

**Report of Contracts Project Manager**

**Report to Chief Officer Property and Contracts**

**Date: 15/12/2014**

**Subject: Significant Operational Decision - Proposals to extend the Drainage Maintenance and Repairs Contract (EASAWAY ENVIRONMENT (Draincare LCC21707) - S**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

1. This report discusses and recommends that the current contract with Easaway Environmental (Draincare) to provide 'Drainage Maintenance and Repairs' (in the east and north east areas of the city) is to be further extended within the parameters of the contract extension clause in the existing contract.
2. The original contract expiry date was 31 July 2014 and included the option of 2 x 12 months extension periods
3. The decision to initially utilise a 5 month extension period (out of the maximum 24 months allowed) starting 1 August – 31 December 2014 was taken earlier in 2014. A requirement to utilise the remaining 19 months of extension facility within this contract has been identified. Under the Council's constitution this decision falls under the Key Decision 'call in' timescales. Due to the Council closedown over the Christmas period the decision would not be implemented until 8 January 2015 by which time the contract will have elapsed and would not be extendable. As an interim measure and to allow the overall proposed contract extension to take place, in order to pay due diligence to the Council's governance and procurement requirements, it is proposed that the current contract is extended for 1 month to cover the call in period for the Director's decision to undergo the full call in period in line with the Council's constitution. The two decisions will run concurrently with an overall extension period of a maximum of 19 months
4. The total contract value for the proposed extended 1 month period of the contract is circa £25k

5. Offices believed that the above is the best option for this service area and would provide procurement flexibility to manage the overall future procurement programme for Housing Leeds responsive repairs service at city wide level.

### **Recommendations**

5. The Chief Officer of Property and Contracts is requested, in accordance with Contract Procedure Rule 21.2, to consider the content of this report with a view to approving the proposal to implement a further 1 month contract extension from 1 January 2015 to 31 January 2015 to the existing Drainage, Repairs and maintenance contract with Easaway Environmental (DRAIN CARE) Ref LCC21707

## **1 Purpose of this report**

- 1.1 This report reviews and considers utilising the current extension options in the current 'Drainage Maintenance and Repairs' contract with the company 'Easaway Environmental (Draincare)', with the intention of subsequently providing procurement flexibility to manage the overall future procurement programme for Housing Leeds responsive repairs service at city wide level.
- 1.2 The report also seeks approval to extend the contract for 1 month as an interim solution to cover the timescale gap between the expiry of the contract (31 December 2014) and the earliest date of implementing of the separate Key Decision (undertaken by the Director of Environment and Housing) of 8 January 2015.

## **2 Background information**

- 2.1 The contract is managed by Housing Leeds and covers the east and north east geographical area. The contract was let on 1 August 2011 for 3 years with the option to extend for a further 2 x 12 months period should both parties agree to do so.
- 2.2 Easaway Environmental (Draincare) currently provides a service to maintain and repair above and below ground drainage. The agreement is on a need basis and utilises a Schedule of Rates to price any works required to the housing stock in east and north east Leeds.

## **3 Main issues**

- 3.1 The existing contract was awarded to Easaway Environmental in July 2011, as the most economically advantageous tenderer with quality appropriately considered, following evaluation of a compliant and robust procurement exercise.
- 3.2 There haven't been any concerns regarding the performance of this contractor during the last 12 months of the contract. The programme of work is frequently monitored for performance, value and correct administration. Easaway have been completing similar works for LCC for around 12 years.
- 3.3 Annual spend is averaging £268k per annum. Fluctuations in annual spend have been unpredictable to a degree more recently and to the extent that all works carried out are ordered on the basis of a responsive service to emerging repair needs. The highest annual spend so far has been £337,891k in one year (2011/12). The extrapolation of the current costs in this financial year so far indicate the total spend this year will be slightly less, probably around £300k.
- 3.4 Based on these figures, the cost implications are estimated to be around £475k for a further 19 month extension which is subject to a Key decision by the Director of Environment and Housing. The cost implications for the one month contract extension proposed within this report are circa £25k.
- 3.5 The proposals to plan the next procurement of city wide responsive repairs (currently being delivered by Mears in South and West Leeds) and associated works are currently being finalised as part of the overall Procurement Strategy which is to be submitted to LCC Executive Board. The Mears contract currently includes the drainage clearance and repairs element of repairs.

- 3.6 Prior to the expiry of the proposed extended drainage maintenance contract in 2016, officers will undertake a review of two available options to re-procure this specialist repairs service; **either** to procure a further contract for the east and north east part of the city for the remaining duration of the Mears contract (covering the south and west/ north west areas) **or** to negotiate an early exit for this work element within the Mears contract and re-procure one city wide contract to start on 1 August 2016. By extending the existing drainage maintenance contract for the forthcoming period, this would allow the service to undertake a comprehensive review of the above two options.
- 3.7 Due to the Council closedown over the Christmas period the decision would not be implemented until 8 January 2015 by which time the contract will have elapsed and would not be extendable. As an interim measure and to allow the overall proposed contract extension to take place, whilst paying due diligence to the Council's governance and procurement requirements, it is proposed that the current contract is extended for 1 month to cover the call in period for the Director's decision to undergo the full call in period in line with the Council's constitution. The two decisions will run concurrently with an overall extension period of a maximum of 19 months.
- 3.8 It is therefore recommended to extend the existing drainage contract for 1 month months as an interim solution to cover the timescale gap between the expiry of the contract (31 December 2014) and the earliest date of implementing of the separate Key Decision (undertaken by the Director of Environment and Housing) of 8 January 2015.
- 3.9 Advice from the Principal Corporate Governance Officer supports the proposals of this report and that officers

*"...may consider entering into a shorter contract for a period which would not trigger the Key decision threshold, with the intention to enable the remainder of the contract period to be considered through the full Key decision process, including call in" and "...would recommend that the report in relation to the shorter contract includes this thinking (Paragraph 4.5 of corporate considerations) and is itself published as a Significant Operational Contract."*

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 There haven't been any additional consultations with stakeholders over and above those completed as part of the original procurement prior to the award of the drainage contract in 2010. However officers within PPPU /PU have been involved in discussions with Property and Contract officers. No adverse comments have been received to the proposals to extend the existing contract arrangements.
- 4.1.2 Initial and informal discussions have taken place with the existing contractor to establish the contractor's response to the proposals. The response has been positive and the contractor has expressed a willingness to continue to work with LCC to deliver the contract requirements.

### **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 The Equality, Diversity, Cohesion and Integration Screening document has been considered and completed. No adverse or otherwise impacts have been identified.

### **4.3 Council policies and City Priorities**

4.3.1 The works undertaken by the contract will contribute to one of the key City Priorities of *Improving Housing Conditions* and help maintain properties in good repair condition.

### **4.4 Resources and value for money**

4.4.1 Easaway were contracted to deliver the 'drainage maintenance and repair' contract in 2011 after being identified as the most economically advantageous tenderer, and following the evaluation of a compliant and robust tendering exercise.

4.4.2 In recent informal discussions with Easaway Environmental (Draincare), the contractor has agreed to carry forward price reductions previously negotiated during the first 5 month contract extension into the remaining 19 month extension period. There is a potential saving of up to 10% that could be achieved during the remaining period of the contract. Based on the anticipated interim contract value of circa £25k over the remaining contract period, this is estimated to be potentially up to £2.5k in savings to the repairs budget for the city east area.

4.4.3 There is currently no in-house provider to deliver this work within the city.

### **4.5 Legal Implications, Access to Information and Call In**

4.5.1 The Chief Officer for Property and Contracts, Housing Head of Contracts and PPPU/PU have both been consulted about the proposals to extend this contract and are satisfied that the proposal complies with the Contract Procurement Rules, and doesn't breach any existing contractual requirements for undertaking building maintenance to Council Housing. There are no other known legal implications of the report proposals. The decision to extend the existing contract arrangements will be published on the Council's Website.

4.5.2 The decision is not subject to call in and will be published as a Significant Operational Decision.

4.5.3 Reference to advice sought from the Principal Corporate Governance Officer is set out under 3.9.

### **4.6 Risk Management**

4.6.1 A risk register will be developed as part of developing the Contract Management Plan. The contract performance is currently closely monitored by the Repairs Manager within Property and Contracts Division and any mitigating actions are dealt with as part of the operational contract administration.

4.6.2 There is a high risk that if this contract is not extended, and as there are no alternative contract arrangements to utilise, the Council will either not be able to deliver the drainage repairs service required for the east and north east housing properties of the city or face a potential legal challenge from other external contractors for using out of contract arrangements to deliver this high value work.

## **5 Conclusions**

- 5.1 The current contract expires on the 31 December 2014 and the extension period required is 19 months to utilise the extension facilities within the existing contract. This is subject to a separate Key Decision Approval by the Director of Environment and Housing.
- 5.2 An interim solution is required to cover the timescale gap between the expiry of the contract (31 December 2014) and the earliest date of implementing of the separate Key Decision (undertaken by the Director of Environment and Housing) of 8 January 2015.
- 5.3 It is, therefore, recommended that an extension of the existing contract with Easaway Environmental for a further 1 month is implemented from 1 January 2015 to 31 January 2015
- 5.4 By not extending the contract for a further month, the existing contract will lapse on 31 December 2014. Procurement Officers advice is that should this occur without agreeing an interim solution, it would not be possible to extend the contract further beyond that date. As there are no alternative contract arrangements in place, any service requirements for drainage repairs and maintenance would need to be raised outside of any existing contract arrangements and could potentially place the Council at risk of challenge from other external contractors until a full re-procurement of this area was undertaken
- 5.5 It is anticipated that re-procurement of this contract would require a minimum period of 7 months before any new contract could be mobilised due to the extended leasehold consultation periods required for new procurements. During that period there is an increase exposure of the risk outlined above in 4.6.2.
- 5.6 The existing contractor has agreed to continue to provide the discounts negotiated in the first extension round of this contract (1 August – 31 December 2014).
- 5.5 The proposed extension of the contract would also allow the service to fully consider the future procurement arrangements taking into account the proposed Housing Procurement Strategy implementation.
- 5.6 It is, therefore based on the above information, recommended that an extension of the existing contract with Easaway Environmental for a further 1 month is implemented.

## **6 Recommendations**

- 7 The Chief Officer of Property and Contracts is requested, in accordance with Contract Procedure Rule 21.2, to consider the content of this report with a view to approving the proposal to implement a further 1 month contract extension from 1 January 2015 to 31 January 2015 to the existing Drainage, Repairs and maintenance contract with Easaway Environmental (DRAIN CARE) Ref LCC21707

## **8 Background documents<sup>1</sup>**

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

None