

Report for: Cabinet Member for Housing Services, Private Renters, and Planning

Item number: 6

Title: Variation to Increase Contract Value - Gas Maintenance Contract (Lot 2) 2020/2025

Report authorised by: David Joyce - Director of Placemaking & Housing

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Ward(s) affected: All Wards

**Report for Key/
Non-Key Decision:** Key Decision

1. Describe the issue under consideration.

- 1.1 This report seeks approval from the Cabinet Member for Housing Services, Private Renters, and Planning for a variation to increase the currently approved contract value for the existing gas maintenance contract (Lot 2) with Purdy Contracts Ltd. This is to enable payment of pending and future invoicing to ensure continuation of current provision of gas service and maintenance and boiler replacements to Council residents for the remaining contract term up to 30-09-2025 and does not require any additional budget.

2. Cabinet Member Introduction

Not applicable.

3. Recommendations

The Cabinet Member for Housing Services, Private Renters, and Planning is asked:

- 3.1 To approve a variation, under Contract Standing Order 10.02.1.b, to increase the original currently approved contract value for the existing Gas Maintenance Contract (Lot 2), with Purdy Contracts Ltd by £5,504,908.90 from £11.95M to a total of £17,454,908.90, to cover the duration up to 31-03-2025.

4. Reasons for decision

The reasons for seeking to vary the value of this contract are set out below:

- 4.1. To continue with the servicing and maintenance of domestic heating systems within the west of the borough and commercial/communal heating systems as well as private sector leasing (PSL) and hostel properties throughout the borough with minimal disruption to residents up to the end of March 2025.
- 4.2. To replace current obsolete and failing communal boiler systems, and renew gas supply pipes to an estate that no longer complies with current safety regulations.

- 4.3. To ensure continuity in adhering to regulation 36 (Duties of Landlords) under the Gas Safe Regulations 1998 to keep our residents safe.
- 4.4. This is the most economically advantageous route as the procurement of a new contract is due to be carried out next year as the current contract expires in September 2025.
- 4.5. When the original procurement was conducted there were large savings made over the previous contract however additional and unforeseen services have become necessary to ensure the safety of residents and the continued provision of heat and hot water and the contract costs have increased.
- 4.6. Since 2020, Purdy Contracts, have been delivering Social Value under the Haringey contract that has benefitted the local community through using the local supply chain, attending careers fairs, donating Christmas presents, taking on work experience placements and creating 5 Apprentice roles, 2 of which have since qualified and work as engineers, one of which started as work experience. Purdy have also attended careers, jobs, and apprentice fairs, and school visits, taking along Apprentices to tell their own story. This opens career options and awareness for residents regarding Housing Sector job roles.
- 4.7. Purdy are also committed to using the local supply chain to buy all materials needed on the contract. This has a direct impact on the local economy, and over the past year spend with local supplies merchant A10 equates to £840,000 of Social Impact Value (Thrive Social Value Calculator). Whilst future contracts will ensure that Social Value is a key factor, this variation to the contract will also ensure the continued good work under this contract until a new contract is in place.

5. Alternative options considered.

5.1. Undertaking a full procurement exercise to re-tender the contract

As the contract was procured as a two-year contract with three optional one-year extensions, it is not viable to go through a full tender exercise at this point. This could take between nine to twelve months when we are scheduled to carry out a new procurement next year. Also, the contractor's performance is good, so it is felt that there is no need to procure a new contract at this stage with eighteen months remaining of the contract duration.

5.2. Do Nothing

This is not an option as unless there is an increase in the contract value, the Council would not be able to continue meeting its statutory health and safety obligations.

5.3. In-house Delivery

Services previously delivered by Homes for Haringey were returned to the Council in mid-2022 and the Council has not yet undertaken a review of the option of in-house delivery. An enabling review could take up to twenty-four months to explore further service delivery options.

6. Background information

Procurement of Current Gas Maintenance Contract

- 6.1. In September 2019, Homes for Haringey commenced a procurement exercise in accordance with the Public Contract Regulations 2015 Restricted Procedure. Following this procurement process the Managing Director of Homes for Haringey, under delegated powers, awarded two Gas Maintenance Contracts, one for Lot 1 and one for Lot 2, to carry out gas related servicing & repairs to its properties respectively within the east and west regions of the borough. The contracts commenced in October 2020 and were for an initial period of two years with options to extend up to a maximum of three years in twelve month increments until the end of September 2025.
- 6.2. These two contracts were novated across to the Council from Homes for Haringey on 23 June 2022 following the insourcing transfer of Homes for Haringey services to the Council.
- 6.3. The contract value is intended to include service and maintenance and boiler replacements.
- 6.4. Due to increases in contract costs to date and going forward arising from several factors, the currently approved overall value of the Lot 2 contract has been exceeded by the amount of the additional contract value estimated to be required as detailed in the table in section 1.5 of the exempt report. The factors primarily accounting for the increase in contract value are:
 - (a) inflationary increases in the contractor's costs in respect of which the contractor was entitled to an annual price adjustment on its all-inclusive pricing under contractual price adjustment mechanism clauses. This inflation-linked increase in the contract value accounts for the major part of the amount of the increase in the approved contract value sought by this report; and,
 - (b) the extra costs arising from circumstances which the contractor could not reasonably have foreseen when the contract was initially awarded, in particular: to address the unanticipated need to provide emergency cover under the contract with Purdy Contracts Ltd for work that unexpectedly couldn't be done by Haringey Repairs Service; the need to install, maintain and replace additional unplanned Carbon Monoxide detectors that became necessary following regulatory changes in 2021, after the contract start-up; because of the need for additional services to resolve unanticipated communal boiler failures and to provide temporary plant installations and in respect of an element of unplanned domestic boiler replacements.
- 6.5. In October 2022 the Cabinet Member for Housing Services, Private Renters, and Planning, approved the first of 3 one-year extensions to the contract, and delegated the approval of optional contract extensions for two further years to the Director of Placemaking & Housing, to continue service provision under the contract into a fourth and fifth year up to the end of the maximum five-year contract term at the end of September 2025.,
- 6.6. In June 2023 the Director of Placemaking and Housing, acting pursuant to the latter decision by the Cabinet Member for Housing Services, Private Renters, and Planning, in October 2022, , approved the exercise of optional contract extensions for the two remaining extension years up to the end of the maximum five-year contract term at the end of September 2025. This provided access to the final two-years' worth of contract value of £2.39M per annum, or a combined total of £4.78M, being part of the currently approved overall £11.95M value for the full five years contract term. This has enabled continued service delivery and advanced access to the remaining contract value to cover outstanding invoicing and payment for service provision up until the end of January 2024, as per the exempt part of this report.

- 6.7 This report is proposing an increase of £5,504,908.90 to the currently approved total contract value of £11.95M to a new total value of £17,454,908.09. This is to enable payment of outstanding invoices for service provision received in February and March 2024 and any other legitimate unpaid value to be determined through further analysis and validation, for 12 of the remaining 18 months of the contract up to the end of March 2025.
- 6.8 The £5,504,908.90 is to be funded from existing budgets to cover payments over the fourteen months in total across two financial years 23/24, and 24/25: £1.57M from Revenue for gas servicing, ad hoc, void, PSL and hostels includes for an underspend in Lot 1 area that balances out the overspend in the Lot 2 area; the remaining £3.93M from Capital, for new domestic gas installations, domestic and communal boiler works and replacements, as detailed in the exempt part of this report.
- 6.9 The forecast expenditure for 24/25, is based on the previous 12-months spend, which is based on the tendered rates applicable under the contract.
- 6.10 The request for a variation in contract value covers the current outstanding and overdue invoice values and the projected service delivery required up to March 2025. The current contract has been let up to the end of September 2025. Haringey will revisit its options at this point. Further detail is set out in the Exempt part of this report.

7. Contribution to the Corporate Delivery Plan 2022-2024 High level Strategic outcomes'?

- 7.1. This project will contribute to theme 5 of the Corporate Plan: A borough where everyone has a safe, sustainable, stable, and affordable home.

8. Carbon and Climate Change

- 8.1 The implementation of this contract will ensure that our gas safety systems and installations are safe and in good working order. Having compliant and safe systems ensures they are working in an efficient manner which contributes to reducing gas emissions from inefficient and possibly dangerous equipment.
- 8.2 Older and inefficient systems can cause a Health & Safety risk to residents and damage to buildings and lead to unnecessary failure or replacement of appliances that would otherwise have remained operational and effective. This will therefore reduce the waste and additional carbon emissions resulting from purchasing new unnecessary appliances and unnecessary maintenance call-out visits.
- 8.3 The programme of inspections repairs and upgrades may be used to identify and improve opportunities for residents to install more efficient appliances.
- 8.4 All materials and components used in the programme will comply with current standards and regulations which include energy reduction and carbon efficiency requirements aligned to applicable British and European standards.

8.5 All of our contractors that engaged in such service provision require and maintain modern efficient vehicles to ensure service delivery and commercial efficiency.

9. Statutory Officers comments (Director of Finance (procurement), Head of Legal and Governance, Equalities)

Finance

This report recommends a variation of contract sum to accommodate outstanding invoices and future cost of works and services under the existing contract.

The sum of £11.9m was raised in the Council's payment system for a period of 5 years. This amount has been exhausted, three and half years into the contract, for reasons highlighted in the report.

Most of the spend in this contract relates to capital works; thus, additional spends were funded from underspend in the major works capital programme budget.

There is a risk that these future additional costs might not be funded if the major works capital programme is spent to budget.

Further finance comments are contained in the exempt report.

Procurement

Strategic Procurement (SP) note that this report relates to the approval to vary the approved spend with Purdy Contracts Limited.

SP note that the spend for this contract for a 5-year period was supposed to be 11.95m. However, the entire budget has been exhausted. The council has only entered year 4 delivery.

SP note that the request for sealing /signature form attached to the signed contract had an overall contract value of £14 million. This goes contrary to the DAR report that was approved in 2020. The service area is unsure the reason for this discrepancy.

In reference to Paragraph 6.4 above the reason for this variation has come about due to inflationary increment and additional works which was not anticipated for.

This variation is in accordance with regulation 72(1)(b)(i)(ii) of the Public Contracts Regulations

SP support the recommendation to approve the award in accordance with CSO 10.01.1(b) and 16.02

Comments of Assistant Director for Legal & Governance

The Assistant Director for Legal and Governance has been consulted in the preparation of this report which is seeking approval for a contract variation to increase the currently approved contract value.

Under Contract Standing Order (CSO) 10.02.1(b) a contract variation valued at £500K or more may be approved by Cabinet provided that the Public Contracts Regulations 2015 (“the Regulations”), particularly Regulation 72, as well as the Council’s Finance Regulations are complied with and subject to satisfactory contract outcomes. Under CSO 16.02, the decision to approve the variation sought may be made by a Cabinet Member allocated by the Leader to do so instead of by Cabinet.

Regulation 72(1) expressly permits contract modifications once certain conditions are met. Under Regulation 72(1)(a) a variation is permissible if it is provided for in clear, precise and unequivocal price revision clauses in the contract to be varied as tendered. As section 6.4(a) of the report indicates, the contract value variation proposed in this report is attributable in part to a contractually required uplift in the contractor’s pricing under inflation-linked indexation provisions in the contract.

Under Regulation 72(1)(b) a contract variation is permissible on condition that the need for the variation must have arisen from circumstances that a diligent contracting authority could not have foreseen, the variation must not alter the overall nature of the contract and any price increase involved must not exceed 50% of the original contract value. Section 6.4(b) of the report explains that other contract cost increases were primarily caused under circumstances that appear to have met the latter conditions – these cost increases could not reasonably have been anticipated and they did not change the overall nature of service delivery under the contract.

In addition, section 5.1 of the report confirms that the contractor’s contract delivery to date has been good. There is also nothing in the Finance comments in this section 8.1 or elsewhere in the report to suggest any Finance Regulations issues preventing approval of the proposed variation. As a result, the proposed variation to the currently approved contract value appears to meet the requirements of CSO 10.02.1(b) permitting the variation.

The Assistant Director for Legal and Governance is not aware of any legal reasons preventing the Cabinet Member from approving the recommendation in section 3 of the report.

Equality

The council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act.

- Advance equality of opportunity between people who share protected characteristics and people who do not.
- Foster good relations between people who share those characteristics and people who do not.

The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty. Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socio-economic status as a local protected characteristic.

The purpose of this decision is to approve the variation of the contract for the Gas Maintenance and Servicing for Haringey Council, to support our Building safety & Compliance with carrying out critical safety inspections and associated works.

Given that the aim of this decision is to continue to support resident safety through the delivery of our Gas safety programmes, we do not predict any negative equalities implications resulting from this decision.

As an organisation carrying out a public function on behalf of a public body, the Contractor who is awarded the contract will be obliged to have due regard for the need to achieve the three aims of the Public Sector Equality Duty as stated above. Appropriate contract management arrangements will be established to ensure that the delivery of the major works does not result in any preventable or disproportionate inequality.

10. Use of Appendices

- 10.1. **Appendix A Exempt part of this report** - The exempt information is not for publication as it contains information classified as exempt under the following categories (identified in the amended Schedule 12A of the Local Government Act 1972):

Paragraph (3) Information relating to the financial or business affairs of any particular person (including the authority holding that information).

11. Background papers. - As appended to the exempt part of this report.

- a. Delegated decision - Appointment of Gas Maintenance contract (July 2020)
- b. Cabinet Member signing 21 October 2022
- c. Delegated decision - Extension of Gas Maintenance contract (June 2023)