

LONDON BOROUGH OF HAMMERSMITH & FULHAM

Report to: Cllr. Sharon Holder, Cabinet Member for Public Realm

Date: 29th June 2022

Subject: Existing Waste Collection & Street Cleaning Contract – Approval of Deed of Variation 3

Report of: Bram Kainth – Chief Officer for Public Realm

Report Author: Annie Baker – Assistant Director (Street Environment Services)

Responsible Director: Sharon Lea – Interim Chief Executive

SUMMARY

The Council's Waste, Recycling and Street Cleansing Contract is currently carried out by SERCO and is due to expire at the end of January 2023. The contract has been in place since June 2008 and has been extended by way of two Deeds of Variation in 2014 and 2020.

A procurement for the service is in progress and a new contract will commence in February 2023. In the interim, a further Deed of Variation is proposed to regularise some outstanding commercial matters of the existing contract and to thereby mitigate a number of future potential risks to the Council. The key components of this Deed of Variation include indexation, additional collections from demographic growth, extraordinary temporary considerations for driver shortages, the prototype container service and the acquisition of existing contractor vehicles (the details and outcomes are set out in the report).

In summary, the financial impacts can be met within the existing approved service budgets and previously approved use of corporate reserves.

RECOMMENDATIONS

1. Appendix 1 is not for publication on the basis that it contains information relating to the financial or business affairs of a person under paragraph 3 of Schedule 12 A of the Local Government Act 1972 as amended. Appendix 2 is not for publication on the basis that it contains information in respect of which a claim to legal professional privilege could be maintained in legal proceedings under paragraph 4 of Schedule 12A of the Local Government Act 1972 as amended.
2. The Cabinet Member for Public Realm endorses and approves the proposed Deed of Variation 3 at a cost of £1,264,000 (£485,000 to be funded from existing budgets and £779,000 from previously approved drawdowns from the Corporate Demands and Pressures Reserve set aside for the waste contract procurement and collection prototypes).

3. Approve the acquisition of a number of existing vehicles from the current contractor at a value estimated at £100,000 from existing approved capital budgets.

Wards Affected: All

Our Values	Summary of how this report aligns to the H&F Values
Building shared prosperity	The proposals will ensure that the residents of the Borough continue to receive the optimum waste collection and street cleaning services and preserve existing commercial contracts with the service providers
Doing things with local residents, not to them	Resident feedback is monitored and acted upon and the service provider works closely with residents on any planned changes (e.g. the pilot container service) and to rectify any service issues
Being ruthlessly financially efficient	The completion of this Deed of Variation will ensure that the Council's exposure to future financial risks is mitigated and that the expenditure represents good value for money for residents
Taking pride in H&F	This service ensures that the highest standards in the cleanliness of the environment are continued and maintained
Rising to the challenge of the climate and ecological emergency	The gradual transition to a 'green fleet' (with the first planned purchase) will reduce the use of fossil fuels, carbon emissions and improve the environment

Financial Impact

The approved revenue budget for the service in 2022/23 is £13.1m (and the budget for 2022/23 was approved by Cabinet and Council in February 2022).

There is a provision of £485,000 in the current approved budget to fund the expenditure on the contractual indexation. The costs of the additional collections (from demographic growth) are estimated at £300,000 in 2022/23 (i.e until the end of the current contract in January 2023) and the extraordinary costs from the national shortage of drivers is estimated at £170,000 (also for 2022/23). These are considered one-off costs under the current contract and will be funded from corporate reserves approved by Cabinet in October 2019 for the implementation of

the prototype container waste collection project and the re-procurement of the service. Of the approved £3.2m, there are commitments of £1.6m to date and are therefore sufficient to fund the additional costs of £779,000.

The current approved capital budget in 2022/23 for the acquisition of vehicles is £300,000. This will be utilised to purchase vehicles from the current contractor (at a value of no more than £100,000) to be used on the new contract. The remaining budget will be utilised to purchase new vehicles required to deliver the container service and further electric vehicles.

Sukvinder Kalsi, Finance Officer 13 June 2022

Verified by Emily Hill, Director of Finance
Dated 16 June 2022

Legal Implications

The legal background which has led to the negotiation of the Deed of Variation and recommendation that its terms are agreed is set out in Exempt Appendix 2.

John Sharland, Senior Solicitor (Contracts and Procurement)
Dated: 8th June 2022

Background Papers Used in Preparing This Report - None

DETAILED ANALYSIS OF OPTIONS

1. The current Waste Collection and Street Cleansing contract provides a comprehensive and extensive range of services including:
 - collection of domestic, recycling, green and food waste from all properties
 - provision of specialist waste services (e.g. fly-tipping, leaf clearance and disposal of Christmas trees)
 - collection of commercial waste from businesses and markets
 - cleansing of all streets, open spaces, car parks
 - cleansing of stadia in the Borough (after matches)
2. The current contract commenced in 2008 and will continue to the end of January 2023 (this after taking into account approved Deeds of Variation in 2014 and 2020 to extend and vary the contract).

3. There were a number of commercial matters that needed to be regularised as these were not settled in previous variations or were new additional considerations. These are summarised below (and detailed in the Exempt Appendix 1):
 - the formula that will be applied for the annual contract indexation (to reflect inflationary cost increases). The methodology is based on a combination of labour costs, fuel prices and operational equipment and is calculated at 3.57% from April 2020 and 0.27% from April 2021 and is already a contractual commitment.
 - the purchase of vehicles from the current contractor to be made available for the provision of future services and acquisition of supplementary vehicles to provide the pilot container service
 - the clarification of existing contractual provisions relating to missed collections performance, recycling rates and payment cycles (the current payments of 2 months in advance will be amended)
 - the resolution of extraordinary matters relating to the shortage of drivers and the consequential increasing costs and the increase in the number of collections in the Borough (due to demographic growth in households)
4. The officers of the Council considered all these commercial issues carefully with due regard to the need to maintain services and reduce potential contractual risks. It was considered the best option to secure this Deed of Variation for the relatively short remaining duration of the contract to January 2023.

Reasons for Decision

5. The proposed decisions are based on the following considerations:
 - to ensure that any residual issues in the current contract are resolved and agreed in order to preserve the continuation of existing services and to minimise the risk of potential disruption
 - financial resources have been set aside to fund the impacts of the agreed variations
 - it will reduce and/or fully mitigate against potential future risks and litigation after the expiry of the current contract that was extended to the end of January 2023
 - it will support the efficient transition and mobilisation to the new contract from February 2023.

Equality Implications

6. The service is provided to all residents, visitors and commercial businesses in the Borough. As such, there are not considered to be any disproportionate positive or negative for any specific group.

Risk Management Implications

7. The report recommends entering into a deed of variation to deal with issues relating to the contract which have been raised through the standard and established contractor dialogue procedures. This would ensure that the risk to service disruption is minimised until the end of the contract and also mitigate the risk of litigation. This is in line with the Council objective of being ruthlessly financially efficient.

David Hughes, Director of Audit, Fraud, Risk & Insurance

Dated: 8th June 2022

Procurement and Commercial Implications

8. The report recommendations reflect careful engagement with the market and understanding of market pressures on this contract. The contract variations focus on ensuring securing labour to deliver the service, reflect the growing population since the contract began and options on vehicles in the future. Commercial considerations were factored into this approach to respond to the standard and established contractor dialogue procedures. The technical application of measures to address this sort of variation has also been drawn upon to inform procurement activity. This is in line with the council objective to be ruthlessly financially efficient.

Joanna McCormick Assistant Director of Procurement and Commercial

Dated: 8th June 2022

List of Appendices (Exempt for Commercial Considerations)

Exempt Appendix 1 – Deed of Variation

Exempt Appendix 2 – Legal Implications