

	<h2>Policy and Resources Committee</h2> <h3>13th January 2015</h3>
<p style="text-align: right;">Title</p>	<p>Update on contracts relating to the Council's Fleet</p>
<p style="text-align: right;">Report of</p>	<p>Street Scene Director</p>
<p style="text-align: right;">Wards</p>	<p>All</p>
<p style="text-align: right;">Status</p>	<p>Public</p>
<p style="text-align: right;">Enclosures</p>	<p>Appendix 1 - Current Approved Suppliers Spend</p>
<p style="text-align: right;">Officer Contact Details</p>	<p>Sean Connolly - sean.connolly@barnet.gov.uk x 5054</p>

<h2>Summary</h2>
<p>This report sets out the current contractual arrangements relating to the Council's Fleet post transfer into Barnet of the Go Plant Fleet Maintenance Services contract. It describes the steps needed to extend or replace those contracts to ensure continuity of service as well as setting out longer term contractual requirements.</p>

<h2>Decisions</h2>
<p>That the Committee approve the following:</p> <ol style="list-style-type: none"> <li data-bbox="248 1664 1449 1809">1. Extend the waiver of Contract Procedure Rules for a further 9 month period from 1st April 2015, to regularise and continue arrangements with existing suppliers which enables and provides business continuity whilst a procurement process is undertaken. <li data-bbox="248 1848 1449 1957">2. Increase the approved suppliers' spend and the overall annual value as set out in paragraph 1.2 Table 1 and Appendix 1 of the various approved suppliers for the a further 9 months, up to 31st December 2015.

3. Approve the additional suppliers as set out in Appendix 1, identified as necessary to support the delivery of the service, including the overall annual value for the current waiver period and for a further 9 months, up to 31st December 2015.

4. Authorise the procurement processes as set out in paragraph 5.3.

1. WHY THIS REPORT IS NEEDED

1.1 In 2008, Barnet outsourced its Fleet Procurement with Maintenance Services (FPWMS) to Go Plant Limited (GPL) on a 10 year contract.

1.2 On-going discussions with GPL during year five of the contract evidenced that the continuation of the contract on its current terms, was not viable. It was therefore proposed to mutually terminate the contract and bring Fleet Procurement with Maintenance Services back in-house with effect from 1st July 2014. Barnet inherited a number of existing contracts for supplies to vehicles that GPL had set up outside of the council's procurement framework. A summary of these contracts identified by the contract type is set out in table 1 below (a full breakdown of the contracts is contained at Appendix 1).

Table 1

	Estimated Contract Spend		
Contract Type	July'14 to March'15	April'15 to Dec'15	Total Contract Spend (18 Months) July'14 to Dec'15
Maintenance	£248,053	£281,250	£529,303
Parts	£482,091	£519,050	£1,001,141
Tyres	£60,214	£60,214	£120,428
Vehicle Hire/leasing	£1,081,328	£1,141,000	£2,222,328
Washing	£51,663	£50,000	£101,663
Total Contracts Spend	£1,923,349	£2,051,514	£3,974,863

1.3 Cabinet Resources Committee on 2 April 2014, Decision item 6, agreed to mutually terminate the existing fleet procurement with maintenance contract with Go Plant Limited and approved the waiver of Contract Procedure Rules for a period up to 12 months (to 31 March 2015), to regularise and continue arrangements with existing suppliers to allow business continuity whilst a full procurement process is undertaken. During 2015, the provision of Street Scene services will be subject to transformation changes that will look at alternative delivery options for services including Passenger Transport, Waste & Recycling and Streets & Greenspaces. All of these services have

significant vehicle use and as such rely on these contracts. Extending the waiver of the Contract Procedure Rules for a further 9 month period from 1st April 2015 will allow for these services to be provided with a continued service, as well as enabling the future arrangements for the supply of services under these contracts to complement the requirements of future delivery options. This will ensure that the council does not enter into contractual arrangements without the full knowledge of future service delivery requirements.

- 1.4 Further discussions have taken place with procurement officers in CSG to identify future procurement resource requirements as well as constructing a robust plan to ensure that future procurements will be delivered to programme. It is therefore requested that in order to ensure continuity of service and to enable the council to carry out an effective procurement exercise resulting in best value contracts, the Committee approve the decisions contained in this report.
- 1.5 New suppliers indicated in Appendix 1 have been attained to cover gaps in the GPL suppliers. These suppliers will deliver a range of goods and services that will enable the insourced Transport Service to provide business continuity during the period up to 31st December 2015.

2. REASONS FOR DECISIONS

- 2.1 The Transport Services contracts within the Street Scene Delivery Unit comprise of a range of approved contractors supplying Vehicle Leasing, Vehicle Hire, Maintenance Services, Tyres, Replacement Parts and materials. These categories and contract spend are indicated within Table 1 above.
- 2.2 A detailed breakdown spend by each contractor is shown in Appendix 1. Where the contract value is in excess of £172,514 and an OJEU process is needed this will take at least 6 months, with the potential of taking 9 months to complete for each contract type. These contracts will be procured to commence for provision of contracted services from 1st January 2016 for a 3 year term.
- 2.3 The supply of vehicle washing services is currently shown as a contract spend estimated to be £52k in 2014/15. As part of the Fleet Management restructure a business case for this function will be undertaken to identify the most appropriate and cost effective method for the delivery of this service going forward, either by in-house with the creation of a new post on a fixed term contract or to continue the use of an external provider.
- 2.4 Fleet contracted services are demand led and therefore to ensure business continuity and flexibility within these procured services. It is recommended where individual contracts spend is in excess of £150k over the 18 month period of the Contract Procurement Rules waiver, these individual contracts will also be procured under the OJEU process.

- 2.5 Transport Services currently hire/ lease 22 vehicles under the terms of the Go Plant Ltd contract, where the lease/ hire agreements terminate within the period 1st April 2015 to 31st December 2015, at a value of £55k. These vehicles will cease their existing lease/hire arrangement during the waiver period and replacement vehicles may be hired or leased from an alternate supplier between 1 April - 31 December 2015. The new suppliers contracts to include a break clause that will allow these contracts to be terminated co terminus with the commencement of any future Street scene alternative delivery model.
- 2.6 An Medium Term Financial Strategy £100k saving was identified through the GPL contract insourcing to be achieved from 1st April 2015. This saving will now not be achieved through planned contract re-tendering until 1st January 2016. However, measures are in place to achieve the £67k staffing saving through the Transport Services staff restructure Transport Services are also seeking to achieve procurement savings by changing the methods of procurement of fleet through improved contracting arrangements.
- 2.7 Transport Services seeks to identify improved methods of procurement of fleet and fleet services through alternative methods going forwards, with the aim to attain replacement fleet through preferential borrowing, supply of parts and service based on long term contracts and 'Just in Time' delivery methods.

3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

The procurement of the range of approved suppliers to provide Fleet Maintenance Services in compliance with Contract Procedure Rules identifies that OJEU procedures are to be undertaken. Framework Agreements have been considered as a procurement route however the Framework Agreements which the Council could utilise do not fully cover the Council's requirements therefore an EU tender procedure will be required.

4. POST DECISION IMPLEMENTATION

- 4.1 The Fleet Procurement with maintenance services will continue to operate under the auspices of LBB with minimal disruption to service.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The Corporate Plan, 2013/14-2015/16 includes the following strategic objective:-

1. To create the right environment to promote responsible growth, development and success across the borough.

- 5.1.2 By having access to appropriate, cost effective and fit for purpose contracts, transport services can support the Street Scene delivery unit to ensure that residents and businesses are supported and grow sustainably.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT,

Property, Sustainability)

- 5.2.1 The insourcing of the Go Plant fleet maintenance contract to Transport Services from 1/1/2014 achieved a cost reduction of £58,000 in the transport overhead as planned.
- 5.2.2 The £167,000 MTFP saving planned for 2015-16 is split between a £67,000 saving related to a staff restructure, and £100,000 through improved procurement with suppliers. Whilst the £67,000 is expected to be achieved in full, there is expected to be a delay in achieving the £100,000 procurement saving. Due to the proposed procurement extension until January 2016, this saving will only be achieved in full in 2016-17. The service is currently reviewing alternative savings to address this expected shortfall in savings.

5.3 Legal and Constitutional References

- 5.3.1 The procurement of the services and supplies necessary to support insourced Maintenance Services will be carried out in accordance with EU public procurement rules and the Council's Contract Procedure Rules. New contracts will commence on 1 January 2016 and the current interim contracts identified in appendix 1 will cease on 31 December 2015.
- 5.3.2 The Constitution, Article 24 Contract Procedure Rules, paragraph 14.3 states contracts may only be extended or varied if all of the following conditions have been met:
- the initial contract was based on a Contract Procedure Rules compliant competitive tender or quotation process;
 - the value of the extension or variation added to the value of the original contract does not exceed the original Authorisation threshold as defined in Appendix 1, Table A;
 - the extension or variation has an approved budget allocation;
 - the extension or variation is in accordance with the terms and conditions of the existing contract;
 - if the initial contract was subject to EU tender procedure, that the extension option was declared within the OJEU notice and the original Acceptance (Delegated Powers Report/relevant Committee Report); and
 - the contract has not been extended before;

As these contracts were novated from GPL on termination of the FPWMS contract, the first condition is not satisfied. The value of some of the contracts listed in Appendix 1 when extended will exceed the original authorisation threshold defined in Appendix 1 Table A of the Contract Procedure Rules. Therefore a waiver of the Contract Procedure Rules is requested to extend

and vary the contracts identified in Appendix 1.

- 5.3.3 The Constitution, Article 15 Contract Procedure Rules, paragraph 15 states that in the event that the application of these rules prevents or inhibits the delivery or continuity of service, Directors or Assistant Directors, Lead Commissioners and Heads of Service may apply for a waiver. All applications for a waiver of Contract Procedure Rules must be submitted to Policy and Resources Committee specifically identifying the reason for which a waiver is sought including justification and risk.
- 5.3.4 The Constitution, Article 15 Responsibility for Functions states that Policy and Resources Committee is responsible for agreeing exceptions to Contract Procedure Rules.
- 5.3.5 The Constitution, Article 24 Contract Procedure Rules, requires new contracts with a value of up to £25,000 to be procured by using a reasonable means of selection including budget authorisation and audit trail. For contracts with a value between £25,001 and £75,000 the required procurement method is to obtain a minimum of two written quotations however the Head of Procurement may waive this requirement subject to assurance that the market place has been fully tested.
- 5.3.6 Approval to award new contracts at the values stated in Appendix 1 (new suppliers above £10,000 spend) can be provided by a Summary Delegated Powers Report. The Constitution, Article 15 Responsibility for Functions states that if any report comes within the remit of more than one committee, to avoid the report being discussed at several committees the report will be presented and determined at the most appropriate committee. If this is not clear then the report will be discussed and determined by the Policy and Resources Committee.

5.4 Risk Management

- 5.4.1 Failure to extend the waiver of Contract Procedure Rules for a further 9 month period from 1st April 2015, to regularise and continue arrangements with existing suppliers will directly impact on Street Scene services and other fleet user services affecting business continuity whilst the procurement process is undertaken.
- 5.4.2 Failure to vary the annual value of the contracts could expose the Council to higher market rates and would impact on Transport Services ability to continue to maintain the council's fleet within budget, until the OJEU procurement process is completed and new contracts are awarded.
- 5.4.3 The risk of challenge to the future procurement process will be mitigated by following the standard procurement process with officers ensuring the process complies with Contract Procedure Rules and procurement law.
- 5.4.4 These risks will continue to be assessed and managed in accordance with the Council's project and risk management methodologies.

5.5 Equalities and Diversity

5.5.1 Under the Equality Act 2010, the Council and all other organisations exercising public functions on its behalf must have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- b) advance equality of opportunity between those with a protected characteristic and those without;
- c) promote good relations between those with a protected characteristic and those without. The 'protected characteristics' referred to are: age; disability; gender reassignment; pregnancy and maternity; religion or belief; sex; sexual orientation; race. It also covers marriage and civil partnership with regard to eliminating discrimination.
- c) promote good relations between those with a protected characteristic and those without.

5.5.2 The three limbs of the public sector equality duty involve the need:

- To eliminate discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010
- To advance equality of opportunity by removing disadvantages from particular groups, meeting the needs of particular groups and encouraging under-represented groups to participate in public life; and
- To foster good relations between those sharing and those not sharing protected characteristics by tackling prejudice and promoting understanding.

5.5.3 The duty should be applied before a decision is made and be part of the decision-making process.

5.5.4 The protected characteristics under Equalities legislations are: Age, Disability, Gender, Gender reassignment, Marital status, Pregnancy and maternity (including teenage parents), Race, Religion or belief, Sexual Orientation and Caste.

5.6 Consultation and Engagement

5.6.1 None

6. BACKGROUND PAPERS

- 6.1 [Cabinet Resources Committee, 25 March 2008](#), awarded the Fleet Procurement with Maintenance Services Contract to GPL for a period of 10 years with the option at the Council's discretion to extend it for a further five years as indicated within the body of the report.
- 6.2 [Budget and Performance Overview and Scrutiny Committee on 24th April 2012](#) Decision No. 9 discussed and noted the report on the Waste Collection Options for the Future, as set out in Appendix A
- 6.3 [7 November 2012, Cabinet Resources Committee](#) approved the Outline Business Case and Options Appraisal for Waste and Street Scene Services. The business case to retain the refuse and recycling service in-house in and to re model collection methods to reflect the latest legislative and environmental demands. The remodelled service required a re-profiled collection fleet.
- 6.4 [Cabinet Resources Committee on 18 April 2013](#), authorised a tender process for the procurement of the Waste and Recycling fleet and approved an addition to the Capital Programme of up to £8.5 m to be funded by Revenue Contribution from the Street Scene Budget over five years.
- 6.5 In June 2013, Transport Services entered into discussions with GPL to review how GPL would provide maintenance services for the whole vehicle fleet for the remaining 5 years of the contract. GPL raised concerns that as a result of Barnet's capital purchase of the Waste and Recycling fleet they will experience a significant loss of income, due to the change in the council's method of fleet procurement and provision of maintenances changing the status of the Fleet Procurement with Maintenance Services contract.
- 6.6 In October 2013 GPL entered into discussions with the council's legal team to explore the possibility of mutually terminating the Fleet Procurement with Maintenance Services contract from 30 April 2014.
- 6.7 [Cabinet Resources Committee, 2nd April 2014](#), Agreed to terminate the existing Fleet Procurement with Maintenance Services contract (FPWMS) with Go Plant Ltd (GPL) by mutual agreement based on Option 3, as outlined in the options appraisal in paragraph 3.4 of that report.
 - 6.7.1 Gave approval to waive Contract Procedure Rules for 9 months to enable necessary service providers and suppliers to be procured to minimise the risk of failure to attain necessary goods or services to support the business delivery.