

# BIRMINGHAM CITY COUNCIL

## PUBLIC REPORT

**Report to:** CABINET  
**Report of:** Director of Commissioning and Procurement  
**Date of Decision:** 14 November 2017  
**SUBJECT:** VARIATION OF OUTDOOR ADVERTISING CONTRACT (S19)  
**Key Decision:** Yes  
**Relevant Forward Plan Ref:** 004378  
**If not in the Forward Plan:** Chief Executive approved ☐  
**(please "X" box)** O&S Chairman approved ☐  
**Relevant Cabinet Member(s):** Cllr Majid Mahmood, Cabinet Member for Value for Money and Efficiency  
Cllr Ian Ward, Leader of the Council  
**Relevant O&S Chairman:** Councillor Cllr Mohammed Aikhlaq, Corporate Resources and Governance O & S Committee  
**Wards affected:** All

### 1. Purpose of report:

- 1.1 Seek approval to a 3 year extension to the existing Outdoor Advertising contracts (S19).
- 1.2 This report should be read in conjunction with the report on the private agenda as information contained herein is not repeated in the private report

### 2. Decision(s) recommended:

That Cabinet:

- 2.1 Notes the contents of this report

**Lead Contact Officer(s):** Helen Burnett, Head of Business and Commercial Development  
Commissioning and Procurement, Strategic Support Services

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### 3. Consultation

#### 3.1 Internal

Officers from Corporate Procurement, Legal and Governance and City Finance have been involved in the preparation of this report.

#### 3.2 External

Ongoing conversations have been held with the contracted provider to deliver growth of income through the portfolio.

#### **4. Compliance Issues:**

##### **4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?**

These contracts support the Council's priority to be a great city to learn, work and invest in. Income generated by this contract will help the Council to invest in its services, and the advertising will provide services to both private businesses and the local visitor economy.

Utilising the functional lifetime of the advertising assets that have been built aligns with the Council's vision for sustainability.

##### **Birmingham Business Charter for Social Responsibility**

The current provider, Signature Outdoor Limited has received accreditation to the Birmingham Business Charter for Social Responsibility and their action plan will continue to be monitored for the duration of the extension period.

##### **4.2 Financial Implications**

Details are set out in the Private Report.

Extension of the existing Outdoor Advertising contracts will maximise income to the Council from the full lifetime of the advertising assets being developed and obtain further value from the contract.

##### **4.3 Legal Implications**

4.3.1 The 3 advertising contracts with Signature Outdoor Limited are considered to be public works concession contracts.

4.3.2 Section 43 of the Concession Contract Regulations 2016 ("CCR") permits a variation to a concession contract for a range of circumstances. This is termed a Permitted Variation for the purposes of this report. Under regulation 43 (c) this includes where:

- the need for the variation has been brought about by circumstances which a diligent contracting authority (i.e. the Council) could not foresee;
- the variation does not alter the overall nature of the concession contract; and
- any increase in value is not higher than 50% of the value of the concession contract.

4.3.3 Where a contract is varied in these circumstances a notice to that effect must be published in the Official Journal of the European Union.

4.3.4 The requirements of regulation 43(c) are satisfied as:

*With respect to diligence:*

Following restrictions on the assets which can be built and an associated reduction in the number of locations which can be developed there have been significant delays in building advertising assets in all of the three contract portfolios. With a lack of market interest following the procurement exercise at the end of 2016 (all of which were unforeseen by the Council), it has only now become apparent that the 3 advertising contracts will not realise the expected return on the initial investment by BCC or Signature Outdoor Limited; and

BCC will not be able to make best use of the life of the advertising assets in all 3 portfolios if all contracts expire in 2024;

*With respect to the overall nature of the contracts:*

The proposed extensions to the contracts do not alter the overall nature of each of the agreements. The extension is for a 3 year period only and the profit share arrangements are to remain the same.

*With respect to the value of the contracts:*

The change in value of the contracts will not exceed 50%.

#### 4.4 Public Sector Equality Duty

The original procurement project was subject to an Equality Impact and Needs Assessment procedure. This was referred to in the report to Cabinet Committee (Procurement) on 2 August 2011. The stage 1 assessment did not highlight the need to progress to a more detailed assessment. The proposed variations to the contracts do not require a further assessment.

The existing Outdoor Advertising contracts require Signature Outdoor Limited to comply with the Equalities Act 2010.

### 5. **Relevant background/chronology of key events:**

- 5.1 Following a decision by Cabinet Committee (Procurement) on 2 August 2011, Signature Outdoor Limited entered into three 10 year contracts with the Council on 22nd August 2011 to develop 35 outdoor advertising locations. .
- 5.2 The proposal to extend the existing Outdoor Advertising Contract by 3 years will increase revenue generated for the City Council from the contract by allowing the provider to offset capital expenditure over a longer period.
- 5.3 The estimated forecast of this additional income is set out in the Private report. The accuracy of the revenue forecast is subject to market conditions.
- 5.4 At the end of the contracts, a tried and tested portfolio of both large and small format pavement advertising will go out to EU tender at the same time in 2027. This potentially will increase the overall value of the portfolio to a contractor and future income to the Council.

5.5 Following approval of this report the Director of Commissioning and Procurement will seek to extend the three contracts for outdoor advertising with Signature Outdoors Ltd in accordance with EU and Council governance.

**6. Evaluation of alternative option(s):**

6.1 The alternative option is not to extend the existing S19 Outdoor Advertising contracts which would otherwise expire in August 2024. The implications of this option would be the lost opportunity to maximise profit share on a fully developed advertising portfolio with assets that still have remaining lifecycle.

6.2 The capital investment for the remaining build programme will be compressed over the remainder of the contract with the consequence that the annual revenue to the Council will be reduced for each of the remaining years.

**7. Reasons for Decision(s):**

7.1 To enable the Director of Commissioning and Procurement to conclude and agree negotiations for the improved terms and conditions of this contract set out in the Private Cabinet Report

**Signatures**

**Date**

Nigel Kletz .....  
Director of Commissioning and Procurement

Councillor Ian Ward .....  
Leader of the Council

Councillor Majid Mahmood .....  
Cabinet Member for Value for Money and Efficiency

**List of Background Documents used to compile this Report:**

Cabinet Committee (Procurement) 2 August 2011

**List of Appendices accompanying this Report (if any):**

1. None
- 2.
- 3.
- 4.

Report Version		Dated	
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