

<b>ENERGY PERFORMANCE CONTRACT (EnPC) – NOMINATION OF CONTRACTOR</b>
Councillor Seaton, Cabinet Member for Resources
<b>June 2013</b>
<b>Deadline date: Not Applicable</b>

Cabinet portfolio holder: Responsible Director:	Councillor Seaton, Cabinet Member for Resources John Harrison, Executive Director Strategic Resources
Is this a Key Decision?	YES If yes has it been included on the Forward Plan : Yes Unique Key decision Reference from Forward Plan : KEY/ 30MAY/13/03
Is this decision eligible for call-in?	YES
Does this Public report have any annex that contains exempt information?	Yes the attached annex is NOT FOR PUBLICATION in accordance with paragraph 3 of Schedule 12A of Part 1 of the Local Government Act 1972 in that it contains information relating to the financial and business affairs of a person (including the Council), have specifically the tender prices submitted by bidders and their relevant scores, and to disclose them could compromise the Council's negotiating position in the proposed transaction. The public interest test has been applied to the information contained within the exempt annex and it is considered that the need to retain the information as exempt outweighs the public interest.

### R E C O M M E N D A T I O N S

The Cabinet Member is recommended to:

1. Authorise the award of a framework contract for the Energy Performance Contract (EnPC) to Honeywell Building Solutions (a trading name of Honeywell Control Systems Ltd) referred to in this report as "Honeywell" for an eight year period commencing July 2013;
2. Authorise the Executive Director of Strategic Resources to call-off individual contracts under the framework;
3. Authorise the Head of Strategic Finance to:
  - (1) Commission Blue Sky Peterborough Ltd, the Council's wholly owned energy services company, to call-off individual contracts under the framework on behalf of the Council in respect of the councils portfolio and other buildings where appropriate.
  - (2) Provide the funding for any such contracts under the Invest to Save Budget.

**1. SUMMARY OF MAIN ISSUES**

1.1 This report is submitted to the Cabinet member following an EU competitively tendered Framework Agreement for Energy Efficiency Services.

**2. PURPOSE OF THIS REPORT**

2.1 This report is for Councillor Seaton to consider exercising delegated authority under paragraph 3.3.6 of Part 3 of the constitution in accordance with the terms of their portfolio at paragraphs 3.9 (j) and (k) of Part 3 of the constitution

2.2 The attached report/background information is NOT FOR PUBLICATION in accordance with paragraph 3 of Schedule 12A of Part 1 of the Local Government Act 1972 in that it contains information relating to the financial and business affairs namely, the tender prices submitted by bidders and their relevant scores, and to disclose them could compromise the Council's negotiating position in the proposed transaction. The public interest test has been applied to the information contained within the exempt annex and it is considered that the need to retain the information as exempt outweighs the public interest.

**3. TIMESCALE** *(If this is not a Major Policy item, answer **NO** and delete second line of boxes).*

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>

**4. DETAILS OF DECISION REQUIRED**

4.1 As part of the Council's status as the Home of Environmental Capital, the Council is seeking to ensure that, where energy is used, it will be done so effectively and efficiently. The Council is committed to using sustainable energy sources and will invest in, demonstrate and promote the benefits of energy efficiency and renewable generation. In doing so, the Council will help to reduce the impact of climate change and its own contribution to the causes of climate change.

4.2 As part of this commitment, the Council has already entered into a number of energy related contracts including a solar photovoltaic (PV) framework agreement and the Ready to Switch programme.

4.3 To date a significant amount of work has been devoted to energy generation and this contract deals with the complementary issue of energy saving and efficiency.

4.4 In April 2012, the Council issued a Prior Information Notice (PIN) under the OJEU procurement process, to better understand the market appetite within the UK for energy efficiency interventions across the public and civic asset base. Although energy efficiency programmes are a relatively well established approach in business, as far as the Council is aware, at this time there were only very limited programmes using this approach within the public sector.

4.5 This Council initiative had strong support from both the Green Investment Ban (GIB) and UK Green Investments (UKGI), set up by the Department for Business Innovation and Skills (BIS).

4.6 Officers were encouraged by the level of interest shown by the market, with the PIN being issued to 52 companies. 13 companies subsequently responded to the OJEU Pre-Qualification Questionnaire (PQQ), a very strong response to a new and challenging initiative. Six (6) companies were taken through from the PQQ stage, (although one subsequently dropped out due to business refocusing), and the Council followed the full OJEU procurement process, eventually taking four (4) of these companies through to the Competitive Dialogue process.

- 4.7 Following further detailed dialogue and process two companies were taken through to the final stage of the Call for Final tenders.
- 4.8 The scope of the framework is:
- To provide a single contractor
  - For an eight year period framework (“Framework”)
  - For individual contracts for energy saving interventions are up to a 15 year period (provided the opportunities are found within the eight year framework)
  - To cover all building types of a local authority and also a college
  - To be available to all councils in the UK to utilise
  - To cover all forms of energy efficiency interventions (changes to buildings, plant etc.)
  - To encompass on site energy generation where appropriate
  - To allow for area wide generation schemes where appropriate
  - To provide a private sector funded option for interventions
- 4.9 It should be noted that the Framework only covers non domestic properties. For Domestic properties the Green Deal has been developed nationally. In the short term in particular this contract complements the recent Strategic Partnership with British gas which focuses around domestic energy efficiency.
- 4.10 As part of developing the Framework the Council has worked closely with Hertfordshire County Council which has supplied asset types for review as part of the contract process.
- 4.11 The East of England Regional Efficiency Improvement Partnership has also been supporting three councils in the East of England who will be looking to be potential early adopters of the Framework: Basildon, Southend on Sea and Thurrock Councils.
- 4.12 Attached at Annex 1 are the results of the final tender. Overall the scores recommend that the contract be awarded to Honeywell Building Solutions (a trading name of Honeywell Control Systems Ltd).

## **5 CONSULTATION**

- 5.1 Initial consultation has been undertaken with relevant teams across the council and in particular with Children’s Services in respect of the schools portfolio. Some of the individual schools are aware of the potential contract as the schools were subject to review as part of the contract evaluation.
- 5.2 Externally the Framework has been aligned with national government priorities around non domestic energy efficiency – in particular with the GIB.
- 5.3 The contract is not ward specific.

## **6 ANTICIPATED OUTCOMES**

- 6.1 It is anticipated that the Cabinet member will agree to award this contract to Honeywell. Once the Framework is in place, both Blue Sky Peterborough and other eligible bodies will be able to award call-off contracts from the Framework. This in itself will generate income for the Council. The Council will also benefit through any call-off contracts awarded in the Peterborough area through guaranteed savings on energy costs on the projects that are the subject of the contract.

## **7 REASONS FOR RECOMMENDATIONS & ANY RELEVANT BACKGROUND INFORMATION**

- 7.1 The Council has never had such a contract in place and carried out a procurement process that is fully compliant with EU legislation. Cabinet approval is now required under the Council's contract regulations for the contract to be awarded to Honeywell.

## **8 ALTERNATIVE OPTIONS CONSIDERED**

- 8.1 Status quo: This was rejected on the basis that the Council would lose the opportunity to make savings in energy consumption and energy costs. This would have an adverse impact on the Council's financial position, and would also not be consistent with the Council's desire to be Environment Capital.
- 8.2 The only other contract available potentially in the UK was the London refit scheme. When officers started this procurement process, they were aware of the RE-FIT scheme and this was then going through a re procurement. The new RE-FIT 2 contract is available to use but individual contracts are tendered which adds to the individual costs and also loses the benefits and opportunities of an aggregated portfolio across the whole Council area. They also did not have the benefit of on site generation or potential district wide schemes.

## **9 IMPLICATIONS**

### **9.1 Legal & procurement implications**

- 9.1.1 The Council has followed a procurement process that is fully compliant with the EU procurement rules, and its own internal contract regulations. It will continue to do so following this decision, in the way that it enters into and monitors the framework contract.

### **9.2 Financial implications**

- 9.2.1 The initial award of the framework contract does not in itself lead to a financial commitment from the Council. Individual energy efficiency proposals will be brought forward, outlining the business case, including recommending how the scheme should be financed, and how that investment will be repaid. The initial investment could be through one of the following three sources:
- The Council funds directly (including through using the Invest to Save capital funding)
  - Blue Sky Peterborough invest directly (in turn drawing loan finance from the council)
  - Honeywell invest and take a share of future savings
- 9.2.2 The savings generated from the energy efficiency schemes will cover a number of areas. The Council's ability to invest in energy efficiency measures will lead to a reduction in its annual CRC bill which is estimated to be £85k in 2013/14 and will be expected to rise to £204k in 2014/15. The aim will be to reduce this annual bill and also take the council out of any liability when CRC 3 takes place in 2017/18.
- 9.2.3 The contract guarantee arrangements mean that the council will also benefit from avoiding costs that arise as a result of energy bills generally rising above RPI.
- 9.2.4 The Council can utilise the Invest to Save Budget for individual efficiency programmes. All projects have to pass the test of being self financing under the contract and therefore meet the required criteria for use of the Invest to Save Budget. This assessment against the criteria will form part of the initial business case. Separately to this contract, the Council continues to report updates on the use of the Invest to Save budget as required. A review of the use of the Invest to Save budget by the Council's external auditors (PWC) is also due to be discussed at the Audit Committee meeting of 24<sup>th</sup> June 2013.

- 9.2.5 Approval of any individual proposals will then need to be in line with the Councils decision making requirements. For example if the value exceeds £500k this will be a Cabinet Member Key decision.
- 9.2.6 The Council can choose the level of interventions and therefore can decide to only take those that are profitable and forgo those that have longer paybacks.
- 9.2.7 Investment by the council in BSP would be at market rates. These would be in region of 3¾% higher than the cost of borrowing through the PWLB. It is estimated that the interventions available will total in excess of £10m. This would lead to a surplus of approximately £375k in the first full year.
- 9.2.8 The capital programme includes schemes which include energy efficiency and these can therefore be deleted and have result capital financing savings. It will also reduce the impact on the need to include future capital schemes.
- 9.2.9 A target was approved in the current MTFs of £450k of savings per year for the range of energy measures the Council is pursuing. The savings generated through this contract will need to contribute towards this existing target.

### **9.3 Asset management**

- 9.3.1 It will be necessary to ensure that the payback period for any contracts are within the expected useful life of an asset.  
It is not considered that there are any other relevant implications that need to be included in this report.

## **10 DECLARATIONS / CONFLICTS OF INTEREST & DISPENSATIONS GRANTED**

- 10.1 The Executive Director Strategic Resources and the Cabinet member for resources are both directors of Blue Sky Peterborough Ltd (BSP). As BSP is a wholly owned local authority company established under the Local Government and Housing Act 1989, no conflict of interest arises in respect of the actions of any council officer or member acting in his or her capacity as a Director or officer of the company when implementing the Council's instructions to its company.
- 10.2 To however avoid any suggestion that there may be the report seeks approval for the Head of Strategic Finance to deal with any individual contracts and financial transactions with BSP.

## **11 BACKGROUND DOCUMENTS**

None

<b>Consultation</b>	<b>Section</b>	<b>Name</b>	<b>Outcome</b>	<b>Date</b>
<b>(officers/ward councillors)</b> <i>Legal and finance should be consulted regarding the proposals. Ward Councillors, other Cabinet Members and officers should be consulted if the proposals will have an impact on their service area/ward.</i>	<b>Ward Councillors</b> <i>(if decision is ward specific)</i>			
	<b>Legal</b>	Kim Sawyer		
	<b>Finance</b>	Steven Pilsworth		
	<b>Democratic Services</b>	Alex Daynes		
	<b>Procurement Project Director</b> <i>(if decision is contract/procurement related)</i>	Andy Cox		
	<b>Head of Strategic Property</b> <i>(if decision is property related)</i>	Andrew Edwards		
	<b>Other Officers / Members</b>			
	<b>Director's approval</b> <i>Directors are requested not to sign if the above section is incomplete</i>			
<b>Date sent to Cabinet Member if key decision</b>	<i>To be inserted by Democratic Services</i>			
<b>If key decision – date decision may be taken</b>	<i>To be inserted by Democratic Services</i>			
<b>Cabinet Member approval</b>				<b>Date</b>
<b>Reasons for making decision</b> <b>Please tick one of the Options</b>	<b>Option 1</b> I agree with the officer's reasons for recommending the decision.			
	<b>Option 2</b> I agree with the officer's reasons for recommending the decision and have the following additional comments to make.			
<b><i>Once signed by Director, please pass to Democratic Services. We will contact the Cabinet Member and arrange for signature.</i></b>				