



Key Decision Report of the Corporate Director of Environment and Regeneration

Officer Key Decision	Date: 9.3.21	Ward(s): All
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Delete as appropriate		Non-exempt
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SUBJECT: Extension of the highways maintenance agreement for up to 15 months to end of March – June 2022

1. Synopsis

- 1.1 This report seeks approval to extend the existing contract for highways maintenance for up to 15 months beyond the current end date of 31 March 2021. The value of the extension will be up to £4.7m.
- 1.2 The contract is for the delivery of the planned highways maintenance within the borough. This includes civil engineering schemes delivered through Highways and traffic services as well as other services related to Highways works.

2. Recommendation

- 2.1 To approve the extension of the current Highways Maintenance Contract by up to 15 months beyond the current end date of 31 March 2021 as outlined in this report. The value of this extension will be up to £4.7m.

3. Date the decision is to be taken: 23 March 2021

4. Background

- 4.1 Nature of the service

The highways maintenance contract includes the provision of the civil engineering works for Highways Maintenance Operations Surfacing and Traffic and Transport Service Schemes. This will be for all planned highways capital maintenance works, reactive, Cyclic inspections repairs, bridge, and pipe subway maintenance. To also include capital maintenance programs for section 106, section 278 and any other carriageway and footway programs. It will also assist any planned traffic improvement schemes, parking and cycle schemes and the implementation of traffic restrictions for the Traffic Services Department.

It is proposed to extend the existing contract for highways maintenance for a period of up to 15 months beyond the current end date of 31.3.21 and until March to June 2022. The extension period will be used to procure a new term service contract, whilst maintaining existing service provision. The proposed extension is in line with Regulation 72 of the Public Contracts Regulations 2015.

During the extension period of the current contract a procurement strategy will be developed in relation to the commissioning and delivery of highway maintenance services and will be the subject to a future report to the Executive.

Highways maintenance is currently procured through a call-off contract under the London Highways Alliance framework agreement. This framework agreement and the council's call-off contract finish at the end of March 2021. The council must have in place arrangements to enable the Council to continue to deliver this statutory provision.

4.2 Estimated Value

The average yearly spend over the last three years for the service on the existing contract is £3.2m and with an 18% increase on schedule of rates is expected to increase to £3.8m. The estimated forecast total spend over the eight year period of the existing contract is £37.4m.

The value over the lifetime of the extension period will be a maximum of £4.7m. The current call-off contract was awarded as a competitive process pursuant to the London Highways Alliance framework agreement.

4.3 Timetable

Mobilisation for contract extension – March 2021.
Delegated Key decision by CDER – 19 March 2021
Extension commencing - 1 April 2021

4.4 Options appraisal

The works on site and relationship with the contractor have not been an issue though it is considered that the terms and conditions upon which they are engaged can be improved under a new contract from April 2022. Under the procurement regulations, the option to extend the agreement conditions for a further year can be undertaken. The advantages of this is to ensure continuity of an already operational service, whilst a long-term solution is arranged under a different arrangement. This is the preferred option for a short-term arrangement of 12 to 15 months.

4.5 Key Considerations

The existing contract terms will be extended for between 12 to 15 months with a revised uplifted schedule of rates.

4.6 Business Risks

The existing contractor Volker have indicated their willingness to the proposed extension to their contract, though the other two partners to the existing framework will drop off. A deed of variation and novation will be required.

4.7 The Employment Relations Act 1999 (Blacklist) Regulations 2010 explicitly prohibit the compilation, use, sale or supply of blacklists containing details of trade union members and their activities. Following a motion to full Council on 26 March 2013, all tenderers will be required to complete an anti-blacklisting declaration. Where an organisation is unable to declare that they have never blacklisted, they will be required to evidence that they have 'self-cleansed'. The Council will not award a contract to organisations found guilty of blacklisting unless they have demonstrated 'self-cleansing' and taken adequate measures to remedy past actions and prevent re-occurrences.

5. Implications

5.1 Financial implications:

For 2021/22 there is £3.5m approved capital funding for Highways and Traffic and Engineering with additional funding agreed for 2022/23 and 2023/24. Combined with ongoing revenue funding there will be sufficient funding available for delivery of all planned highways maintenance. However, the contract extension does not commit the Council to an agreed level of expenditure over the 12-15 month period.

5.2 Legal implications:

The highways maintenance contract expires on 31 March 2021 and there is no provision in the contract enabling an extension beyond that date. In these circumstances, an extension would usually constitute a new contract in law that requires a competitive tendering exercise to be undertaken in accordance with the Public Contracts Regulations 2015 and the council's Procurement Rules.

However, Regulation 72 of the Public Regulations 2015 sets out a number of circumstances in which an existing contract may be modified without giving rise to a new contract and therefore a requirement for a new procurement. In particular, regulations 72(1)(f) and 72(5) permits a modification to be made if the value of that modification falls below the procurement financial threshold for public works contracts (currently £4.733,252) and is less than 15% of the initial contract value for a works contract and provided that the modification does not alter the overall nature of the contract

The report indicates that the value of the proposed extension will not exceed £4.7m and that it is below 15% of the initial value of the 8 year contract. The works provided during the extension period will be unchanged. Accordingly, the decision maker may approve the proposed extension to the contract provide he is satisfied that to do so, represents value for money for the council.

The decision to extend the contract is a key decision but within the delegated authority of the Corporate Director as the cost of the extension will not exceed £5m capital.

5.3 Environmental Implications and contribution to achieving a net zero carbon Islington by 2030:

There are no specific environmental implications arising from this contract extension though the issues will be revisited as part of the procurement strategy for the new long-term contract.

5.4 Resident Impact Assessment:

The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding.

There are no resident impacts to this extension aside from the importance of maintaining the service to all residents. Consideration of issues of social value will be part of the procurement strategy for the new long-term contract.

6. Reasons for the decision:

6.1 Extension of the existing highways maintenance contract for 12 – 15 months will allow for the continuation of the service and proper procurement of a new long-term contract from 2022.

7. Record of the decision:

7.1 I have today decided to take the decision set out in section 2 of this report for the reasons set out above.

Signed by:

Corporate Director of Environment and
Regeneration

Date

Appendices: none

Background papers: none

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