

## Streetscene Grounds Maintenance

Date: 19<sup>th</sup> January 2023

Report of: Business Development Manager Parks and Countryside

Report to: Chief Officer Parks and Countryside

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

### Brief summary

The current contractual arrangements for streetscene grounds maintenance are with Continental Landscapes Ltd due to end on 31st December 2024. A decision (reference D50443) effective from the end of January 2020 gave approval to vary the previous contract term with Continental Landscapes Ltd under Public Contracts Regulations 2015 72 (1) (b) and extend for a three-year period until this date. When this decision was taken it was the intention of the Council to examine the scope of works that could be included in any future arrangement. This would have provided 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 had the added benefit of potentially aligning other existing arrangements to provide a more efficient and effective service.

Immediately after this decision was made, in February 2020 the key officers involved were tasked with preparing for the Covid-19 pandemic response and in particular to review relevant business continuity arrangements. The impact on capacity to undertake the planned review has continued until the recently implemented end to national restrictions and therefore the benefits of the extension secured in January 2020 have not been realised.

Given this two-year hiatus that could not have been foreseen, there is an option to further vary the existing contract by extending the term for a two-year period from the end of the existing contract until 31st December 2026.

### Recommendations

- a) The Chief Officer Parks and Countryside is recommended 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 two-year period from the end of the existing contract until 31st December 2026.

## **What is this report about?**

- 1 The current contractual arrangements for streetscene grounds maintenance are with Continental Landscapes Ltd due to end on 31st December 2024. A decision (reference D50443) effective from the end of January 2020 gave approval to vary the previous contract term with Continental Landscapes Ltd under Public Contracts Regulations 2015 72 (1) (b) and extend for a three-year period until this date.
- 2 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.
- 3 When this decision was taken it was the intention of the Council to examine the scope of works that could be included in any future arrangement. This would have provided 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 had the added benefit of potentially aligning other existing arrangements to provide a more efficient and effective service. The contract extension also enabled Continental Landscapes Ltd to establish appropriate arrangements for secondary lease on plant and equipment as well as renewing leases on depot facilities.
- 4 Immediately after this decision was made, in February 2020 the key officers involved were tasked with preparing for the Covid-19 pandemic response and in particular to review relevant business continuity arrangements. There then followed from central Government a number of requirements to close facilities, amend working practices and implement guidance for example in relation to 'safer spaces' arrangements. The impact on capacity to undertake the planned review has continued until the recently implemented end to national restrictions. This has meant that the planned work has not been undertaken with respect to the review of scope of works and options, and therefore the benefits of the extension secured in January 2020 have not been realised.
- 5 Given this two-year hiatus that could not have been foreseen, there is an option to further 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 would be published as required to inform other potential interested parties that this is the intention of the Council.
- 6 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. 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.

## **What impact will this proposal have?**

- 7 A further extension 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.
- 8 The proposed contract extension is for a two-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

## How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 9 The council's strategic Best City Ambition, underpinned by the three pillars, can only be delivered through a sound understanding of the organisation's longer-term financial sustainability, thus enabling decisions to be made that balance the resource implications of the council's policies against its financial constraints.

## What consultation and engagement has taken place?

Wards affected: All

Have ward members been consulted?

Yes

No

- 10 The existing contractor has indicated a willingness to accept a minimum two-year extension to the current contract term, therefore ending on the 31 December 2026. Advice has been sought internally on financial and regulatory matters with agreement that the proposals set out in this report are reasonable and sensible given the circumstances.

## What are the resource implications?

- 11 The current contractual arrangement represents value for money and the contractor has demonstrated good levels of performance.
- 12 The council's medium term financial strategy notes that significant pressures exist in the financial year 2023/24 onwards and a report to executive board on 19 October 2022 projected an estimated revised budget gap of £150.2m for the period 2023/24 to 2025/26.
- 13 At the end of the current contract on 31 December 2024, suitable 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.
- 14 There is an agreement in principle subject to the issuance of a formal contract variation in due course to the following:
- Schedule of rates to be increased by 5% with effect from 1 April 2023.
  - Schedule of rates thereafter to increase annually by 1.5% until the end of the contract term.
  - All other terms, conditions and agreements to remain unchanged.

## What are the key risks and how are they being managed?

- 15 It is highly likely that the council may see a large rise in the cost of delivery if at this stage an alternative process was adopted given that the Consumer Prices Index rose by 8.8% in the 12 months to September 2022. 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. The limited increase to schedule of rates is below inflation, thus providing financial security over the extended contract duration and medium-term financial plan time period.

## What are the legal implications?

- 16 This is a key decision and is subject to call-in.
- 17 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.

18 As explained in paragraph **Error! Reference source not found.** it does not make economic or technical sense to engage with another supplier for the 2-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.

19 The original contract value is approximately £29m. The additional 2-year term will amount to a sum that is considerably less than 50% of this value meeting the legal test under the regulations.

20 The Council will publish a specific form of modification notice as required to enable suppliers that feel that they have a claim for a breach of the regulations to raise a claim.

## **Options, timescales and measuring success**

### **What other options were considered?**

21 Suitable delivery arrangements 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.

22 The benefit of the proposed approach outlined above, 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. 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.

23 The proposed contract extension is for a two-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 or insourcing could not affordably be established as any new provider would be required to lease the required plant and equipment from new.

24 Furthermore, it does not make economic or technical sense to engage with another provider for the 2-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.

### **How will success be measured?**

25 The contract extension is secured.

### **What is the timetable and who will be responsible for implementation?**

26 This decision was noted on the key decision forward plan in December 2022 noting that no decision would be taken prior to 16<sup>th</sup> January 2023. It is anticipated that subject to there being no objections raised to the further legal notices required, a formal contract variation will be in place and effective from April 2023.

27 The Business Development Manager, Parks and Countryside will be responsible for implementation by April 2023.

**Appendices**

- None

**Background papers**

- None