

**Report for:** Cabinet – 16 July 2024

**Title:** Proposed Extension to the Contract for Highway Maintenance and Minor Improvement Works

**Report**

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**Ward(s) affected:** All

**Report for Key/**

**Non-Key Decision:** Key Decision

**1. Describe the issue under consideration.**

- 1.1 On 10 March 2020, Cabinet considered tenders for the maintenance of the Council's highways and agreed to award a contract to Marlborough Highways Ltd. The contract was initially awarded for a minimum 5-year period commencing 1 July 2020 and ending on 30 June 2025.
- 1.2 However, there was also a provision within the contract for an extension of 2 years, subject to a review of the performance of the contractor over the initial period of the contract.
- 1.3 This report provides feedback on the contractor's performance, discusses other considerations relating to the proposed extension of the contract, and advises a revised potential total contract value over the contract period, due to substantial increases in costs arising mostly from inflation subject to indexation provisions of the original contract and an increasing demand for highway improvement works associated with the Council's regeneration programmes.
- 1.4 Approval is therefore sought for the extension of the current contract for a further 2 years to 30 June 2027, to a potential total contract value of £98m.

**2. Cabinet Member Introduction**

- 2.1 Highways play a pivotal role in our daily lives. Whether we are working from home, commuting to work, taking exercise or meeting family and friends - we all rely upon welcoming and accessible streets and public realm.
- 2.2 Haringey is one of London's best-connected boroughs and the highway transport network is - and will continue to be well used by our residents, businesses and by people from across the city and beyond.

- 2.3 Maintaining and improving our road network therefore plays a key part in ensuring the safe movement of all road users.
- 2.4 This report recommends the extension to the current contract which will continue to ensure the ongoing cost-effective delivery of the Council's planned and reactive highway works.

### 3. Recommendations

Cabinet is asked to approve:

- 3.1 The extension of the existing contract awarded to Marlborough Highways Ltd for the maintenance of the Council's highway assets for a period of a further 2 years from 1 July 2025 to 30 June 2027.
- 3.2 An increase in the potential total contract value through the full life of the contract from £84m to £98m.

### 4. Reasons for Decision

- 4.1 In its capacity as the local highway authority, the Council has a statutory duty under the Highways Act 1980 to maintain and, where necessary, improve the local highway network within its administrative boundary. A continuation of the existing contract with Marlborough Highways Ltd will ensure that there is no interruption in the fulfilment of this statutory duty.

### 5. Alternative options considered.

- 5.1 **Do nothing:** On the basis of the abovementioned statutory duty, doing nothing is not a viable option. The Council cannot simply let the existing contract run down without establishing an alternative arrangement for the maintenance of its local highway network.
- 5.2 **Insource:** During 2022/23, officers carried out a detailed review of options for insourcing part or all highway maintenance works. However, it was concluded that this would not be viable in any form in the current economic climate having regard for a range of factors including the relatively high level of investment in vehicles, plant and machinery, and the health and safety risks that the Council would assume.
- 5.3 **Procure a new service provider:** The Council could consider retendering the contract to test the market. However, besides the significant cost of the procurement exercise, there might be limited value in such an option having regard to the following factors:
- Potential disruption to the current benefit of delivery of both the highway works contract and street lighting contract through a single contractor operating from the same depot within the borough.
  - Relative competitiveness of the initial tender – tender evaluations revealed that overall, the successful contractor demonstrated a significant

competitive advantage over other tenderers both in terms of quality and pricing.

- Current uncertainties within the market (due to inflationary costs and material supply problems) would lead to contractors perceiving greater risks when tendering. This was confirmed by the significant increase in prices submitted when a package of footway and highway resurfacing was tendered as part of a benchmarking exercise undertaken in 2023.

## **6. Background**

- 6.1 The Council awarded the existing contract for highway maintenance and minor improvement works to Marlborough Highways Ltd in 2020 with a start date of 1 July 2020
- 6.2 The contract was for a minimum initial 5-year period, but with provision for a further extension of 2 years, subject to satisfactory performance.
- 6.3 In accordance with the contract, the contractor undertakes the general maintenance and repair of the highway infrastructure owned and operated by Haringey Council. In addition to planned and reactive maintenance work, there are a range of other works delivered through this contract such as traffic management, road safety, and improvements relating to regeneration programmes within the borough.
- 6.4 These additional investments, together with the recent exceptional increases in costs due to inflationary pressures mean that the total potential spend over the life of the contract (up to 7 years including the proposed extension) would increase from the £84m advised at the time of the original award to £98m. That said, the contract is a term contract and there is no obligation on the Council to instruct works.

## **7. Performance of the current contractor and benefits of extending the contract**

- 7.1 Officers have reviewed the performance of the contractor having regard to the key performance indicators (KPIs) that were included in the contract covering timely delivery of the works, quality of services provided, accuracy of invoicing, and health and safety. In addition, the ability of the contractor to respond to changing workloads and to develop sound working relationships with officers was also demonstrated.
- 7.2 In addition to the performance management framework incorporated within the contract, the contractor has also progressed a range of initiatives that have added value to the services delivered and which were included in a Quality Promises Register developed following the initial mobilisation. This has included a range of initiatives that add social value to the contract thereby supporting the Place Making and Economy Theme within the Council's Corporate Delivery Plan through extracting maximum social value from council procurement activity. This included working with the Haringey

Employability and Skills Team to offer training, employment, and apprenticeship opportunities for local residents. Included as appendix 1 is a presentation providing an update on Marlborough Highways social value work.

- 7.3 While service delivery was adversely affected during the Covid-19 pandemic and more recently by the war in Ukraine (which resulted in scarcities in some key supplies), the contractor has subsequently been able to exceed KPI targets including stretch targets that were introduced in 2023 relating to the timely delivery of key operations.
- 7.4 Despite overall industry shortages, the contractor has also been able to maintain a competent management and workforce framework. This includes its response to additional workloads arising from increased investment in planned and reactive highway maintenance, and extensive traffic management and regeneration-related highway improvement programmes. The contractor has also worked with Council officers to identify and implement service improvements and innovation including sustainability initiatives relating to methods of working and materials used.
- 7.5 Turning to other factors that would support a decision to extend the current contract period, in 2023, Marlborough Highways was awarded an extension of 2 years to the existing Street Lighting Term Contract. The proposed extension to the highway maintenance contract would allow the continuation of the benefits of operational synergy derived from joint operating arrangements including shared depot facilities within the borough.
- 7.6 There will be no changes to the schedule of rates resulting from this extension, other than those allowed for in the contract.
- 7.7 At the end of the extended contract in June 2027, a new procurement will have had to take place looking at options for procuring a new Highways contract. Such an exercise is likely to take up to 18month so it is something that would ideally need to have started at the beginning of the 2026 calendar year.

## **8. Contribution to strategic outcomes**

- 8.1 The Highways and Parking Service will continue to commission highway maintenance and improvements works during the extended contract period, as determined annually through the Highways and Street Lighting Investment Plan.
- 8.2 Investment in Haringey's local highway network is critical to delivering the Council's ambitions to make Haringey a better and safer place to live, encouraging growth and attracting investment, and creating opportunities that all can share in. The ongoing commissioning of highway maintenance and

improvements will thereby contribute to the Corporate Delivery Plan, Transport Strategy, and the Climate Change Action Plan objectives.

- 8.3 Where the Corporate Delivery Plan is concerned, the delivery of works programmes through this contract contribute to numerous themes, including “Responding to the Climate Emergency” through:
- The delivery of the Floodwater Management Investment Plan (including improved flood defences and an increase in sustainable drainage system (SuDS) schemes),
  - Contributing to the delivery of the Road Danger Reduction Action Plan in delivery of projects which achieve reductions in casualties and a safer road network,
  - Delivery of the highway and minor works elements within the Highways and Street Lighting Investment Plan, which includes measures to achieve more accessible footways and carriageways.

## **9 Carbon and Climate Change**

- 9.1 Recycled materials are extensively used in highways maintenance works, and particularly for fill materials and road asphalt.
- 9.2 The contractor’s performance is monitored monthly against a target of recycling 95% waste, and at the time of writing this report the contractor has reported figures exceeding the target.
- 9.3 The contractor also has a carbon calculator that records the carbon produced in carrying out works under their contracts with the Council. The carbon calculation is reported at strategic meetings with officers. For each tonne of CO<sub>2</sub> generated in the Haringey contracts, Marlborough Highways Ltd has pledged to plant one sapling in the borough.
- 9.4 The contractor has also progressed a range of measures to reduce carbon emissions, reflecting objectives within the theme of “Responding to Climate Emergencies” within the Corporate Delivery Plan including *“the trialling and actual use of lower carbon materials and treatments in highway maintenance and improvement schemes.”*

## **10 Statutory Officers’ comments**

### **Finance**

- 10.1 The recommendation of the report is to extend the current highway maintenance and minor works contract from its initial length of 5-years by a further 2 years, which would make this a 7-year contract.
- 10.2 At the time of the award of contract it was anticipated that the overall spend (including the extension) would be in the region of £84m. To the end of the 2023/24 Financial year (3 years and 9 months) over £50m has been spent

against the contract equating to almost £13.4 a year. If this level of expenditure continued the actual level of spend will be higher, i.e. in the region of £93.8m, due to increases in the annual level of investment in highway assets, and the relatively high level of regeneration investment being delivered through this contract.

- 10.3 This increase in the contract capacity does not commit Haringey to additional expenditure. The expenditure under the contract will be constrained by existing capital and revenue budgets, which may be subject to change. A higher contract value of £98m is therefore prudent.
- 10.4 The extension will be on the existing terms and conditions and with no increase in rates (other than those allowed for under the contract). However, it should be noted that if the annual value of invoiced works falls below £4m in any contract year then either party has the right to seek a review of the rates.
- 10.5 It should be noted that the inflationary increase in rates allowed under the contract, will mean that in effect the Council is buying less highway maintenance and minor improvement outputs for every £ that it spends.

### **Procurement**

- 10.6 Strategic Procurement note the content of the report to extend the contract term to June 2027, as set out in the original procurement with Marlborough Highways Ltd.
- 10.7 The extension is permissible under the authority's contract standing orders
- 10.8 SP support the recommendation to approve the award in accordance with CSO 10.02.1(b).

### **Legal**

- 10.9 The Assistant Director - Legal and Governance (Monitoring Officer) has been consulted in the preparation of this report.
- 10.10 The extension in the term and proposed increase in the originally approved value of the contract to which this report relates is in accordance with the Council's Contract Standing Orders and reg. 72 of the Public Contract Regulations 2015 (PCR). The option to increase the term is provided for in the contract and the contract value increase mainly flows from inflation-indexation provisions of the contract. PCR reg. 72(1)(a) permits this type of contract changes on the ground that they were provided for in unequivocal revision clauses or options in the original contract. A much smaller share of the proposed contract value increase, and by extension less than half of the £12M increase for which approval is sought, is due to increases in highways work to be done under the contract. A value of this level compared with the original approved value of £84M is not a considerable change in the original value and so would not amount to a substantial contract change under PCR

reg. 72(1)e) and 72(9). As a result, it is also permissible under those provisions.

10.11 Pursuant to Contract Standing Order 10.02.1(b) Cabinet has authority to approve the contract extension and variation of the contract as to the originally approved value, as recommended in section 3 of the report.

10.12 The Assistant Director - Legal and Governance (Monitoring Officer) confirms there are no legal reasons preventing Cabinet from approving the recommendations in the report.

### **Equality**

10.13 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 those protected characteristics and people who do not.
- Foster good relations between people who share those characteristics and people who do not.

10.14 The three parts of the Duty applies 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 socioeconomic status as a local protected characteristic.

10.15 The decision is to extend a contract for term services in relation to the maintenance and improvement of the highway infrastructure. The terms and conditions of this contract require suppliers to comply with Council duties in any works they undertake. Equalities formed a key element of the quality assessment process of the tender award to make sure that the successful tenderer would meet the requirements of the Council.

10.16 Equality is a key issue considered when undertaking the design and implementation of all schemes/works carried out under this contract.

10.17 Improvements to the highway infrastructure that will be delivered through this contract extension will benefit all Haringey residents and visitors, with some vulnerable groups, such as the elderly and those with disabilities benefitting particularly.

## **11 Use of Appendices**

Appendix 1: Marlborough Highways Social Values update

## **12 Background papers**

- 12.1 Award of Contract for Highway Maintenance and Minor Improvement Works, Cabinet Meeting – 10 March 2020