2015 or the Council's own Contract Standing Orders.
- 3.2. Carry out a separate procurement or call off for the services. If the contract with Wave is not extended Merton would be required by the Public Contract Regulations 2015 and its own Contract standing orders to re-procure these services. This would enable the market to be retested with a view to securing better terms. In reality the relatively short period since the LEP further completion, combined with the loss of any advantages related to collaboratively procuring with other Authorities across London as well as the current COVID-19 crisis means that the possibility of securing better terms is remote. Furthermore any procurement exercise will place additional administrative timelines on officers.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. None.

5 TIMETABLE

- 5.1. Currently the Council's contract with Wave is due to expire 13/12/2020, and we are required to notify wave 3 months before this date of our intention to extend (13/09/2020).

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. Costs relating to the supply of Water and Wastewater are funded directly by sites as part of their revenue budgets. This process will continue in the same way under the proposed extension.

7 LEGAL AND STATUTORY IMPLICATIONS

7.1 The original procurement process (procuring from an established framework) was undertaken in accordance with the Council's Contract Standing Orders and PCR 2015.

7.2 The call-off contract dated 21 December 2018 contains the option to extend the term until 30 April 2022 and the Council wishes to exercise this option. The proposed extension is permissible under the original authority given to award the contract and may be further authorised pursuant to the recommendation in this report.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. None identified

9 CRIME AND DISORDER IMPLICATIONS

9.1. None identified

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. None identified

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

) None

12 BACKGROUND PAPERS

12.1. None

Merton Council - call-in request form

1. Decision to be called in: (required)

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2. Which of the principles of decision making in Article 13 of the constitution has not been applied? (required)

Required by part 4E Section 16(c)(a)(ii) of the constitution - tick all that apply:

(a) proportionality (i.e. the action must be proportionate to the desired outcome);	
(b) due consultation and the taking of professional advice from officers;	
(c) respect for human rights and equalities;	
(d) a presumption in favour of openness;	
(e) clarity of aims and desired outcomes;	
(f) consideration and evaluation of alternatives;	
(g) irrelevant matters must be ignored.	

3. Desired outcome

Part 4E Section 16(f) of the constitution- select one:

(a) The Panel/Commission to refer the decision back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns.	
(b) To refer the matter to full Council where the Commission/Panel determines that the decision is contrary to the Policy and/or Budget Framework	
(c) The Panel/Commission to decide not to refer the matter back to the decision making person or body *	
* If you select (c) please explain the purpose of calling in the decision.	

4. Evidence which demonstrates the alleged breach(es) indicated in 2 above (required)

Required by part 4E Section 16(c)(a)(ii) of the constitution:

5. Documents requested

6. Witnesses requested

7. Signed (not required if sent by email):

8. Notes – see part 4E section 16 of the constitution

Call-ins must be supported by at least three members of the Council.

The call in form and supporting requests must be received by 12 Noon on the third working day following the publication of the decision.

The form and/or supporting requests must be sent:

-) **EITHER** by email from a Councillor’s email account (no signature required) to democratic.services@merton.gov.uk
-) **OR** as a signed paper copy to the Head of Democracy and Electoral Services, 1st floor, Civic Centre, London Road, Morden SM4 5DX.

For further information or advice contact the Head of Democracy and Electoral Services on 020 8545 3409