

## Notice of KEY Executive Decision

<b>Subject Heading:</b>	Interim arrangements for the delivery of Street Lighting services
<b>Decision Maker:</b>	Neil Stubbings, Strategic Director of Place
<b>Cabinet Member:</b>	Cllr B Mugglestone, Cabinet Member for Environment
<b>SLT Lead:</b>	Neil Stubbings, Strategic Director of Place
<b>Report Author and contact details:</b>	Mark Hodgson, Head of Highways, Traffic & Parking <a href="mailto:Mark.hodgson@havering.gov.uk">Mark.hodgson@havering.gov.uk</a>
<b>Policy context:</b>	This report supports the Places objectives - A great place to live, work and enjoy
<b>Financial summary:</b>	The cost of the extension is estimated to be £1.849m over a year and will be funded from revenue and capital budgets.
<b>Reason decision is Key</b>	The grounds for decision being Key: (a) Expenditure or saving (including anticipated income) of £500,000 or more (c) Significant effect on two or more Wards
<b>Date notice given of intended decision:</b>	02/02/2024

**Key Executive Decision**

<b>Relevant Overview &amp; Scrutiny Committee:</b>	OSSC - Place
<b>Is it an urgent decision?</b>	N/A
<b>Is this decision exempt from being called-in?</b>	No

**The subject matter of this report deals with the following Council Objectives**

People - Things that matter for residents

Place - A great place to live, work and enjoy X

Resources - A well run Council that delivers for People and Place.

## Part A – Report seeking decision

### DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

Maintaining and improving the borough's street lighting is a key administration priority directly linked to providing a safe borough and reducing the fear of crime. The Council must maintain repair and replace street lighting across the borough and has a duty to maintain all existing street lighting and illuminated equipment in accordance with section 41 of the Highways Act 1980 and the British Standard Requirements for Electrical Installations BS 7671 (2018).

For the reasons detailed in this report it is recommended that the Strategic Director of Place, is asked to approve:

- An extension of the contract with Volker Highways for the provision of the Maintenance, Repair and Replacement of Street Lighting, Other Illuminated Signs and Associated Electrical Equipment for a period of up to 12 months commencing 1 April 2024 at an estimated value of £1.849m.

### AUTHORITY UNDER WHICH DECISION IS MADE

**The Havering Constitution,**  
Part 3 [Responsibility for Functions]  
3.3 Powers of Members of the Senior Leadership Team

Members of the Senior Leadership Team (SLT) have delegated authority to act as follows within the assigned service service/portfolio of responsibilities, subject to the general provisions and limitations set out in section 3.1 above.

Contract Powers (b) To award all contracts with a total contract value of between £500,000 and £5,000,000 other than contracts covered by Contract Procedure Rule 16.3

### STATEMENT OF THE REASONS FOR THE DECISION

#### **Background**

The Street Lighting contract was originally awarded for a 5-year term from 1 April 2017. The full details of the award is set out in the Cabinet report of 18th January 2017. An extension of a contract may be made under the scheme of delegation provided it was contemplated at the time of the award. The contract was extended in accordance with the approved recommendation in the 2017 Cabinet report, for a period of 24 months and is due to expire on 31 March 2024. The details of the extension are set out in the decisions of 22 April 2021.

Contract performance has been monitored through KPI's and contract meetings, throughout the term and the contractor has met the expected standards as set out in

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the contract. The contractor has delivered schemes within set timescales and budget provision.

Council officers have established and maintained positive working relationships with the supplier and the contract is being delivered successfully.

During the term of the contract, a schedule of rates has been applied which will continue to be applied during any extension. In accordance with the contract, a CPI increase will be applied.

Procurement for the Street Lighting contract is currently being undertaken as agreed in the July 2023 Cabinet Report. The opportunity has been published and is progressing in accordance with the prescribed timescales. The specification has been developed in accordance with market intelligence and has taken time to finalise to ensure it is capable of delivering the required services for the whole term of the contract. The contract award is not anticipated to take place before October 2024. Therefore, the Council requires a means to continue delivering the services during the interim period in accordance with their statutory duties.

### **Next Steps**

A proposed extension of up to 12 months with break clauses at every 3-month period will provide the necessary time to complete the procurement in accordance with the prescribed timescales.

### **Volker Highways Ltd.**

The cost of the extension is dependent on the works undertaken during the extension period. However, the estimated value of works is £1.849m and will be funded from both revenue and capital. The revenue spend will be funded from the budget A27700, estimated to be £0.849m Capital works will be funded from capital budgets with an estimated value of up to £1.000m.

Volker Highways have indicated that an acceptance of the terms in accordance with the below spend profile i.e. a proportionate amount of capital spend aggregated over a 3 monthly (if the contract is only extended for 3 months) or 6 monthly (if the contract extension is enacted for 6 months) period.

Early discussions have taken place with the contractor who have indicated that they would be open to extend the services beyond the end date of the current contract for a further period. The Contractor has also indicated that they would be amenable to adopting the same set of existing rates and Contract Clauses / Specification as part of the extension.

## **OTHER OPTIONS CONSIDERED AND REJECTED**

### **In Source**

This is not an option due to timescales, resourcing and additional costs including fleet and material costs. There is no depot and the current area that the DSO team are working from does not have the space for the requirements of a service at this level. There would be insufficient time to mobilise this option. Crucially the arrangements are

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being procured and the market is providing information on TUPE and other substantive arrangements. It would be impractical to change the arrangements at this juncture as otherwise there would be significant disruption to the tender arrangements with fresh documents to be made available to bidders thus delaying the procurement further. Therefore, this option was considered and rejected.

### **Use current DSO resources**

There are insufficient resources, skills and knowledge to carry out the street lighting works required. The current DSO Operatives do not currently carry out any of these works.

The DSO do not have the skills or expertise required to carry out the street lighting works. Therefore, this option was also considered and rejected.

### **Do nothing**

The current contract expires on 31 March 2024. The Council has a duty to discharge these services and failure to make provision would result in the Council failing to deliver its statutory duty. This is not a viable option and hence, was rejected.

### **Retender the Street Lighting Contract for interim period**

The procurement for these services is underway but will not be awarded before the current contract expires. It would not be reasonable to re tender for the interim period as this would incur additional cost and take resources away from the ongoing procurement. Additionally, it is anticipated that there would be little uptake in the market for any Contractor given the short period of time and associated fees related to the works. Hence, this option was considered and rejected.

## **PRE-DECISION CONSULTATION**

N/A

## **NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER**

Name: Mark Hodgson

Designation: Head of Highways, Traffic and Parking

Signature:



Date: 06/02/2024

## Part B - Assessment of implications and risks

### LEGAL IMPLICATIONS AND RISKS

The Authority has a statutory duty to maintain these functions. Maintaining and improving the borough's street lighting is a key administration priority directly linked to providing a safe borough and reducing the fear of crime. The Council must maintain repair and replace street lighting across the borough and has a duty to maintain all existing street lighting and illuminated equipment in accordance with the British Standard Requirements for Electrical Installations BS 7671 (2018)

This report seeks approval to extend the contract with Volker Highways Limited for a period of one year commencing on 1<sup>st</sup> April 2024. The extension is subject to the Public Contract Regulations 2015 (PCR). The extension value is £1.849m. The original contract is above the Public Contracts Regulations 2015 (PCR 2015) threshold for works of £5,372,609. The extension is not captured under the original contract award, but the Council is permitted to make the extensions as these are in compliance with Regulation 72(5) PCR 2015 as the extensions fall below the 10% of the original contract values in the respective contracts, also falling below works threshold and do not change the overall nature of the contracts.

Additionally, the extension must comply with the Council's Contract Procedure Rules (CPR). Under CPR 19.4 an extension is permitted where certain conditions are fulfilled which are the extension was contemplated at the time the contract was awarded, the award followed an OJEU-compliant procurement, and the published contract notice permitted the contract to continue past the defined period. CPR 19.4 also requires the extension does not exceed 50% of the awarded contract value. The body of the report confirms that the proposed extension falls within CPR 19.4.

Officers are satisfied that the proposed extension meets with the requirements of the CPR.

For the reasons set above, the Council may extend the existing contract for one year.

### FINANCIAL IMPLICATIONS AND RISKS

All costs are within the existing budgets. Any works that are carried out during this period will be funded from the current 2024/25 budgets:

- Lighting – £1.849m

The table below shows the estimated spend per period

- The figures provided are cumulative values aggregated from previous assumed spends per quarter.
- An assumption of a steady spend profile throughout the year has been made.

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	<b>3 months</b>	<b>6 months</b>	<b>9 months</b>	<b>12 months</b>
<b>Street Lighting</b>				
Revenue Spend Forecast	£0.212	£0.425	£0.637	£0.849
Revenue Budget	£0.212	£0.425	£0.637	£0.849
Capital Forecast	£0.250	£0.500	£0.750	£1.000
Capital Budget	£0.250	£0.500	£0.750	£1.000

The budgets will be monitored regularly, spend (inclusive of CPI uplifts) will be contained within the stated budget envelope.

It should be noted budgets stated in the table relate to the full year, as such they will need to fund both the extensions and new contract.

### **HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

Council employees are not affected but TUPE may apply to any staff employed by the existing Street Lighting contractor.

The Council are working closely with all parties to mitigate any risks

### **EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socioeconomics and health determinants.

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### **HEALTH AND WELLBEING IMPLICATIONS AND RISKS**

There are no negative health and wellbeing implications arising from this extension.

### **ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS**

There will be no negative impact on the Authority by extending the contract. The incumbent supplier will continue to deliver against the existing contract.

#### **Procurement**

As part of the ongoing procurement of the street lighting, contract tenderers will be asked to provide their environmental credentials which will form part of the evaluation along with other technical responses.

Contractors will be required to demonstrate what measures, they propose to take to minimise the production of waste arising from operations, and how the remaining amount of waste will be recycled and disposed of.

Furthermore, contractors will be asked to confirm what measures, they propose to take to minimise carbon emissions in their operations, and to generally decrease the carbon footprint of operations.

All tender responses will be evaluated carefully, and the successful bidder will be required to demonstrate proactive, commitments and practical steps taken to improve their environmental policies and practices.

### **BACKGROUND PAPERS**

Cabinet decision dated 18 January 2017

[\(Public Pack\)Agenda Document for Cabinet, 18/01/2017 19:30 \(havering.gov.uk\)](#)

Key Executive Decision to extend Street Lighting contract dated 22 April 2021`

<https://democracy.havering.gov.uk/documents/s50338/28.%20Key%20ED%20VolkerHighways.pdf>

### **APPENDICES**



**Key Executive Decision**

**Part C – Record of decision**

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

**Decision**

Proposal agreed

*Delete as applicable*

Proposal NOT agreed because

**Details of decision maker**

Signed

Name:

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title:

Date:

**Lodging this notice**

The signed decision notice must be delivered to Committee Services, in the Town Hall.

**For use by Committee Administration**

This notice was lodged with me on \_\_\_\_\_

Signed \_\_\_\_\_