



Report of Chief Officer Parks and Countryside

Report to Director of Communities and Environment

Date: 25th November 2019

Subject: Streetscene Grounds Maintenance

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input checked="" type="checkbox"/> Yes <input 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

1. Main issues

- The current contractual arrangements for streetscene grounds maintenance are with Continental Landscapes Ltd due to end on 31st December 2021. Suitable delivery arrangements will need to be put in place to continue service delivery at acceptable standards that are affordable in the context of the medium term financial strategy. The current contractual arrangement represents value for money and the contractor has demonstrated good levels of performance.
- There is an option to vary the existing contract by extending the current contract period through the issuance of a contract modification notice (under Public Contracts Regulations 2015 72 (1) (b)). This legal notice setting out the purpose of the proposed arrangement, the anticipated value and duration has been published in the European Journal (OJEU) to inform other potential interested parties that this is the Councils intention.
- A decision (reference D48739) in June 2019 gave approval to enter into formal negotiations with Continental Landscapes Ltd with a view to establishing an agreement in principle to vary the existing contract term for a three year period until 31st December 2024. This decision also gave approval to implement the 'real' living wage by providing additional funds to ensure that employee pay is matched to the minimum pay point adopted by the council.
- Negotiations have been completed and an uplift in the schedule of rates from that currently used of 1.5% per annum has been agreed in principle effective from 1st April 2020. This is in addition to continuing to meet any additional costs associated with meeting the 'real' living wage above the legal minimum.

- The benefit of this approach is that it will provide some financial certainty over the difficult period associated with the medium term financial strategy. Significantly, it will provide opportunity to explore other future service delivery options in more detail and potentially align existing arrangements to provide a more efficient and effective service.

2. Best Council Plan Implications (click [here](#) for the latest version of the Best Council Plan)

- The proposals in this report support the Vision for Leeds 2011 to 2030 and in particular the aspiration that 'there are high quality buildings, places and green spaces, which are clean, looked after, and respect the city's heritage, including buildings, parks and the history of our communities' as part of the overall aim that 'all Leeds' communities will be successful'.
- The proposals contribute to the Best Council Plan outcomes to 'enjoy happy, healthy, active lives', and 'enjoy greater access to green spaces, leisure and the arts' and also priority 20 'enhancing the quality of our public realm and green spaces'.

3. Resource Implications

- The current contractual arrangement represents value for money and the contractor has demonstrated good levels of performance.
- The council's medium term financial strategy notes that significant pressures exist in the financial year 2021/22 onwards and a report to executive board in October 2019 projected an estimated revised budget gap of £161.5m for the period 2020/21 to 2024/25.
- At the end of the current contract on 31st December 2021 suitable delivery arrangements will need to be in place to continue service delivery at acceptable standards that are affordable in the context of the pressures identified as outlined above.
- A decision (reference D48739) in June 2019 gave approval to enter into formal negotiations with Continental Landscapes Ltd with a view to establishing an agreement in principle to vary the existing contract term for a three year period until 31st December 2024. This decision also gave approval to implement the 'real' living wage by providing additional funds to ensure that employee pay is matched to the minimum pay point adopted by the council. Negotiations have been completed and an uplift in the schedule of rates from that currently used of 1.5% per annum has been agreed in principle effective from 1st April 2020. This is in addition to continuing to meet any additional costs associated with meeting the 'real' living wage above the legal minimum. This provides reassurance to the council of knowing the future delivery costs at the outset of the extended term, and provision has been made in the budget from April 2020.

Recommendations

The Director of Communities and Environment is recommended to approve the following:

- a) To vary the existing contract with Continental Landscapes Ltd under Public Contracts Regulations 2015 72 (1) (b) forthwith to extend the contract term for a three year period from the end of the existing contract until 31st December 2024.

1. Purpose of this report

- 1.1 This report considers issues and a proposed solution to delivering streetscene grounds maintenance in an affordable way that sustains service delivery standards.

2. Background information

- 2.1 The current contracted arrangements for horticultural maintenance of verges and incidental land around dwellings (referred to as streetscene grounds maintenance) arose from a tender exercise completed in 2011 commencing formally on the 1st January 2012. The contract is with Continental Landscapes Ltd and ran for an initial period of 5 years with options to extend for further periods up to 5 years formally ending on 31st December 2021. This arrangement is a successor to the contract with Glendale Ltd, arising from an original decision to outsource the work taken in 2003/4 establishing contracted arrangements in 2005.
- 2.2 The council's medium term financial strategy notes that significant pressures exist in the financial year 2021/22 onwards and a report to executive board in October projected an estimated revised budget gap of £161.5m for the period 2020/21 to 2024/25.
- 2.3 At the end of the current contract suitable delivery arrangements will need to be in place to continue service delivery at acceptable standards that are affordable in the context of the pressures identified as outlined above. This report considers an interim arrangement to defer risks associated with alternative solutions.

3. Main issues

- 3.1 There is an option to vary the existing contract by extending the current contract period through the issuance of a contract modification notice (under Public Contracts Regulations 2015 72 (1) (b)). This legal notice setting out the purpose of the proposed arrangement, the anticipated value and duration has been published in the European Journal (OJEU) to inform other potential interested parties that this is the Councils intention.
- 3.2 The proposed contract extension is for a three year period to enable Continental Landscapes Ltd to establish appropriate arrangements for secondary lease on plant and equipment as well as renewing leases on depot facilities. Given this time period an alternative contract could not affordably be established as any new contractor would be required to lease the required plant and equipment from new.
- 3.3 There is a precedent for this as in 2015 the London borough of Bromley used a similar procedure in relation to their green space management with *idverde*, a private sector provider of grounds maintenance services. *idverde* (previously trading as The Landscape Group) were the existing provider of services to Bromley and had a contract arrangement in place that was due to end on 31st December 2017. They decided to extend their contract beyond its normal end date to March 2019 to provide time to examine alternative mechanisms for service delivery and 'bundling' of various types of works to seek efficiencies.
- 3.4 An extension of this nature would provide time for the council to examine the scope of works that could be included in any future arrangement. It would provide a timeframe to explore options to expand the scope of works, improve the seasonal balance and reduce the need for temporary staff. This would have the added

benefit of potentially aligning other existing arrangements to provide a more efficient and effective service.

- 3.5 The benefit of this approach is that it could be put in place in a short time period with the aim of providing financial certainty over the difficult period associated with the medium term financial strategy.
- 3.6 A decision (reference D48739) in June 2019 gave approval to enter into formal negotiations with Continental Landscapes Ltd with a view to establishing an agreement in principle to vary the existing contract term for a three year period until 31st December 2024. This decision also gave approval to implement the 'real' living wage by providing additional funds to ensure that employee pay is matched to the minimum pay point adopted by the council. Negotiations have been completed and an uplift in the schedule of rates from that currently used of 1.5% per annum has been agreed in principle effective from 1st April 2020. This is in addition to continuing to meet any additional costs associated with meeting the 'real' living wage above the legal minimum. This provides reassurance to the council of knowing the future delivery costs at the outset of the extended term.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 The contract modification notice process has enabled pan-European awareness of the proposed variation and there were no requests for information or concerns raised. Continental Landscapes Ltd have been consulted and agreed in principle to the terms as set out above.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 An equality, diversity, cohesion and integration screening has considered the implications of these proposals and has not identified any issues that need any further action at this stage.

4.3 Council policies and the Best Council Plan

- 4.3.1 The proposals in this report support the Vision for Leeds 2011 to 2030 and in particular the aspiration that 'there are high quality buildings, places and green spaces, which are clean, looked after, and respect the city's heritage, including buildings, parks and the history of our communities' as part of the overall aim that 'all Leeds' communities will be successful'. The proposals contribute to the Best Council Plan outcomes to 'enjoy happy, healthy, active lives', and 'enjoy greater access to green spaces, leisure and the arts' and also priority 20 'enhancing the quality of our public realm and green spaces'.

Climate Emergency

- 4.3.2 The approach to adapting parks and green spaces for climate change including specific reference to the streetscene environment and was approved at executive board in September 2019. Relaxed mowing on grass verges has already been put in place on the northern ring road and main arterial routes into the city. These areas were previously cut 6 times each year and are now cut 3 times each year. One area on Moortown Ring Road was cut 14 times each year and this has been reduced to 3. A further measure that has been put in place is to cut a 1.4 m mowing strip and thus leave grass in the central areas to grow wild.
- 4.3.3 These areas can also be suitable for planting trees and shrubs or allowing other vegetation to establish thus providing wildlife corridors to benefit pollinators, other insects and mammals. There is scope to review some banked areas which are difficult to access with mowing machinery with a view to planting trees or rewilding. This also aligns more with the Plantlife campaign and contributes to flood attenuation.

4.4 Resources, procurement and value for money

- 4.4.1 The current contractual arrangement represents value for money and the contractor has demonstrated good levels of performance.
- 4.4.2 The council's medium term financial strategy notes that significant pressures exist in the financial year 2021/22 onwards and a report to executive board in October 2019 projected an estimated revised budget gap of £161.5m for the period 2020/21 to 2024/25.
- 4.4.3 At the end of the current contract on 31st December 2021 suitable delivery arrangements will need to be in place to continue service delivery at acceptable standards that are affordable in the context of the pressures identified as outlined above.
- 4.4.4 A decision (reference D48739) in June 2019 gave approval to enter into formal negotiations with Continental Landscapes Ltd with a view to establishing an agreement in principle to vary the existing contract term for a three year period until 31st December 2024. This decision also gave approval to implement the 'real' living wage by providing additional funds to ensure that employee pay is matched to the minimum pay point adopted by the council. Negotiations have been completed and an uplift in the schedule of rates from that currently used of 1.5% per annum has been agreed in principle effective from 1st April 2020. This is in addition to continuing to meet any additional costs associated with meeting the 'real' living wage above the legal minimum. This provides reassurance to the council of knowing the future delivery costs at the outset of the extended term, and provision has been made in the budget from April 2020.

4.5 Legal implications, access to information, and call-in

- 4.5.1 This is a key decision and is subject to call-in.
- 4.5.2 It is proposed that regulation 72 (1) (b) of the Public Contracts Regulations 2015 is used to vary the existing contract as set out in the terms below:

For additional works, services or supplies by the original contractor that have

become necessary and were not included in the initial procurement, where a change of contractor

- *cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, or*
- *would cause significant inconvenience or substantial duplication of costs for the contracting authority,*
- *provided that any increase in price does not exceed 50% of the value of the original contract;*

4.5.3 As explained in paragraph 3.2 it does not make economic or technical sense to engage with another supplier for the 3 year interim period. The process of carrying out the interim contract tender process would also cause significant inconvenience and duplication of costs when the resources of the parks service could be better spent carrying out the comprehensive review of service provision.

4.5.4 The original contract value is approximately £29m. The additional 3 year term will amount to a sum that is considerably less than 50% of this value.

4.5.5 The Council has published a specific form of modification notice on the EU procurement (OJEU) website for a 30 days period to enable suppliers that feel that they have a claim for a breach of the regulations to raise a claim.

4.6 Risk management

4.6.1 It can reasonably be anticipated the council may see a large rise in the cost of delivery if at this stage should an alternative process be adopted. Given the current financial position for the council and the potential necessity to reduce service quality in order to ensure affordability it is considered that these would be unacceptable risks at this time.

5. Conclusions

5.1 There is an opportunity to consider a broader approach to streetscene grounds maintenance and related activities in a way that reduces seasonal fluctuations and clarifies responsibility for delivery. This would however require consultation with a range of stakeholders and seek alignment with current contractual arrangements and other planning activity which could take some considerable time. There is limited capacity to consider a more holistic approach given pressures associated with delivering initiatives in support of the medium term financial strategy. It is therefore proposed that a contract variation is put in place that provides minimal financial and operational risk allowing time to consider alternative approaches.

6. Recommendations

6.1 The Director of Communities and Environment is recommended to approve the following:

- To vary the existing contract with Continental Landscapes Ltd under Public Contracts Regulations 2015 72 (1) (b) forthwith to extend the contract term for a three year period from the end of the existing contract until 31st December 2024.

7. Background documents¹

7.1 None.

¹ 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.