

Decision Maker: PUBLIC PROTECTION AND ENFORCEMENT PORTFOLIO HOLDER

Date: Thursday 16 June 2022

Decision Type: Non-Urgent Non-Executive Key

Title: GATEWAY REPORT FOR THE TENDER OF THE STRAY DOG & REHOMING SERVICE CONTRACT

Contact Officer: Mark Atkinson, Contracts & Projects Manager
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Chief Officer: Colin Brand, Director of Environment and Public Protection

Ward: (All Wards);

1. Reason for report

- 1.1 The contract awarded to SDK Environmental Ltd for delivering the Stray Dogs & Pest Control Services contract commenced on 1st February 2018 for a period of 3 years, plus a 2-year (1+1) discretionary extension. This contract ends on 31st January 2023.
- 1.2 In anticipation of the contract expiring, approval is sought for the recommended commissioning strategy detailed in this report.

2. **RECOMMENDATION(S)**

- 2.1 The Portfolio Holder for Public Protection and Enforcement is recommended to:
- 2.11 Approve decommissioning of the Pest Control Service (paragraphs 3.26 to 3.39) which is a non-statutory function.
- 2.12 Approve proceeding to procurement for the Stray Dog & Rehoming Service paragraphs 3.10 to 3.25, for a proposed contract of three years with the option to extend for up to a further two years at an estimated annual value of £62k (estimated whole life value of £310k).

Impact on Vulnerable Adults and Children

1. Summary of Impact: None
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Transformation Policy

1. Policy Status: Existing Policy
 2. Making Bromley Even Better Priority: For residents to live responsibly and prosper in a safe, clean and green environment great for today and a sustainable future
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Financial

1. Cost of proposal: Estimated Cost: £310k
 2. Ongoing costs: Recurring Cost: Estimated annual cost of £62k
 3. Budget head/performance centre: Nuisance & Anti-Social Behaviour Team
 4. Total current budget for this head: £311k
 5. Source of funding: Existing revenue budget 2022/23
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Personnel

1. Number of staff (current and additional): Not Applicable
 2. If from existing staff resources, number of staff hours: Not Applicable
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Legal

1. Legal Requirement: Statutory Requirement
 2. Call-in: Applicable
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Procurement

1. Summary of Procurement Implications: Compliant procurement route set out in report
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Property

1. Summary of Property Implications: Not Applicable
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Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications:
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Customer Impact

1. Estimated number of users or customers (current and projected):Borough Wide
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

Stray Dogs - Legislative Framework

- 3.1 The Council has a statutory duty under sections 149 and 150 of the Environmental Protection Act 1990 (EPA 199) and the Environmental Protection (Stray Dogs) Regulations 1992 (the 1992 Regulations) to collect and detain stray dogs. Prior to April 2008, the police also had a duty to accept and detain stray dogs and tended to facilitate this function out of hours.
- 3.2 There is no statutory definition of a stray dog. Any dog found in a public place, or a private place where it should not be, which appears to be without its owner and not under the control of its owner or a person representing them, may be seized and detained as a stray dog by an appropriate person.
- 3.3 On 6th April 2008, section 68 of the Clean Neighbourhoods and Environment Act 2005 (CNEA 2005) came into force. This removed from the legislation any requirement for the Police to seize stray dogs or to accept any brought to them. As a result, Local Authority duties were extended, and they now have sole responsibility for discharging all stray dog functions.
- 3.4 The Department for Environment, Food and Rural Affairs (DEFRA) produced comprehensive guidance on stray dogs for Local Authorities, within which it states that the minimum requirement of the Local Authority's extended duty is, that where practicable, they provide a place to which dogs can be taken outside normal office hours (referred to in this guidance as an 'acceptance point'). Authorities are not required to offer a night-time call-out service to seize and detain stray dogs seen or found by the public. However, contact numbers for out of hours cover should be widely publicised to enable 'finders' to take a dog to an acceptance point if one is provided in lieu of a warden service. Whilst there is no statutory requirement for an out of hours collection service for stray dogs, there is a risk to the reputation of the Council in not providing one, as in declining to do so relies on the goodwill of residents to capture and transport strays to the designated acceptance point. Some authorities that do not provide a 24-hour service have had strays left tied to railings outside the Council offices.
- 3.5 No legislative changes have been made to either act since the last tender. However, the introduction of The Microchipping of Dogs (England) Regulations 2015 makes it compulsory for owners to ensure their dog is microchipped which includes owners address details being recorded and kept updated on the national database.

Pests - Legislative Framework

- 3.6 There is no specific statutory requirement for the Council to provide a pest control treatment service to the public; however, there are specific statutory obligations under Part I of the Prevention of Damage by Pests Act 1949 (PDPA 1949) in relation to the Council having to keep its district clear of rats and mice. There are further statutory obligations to deal with insect infestation under the EPA 1990 and the Public Health Act 1936 (PHA 1936).

Delegated Functions:

- 3.7 The Council has a legal duty under the Environmental Protection Act 1990 s149 to appoint an officer for the purpose of discharging the functions imposed or conferred by the legislation for dealing with stray dogs found in the area of the authority. In Bromley the Assistant Director of Public Protection retains the overall responsibility for ensuring that the authority's stray dog functions are discharged correctly. The responsibility for discharging functions can be delegated to third parties such as contractors, as is the case for Bromley.

Procurement History

- 3.8 On 28th September 2016, (ESD16043) the Portfolio Holder for Public Protection & Enforcement agreed that officers should go out to the market for the provision of the Dog Warden, Kennelling, Rehoming and Pest Control Services, under 4 separate Lots. Following difficulties in the tendering process, on the 27th September 2017 (ES17076) the Portfolio Holder for Public Protection and Enforcement agreed to reduce the 4 Lots down to 2:

- Lot 1 – Dog Warden, Kennelling and Re-homing Service; and
- Lot 2 – Pest Control Service.

- 3.9 Following the tendering process, 1 bid was received for both Lot 1 and 2, and 1 bid was received for Lot 2 alone; authorisation was given by relevant Chief Officers on the 1st September 2017 to proceed to evaluate the tender returns; following evaluation, on the 1st February 2018 the contract for both Lot 1 and 2 was awarded to the incumbent provider SDK Environmental Ltd for a period of 3 years, with a 2 year option to extend. Prior to this the incumbent had provided both the stray dog and pest services since April 2006

Scope of Service – Stray Dogs (Lot 1)

- 3.10 The current contract commenced on the 1st February 2018, the contract term was for 3 years, with a discretionary 2-year (1+1) option to extend. Prior to its expiration on the 31st January 2021, a one-year discretionary extension was agreed by the Director of Environment and Public Protection on the 29th September 2020 in accordance with CPR 2.1.2, 13.1 and 23.7. A further 1-year extension was utilised via the Gateway report, Extension of the Stray Dogs and the Pest Control Contract (ES20094) on 22nd June 2021 which extended the contract to 31st January 2022. The cost of Lot 1 is detailed in Table 1.

Table 1: Cost of Stray Dogs (Lot 1) from 1st April 2018 to 31st March 2022

	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	4 Year Average
Warden Services	£48,892	£48,193	£47,205	£46,315	£47,651
Kennelling & Rehoming Costs	£10,366	£17,162	£5,086	£5,272	£9,472
Statutory & Collection Fees	-£3,425	-£3,975	-£2,150	-£2,900	-£3,113
Total Cost	£55,833	£61,381	£50,141	£48,687	£54,010
No of Dogs Received at Kennels	67	88	37	41	58

- 3.11 The current stray dog contract with SDK (Lot 1) operates a 24-hour, 7 day a week dog warden service. Within the contract is a fixed price for warden services of £46K which includes telephone and payment handling, call centre facilities, van hire and maintenance, premises provision and maintenance, equipment and management time.
- 3.12 Where there is reason to believe that a dog is a stray, on being reported by the public, it will be seized and detained by an SDK dog warden and transported back to the SDK receiving kennels. On arrival the dog is health checked and fed. SDK staff then attempt to identify the dog's owner by checking for a microchip or collar, if ownership is established, SDK will attempt to reunite the dog with its owner. If the owner cannot be established, it is transported to dedicated holding kennels for the statutory 7- day period.
- 3.13 From day 1 of the dog being seized, under statute an owner has 7 days to claim the dog, and on full payment of fees plus satisfactory documentation for proof of ownership, the dog would be released back into the owner's care.
- 3.14 From day 7, the dog automatically becomes the property of the Council, and can be put forward for re-homing at this point, be passed on to a stray dog establishment, or be euthanised. As the Council operates a "No Animal Destruction policy" (Decision reference PPS15013), euthanasia is only applied to dogs which are either a banned breed (in accordance with the Dangerous Dogs Act 1991) or unsuitable for re-homing due to behavioural or health issues, as determined by a vet. Under this contract, the statutory 7-day period has been extended to 12 days, after which point the dog becomes the property of The Lodge, is accepted into their re-homing programme, and the Council is no longer liable for any costs associated with the dog.

Fees – Stray Dogs (Lot 1)

- 3.15 Under section 149(5) of the EPA 1990, the authority may charge the owner all expenses incurred during the dog's detention plus a further £25 as prescribed by the 1992 regulations. The expenses are calculated as the per-day kennel cost, plus any costs involved in detaining the dog. Any additional charges Authorities incur resultant from necessary veterinary treatment of injured dogs are also added.

The fees are:

- Statutory fee - £25 which is payable in all cases.
- Collection and return fee - £100, this fee is discounted to £50 if the dog is microchipped (this fee is sometimes avoidable should the warden be able to reunite the dog with the owner at the location).
- Daily kennelling charge which is currently £19.68 per day inclusive of VAT.

All payments are made to SDK directly, and the statutory fees are deducted from the Councils monthly invoice. An authority is within its rights to detain a dog until the owner has paid the full amount, and as explained previously, the dog becomes the property of the Council after the statutory 7 days.

SERVICE PROFILE/DATA ANALYSIS – Stray Dogs (Lot 1)

- 3.16 The performance of SDK with regards to Lot 1 has been good, there have been no complaints made against the company and key performance indicators have been achieved. This signifies that the same specification should be continued and form the basis of requirements during the tender process.

Table 2: Stray Dogs (Lot 1) 5 Year Statistics April 2017 to March 2022

	April 2017 to March 2018	April 2018 to March 2019	April 2019 to March 2020	April 2020 to March 2021	April 2021 to March 2022	5 Year Totals
Requests for Service						
In Hours Service Requests	121	85	103	47	46	402
Out of Hours Service Requests	139	143	98	62	75	517
Total Requests for Service	260	228	201	109	121	919
Aborted Service Requests	127	123	87	65	73	475
Number of Dog Collections	133	105	114	44	48	444
<i>Out of Hours Dog Collections/Seizures</i>	133	101	110	42	48	434
Direct Return to Owners	32	36	24	7	6	105
Section 150's Issued	3	2	2	0	1	8
Total Dogs to Kennels	98	67	88	37	41	331
Outcomes for Dogs Taken to Kennels						
Total Dogs to Kennels	98	67	88	37	41	331
Dogs Rehomed	57	33	55	16	18	179
Dogs Claimed from Kennels	38	32	31	21	23	145
Dogs PTS	2	2	2	0	0	6
Dogs Seized by Police	1	0	0	0	0	1
Microchip Status						
Number of collections	133	105	114	44	48	444
Dogs Microchipped	37	36	25	7	8	113
Dogs not Microchipped	35	32	40	15	9	131
Dogs incorrectly microchipped	61	37	49	22	31	200

- 3.17 Table 2 above provides a trend analysis showing the numbers of dogs received into the service and their associated outcomes since April 2017. The data shows an annual downward trend of 53% between the total number of service requests received between April 17 (260) and March 22 (121). A similar trend is noted for the number of dogs taken to kennels which has fallen by 58%. Demand on the service has declined over the past 5 years despite an increase in the dog population from 8.9 million dogs in 2014 to 13 million today. These trends coincide with those observed by the Dogs Trust, who attribute the decline to the statutory requirement requiring owners to microchip their dogs
- 3.18 Of the 331 dogs received in the service and taken to kennels, 145 were reunited with their owners and 179 were successfully rehomed. Only 6 were put to sleep during the 5-year period which were either on the recommendation of a Vet due to poor health or behaviour problems which did not allow for the dog to be rehomed.
- 3.19 Consideration has been given to the lockdowns throughout the Covid pandemic which may have reduced the opportunity for dogs to stray. Therefore 5-year averages will be provided for all references to volumes and calculations within tender documentation.

MARKET CONSIDERATIONS – Stray Dogs (Lot 1)

- 3.20 The services provided by all neighbouring boroughs were reviewed, along with the fees that are charged to residents. Except for Croydon and Bexley, all provide a 24-hour, 7 day per week service. Bromley's fees are also comparable to other authorities; along with Bromley, half of the neighbouring councils offer a discount for dogs who have been microchipped. Appendix A provides the details for service provision and fees applied by neighbouring Councils.

OPTIONS APPRAISAL – Stray Dog & Rehoming Service

- 3.21 **Option 1** – Provide a service to the public through the creation of a Dog Warden Officer post.
- The Council would also require a specialist vehicle, equipment plus the creation of a contract with a local kennels for storage and rehoming services. The option to bring the service in-house has been discounted as the costs would exceed those of the current contract.
- 3.22 **Option 2** – Reduce from a 24-hour 7 day per week Warden service to a Council hours service in order to achieve savings.

Whilst there is no statutory requirement for an out of hours collection service for stray dogs, there is a risk to the reputation of the Council in not providing one, as in declining to do so relies on the goodwill of residents to capture and transport strays to the designated acceptance point. The majority (57%) of all requests for service are received out of hours.

Changing from a 24-hour service could also consequently see an increase in costs as the Dog Warden will make all attempts to reunite the dog with its owner at location and only take the dog to the kennels as a last resort.

3.23 **Option 3** – Tender a new contract on the same specification as the existing contract.

PREFERRED OPTION

3.24 **Option 3** – Tender a new contract on the same specification as the existing contract.

3.25 The current contract runs well, and the Council has not received any complaints about the service in the past 3 years.

All KPI's have been achieved which indicates providers should be able to fulfil the current service specification. Following the benchmarking and performance analysis, together with the outcome of the options appraisal, Officers recommend that the Council uses the existing specification for the tender documentation.

Scope of Service – Pests (Lot 2)

3.26 The current concessionary contract commenced on the 1st February 2018, the contract term was for 3 years, with a discretionary 2-year (1+1) option to extend. Prior to its expiration on the 31st January 2021, a one-year discretionary extension was agreed by the Director of Environment and Public Protection on the 29th September 2020 in accordance with CPR 2.1.2, 13.1 and 23.7. A further 1-year extension was utilised via the Gateway report, Extension of the Stray Dogs and the Pest Control Contract (ES20094) on 22nd June 2021 which extended the contract to 31st January 2022.

3.27 This is a concessionary non-exclusive contract; both residents and the Council are able to procure work with other businesses. The service provided to the Council includes the monitoring of bait boxes in parks, two depots and the two Council owned travellers' sites, this element is a free of charge service, however, it does not include the cost of any treatment arising out of the monitoring. The Council also receives 12 free treatments per year with a value of circa £900 which it can offer to residents in hardship. 5 free treatments were used in the 2-year period between 1st February 2020 and 31st January 2022

SERVICE PROFILE/DATA ANALYSIS – Pests (Lot 2)

3.28 The bait used in the monitoring programme for the Council is non-toxic and only serves to give an indication of rat activity. Treatments for infestations are additional and chargeable. During the last few years, the Parks team were able to obtain cheaper quotations from local providers. It has proved more efficient and cost effective to deal with infestations in parks as and when they occur and for the Parks team to obtain their own quotations and treatments. There is no value to the Council in simply just monitoring bait stations

3.29 The Council refers residents to SDK as the preferred contractor, and they deal with all aspects of providing the services. Residents and businesses requiring pest control services are charged by the contractor at a rate in accordance with the prices agreed via the tender process. The service runs independently from the Council, with customers needing to contact the contractor's call centre directly to arrange and pay for treatment. By allowing SDK to

advertise their services to residents on the bromley.gov.uk website. Both Officers and Councillors receive a significant number of complaints with regards to the services supplied by SDK.

MARKET CONSIDERATIONS – Pests (Lot 2)

- 3.30 Appendix B shows the current prices for residential treatments, and the rates applied for commercial treatments for the Council. Appendix B also shows the service provided by Bromley’s neighbouring authorities and the fees which are charged to their residents. Analysis shows that SDK’s fees for residents when compared are amongst the lowest. However cheaper treatments can be obtained by using local providers.
- 3.31 Commercial rates are also significantly higher than local providers as can be shown in the quotation below from 2019, the treatment from an infestation at the Councils traveller sites. Given that the contract is non-exclusive officers were afforded the opportunity to obtain competitive quotations.

Pest Control - Travellers Sites							
Quotations received - 15/08/2019							
	Charge per visit £	Initial Treatment Duration (Weeks)	Star Lane	Old Maidstone Road	Materials £	Initial Cost £	Monthly Treatments £
BW Pest Control	150.00	6	900.00	900.00	0.00	1800.00	300.00
Pest-Tech	70.00	4	280.00	280.00	0.00	560.00	140.00
CDPE	60.63	4	242.50	242.50	0.00	485.00	160.00
SDK - Quotation 05/02/2019		4	3960.00	3960.00	3054.00	10974.00	Subject to additional fee

OPTIONS APPRAISAL – Pest Control Services

- 3.32 **Option 1** – Provide a service to the public through the creation of a Pest Control Officer post.

The Council would also require a specialist vehicle and equipment. The option to bring the service in-house has been discounted, as the costs would require the creation of budget. Based upon current sales generated through the Council website shown in Appendix C costs would be greater than the income generated.

- 3.33 **Option 2** – Seek to obtain a financial reward through a concessionary contract

Table 3 explores the option to charge commission based upon sales through the Council website.

Table 3

Commission rate charged to Provider on gross sales	Commission rate charged to Provider on gross sales				
	2%	3%	4%	5%	6%
Commission earned from sales	-£862.78	£1,294.16	£1,725.55	£2,156.94	£2,588.33
Cost of Administration	£2,700.00	£2,700.00	£2,700.00	£2,700.00	£2,700.00
Net Cost to the Council	£1,837.22	£1,405.84	£974.45	£543.06	£111.67

3.34 The direct costs for an Officer managing this contract would alone make this proposition unviable. In addition, consideration would need to be given to officer time in Procurement, Legal, Finance to establish and create a contract plus officer time in resolving complaints made to the Council which would also incur costs. This option is therefore not recommended.

3.35 **Option 3** – Do not create a Pest Control contract

PREFERRED OPTION

3.36 **Option 3** – Do not create a Pest Control contract for the following reasons

3.37 There is no statutory duty for the Council to provide pest treatments to its residents. Nor to make recommendations to residents as to which companies to use. As the Council is withdrawing a service, an Equality Impact Assessment has been completed for item 6.

3.38 The Council has not received any benefit from the monitoring of bait stations and can procure treatments by means of quotations from local providers as and when infestations occur.

3.39 The endorsement of any one provider may increase the number of service complaints directed to both Officers and Councillors

5. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS

5.1 **Estimated Contract Value** – £62k per annum (estimated whole life value of £310k) Appendix D

5.2 **Other Associated Costs** – Not Applicable

5.3 **Proposed Contract Period** – 3 years commencing 1st February 2023 with 2-year discretionary extension

5.4 Proposed Project Plan

Update volumes for current Specification	July 2022
Contract documents . Consideration given to indexation adjustments	July 2022
Write Evaluation Process & Scoring	July 2022
Early Engagement Notice	July 2022
Tender Published	August 2022
Evaluation of tenders	September 2022
Contract Award report presented at PDS 15 th November 2022	November 2022
Contract Mobilisation and contract start date 1 st February 2023	January 2023
The tender will be evaluated on a 60:40 price/quality basis	

6. SUSTAINABILITY AND IMPACT ASSESSMENTS

- 6.1 Appendix E, Equality Impact Assessment determined no impact on residents by withdrawing pest control services from the Council website.
- 6.2 The decommissioning of a concessionary contract for pest treatments will encourage residents to procure pest control from alternative providers. This will in turn support the local SME economy.

7. PROCUREMENT RULES

- 7.1 This report seeks permission to procure a single provider to manage the Council's Stray Dog Service and decommission the Council's concession contract for Pest Control Services.
- 7.2 Due to the estimated contract value and the classification of the contract as a services contract, the procurement process shall comply with the Public Contract Regulations 2015 for an over threshold procurement process. These obligations include advertisement and award notices published in Find a Tender Service (FATs) and Contracts Finder. The procurement must comply with the Regulations principles of transparency and equal treatment.
- 7.3 The Council's specific requirements for authorising proceeding to procurement are covered in 1.3 of the Contract Procedure Rules with the need to obtain the formal Agreement of the Director of Corporate Services and the Director of Finance and Assistant Director Governance and Contracts for a procurement of this value.
- 7.4 In compliance with the Council's Contract Procedure Rules (Rule 3.6.1), this procurement must be carried out using the Council's e-procurement system.
- 7.5 The actions identified in this report are provided for within the Council's Contract Procedure Rules, and the proposed actions can be completed in compliance with their content.

8. FINANCIAL CONSIDERATIONS

- 8.1 The net cost of the Stray Dog & Rehoming Service contract in 2021/22 was £49k. The cost can vary depending on the number of stray dogs each year, and the average cost over the last four years was £54k. If the contract is retendered as recommended in option 1, service officers estimate the future annual cost at £62k, which can continued to be met from the existing revenue budget for contract payments in the Anti-Social Behaviour Team.
- 8.2 If the alternative option 2 was agreed, there should be a reduced direct contract cost if based on a fewer contracted hours although this option has not been market tested at this stage.
- 8.3 The pest control service is a concession contract and therefore is at no direct cost to the Council. If the recommendation is accepted, then there would be no budgetary impact to the Council. Those service areas that have a pest control need would continue to fund that cost from their existing budgets. As set out by officers in the report, there would be an additional cost to the Council of the other options identified.

9. LEGAL CONSIDERATIONS

- 9.1 This report recommends that the Portfolio Holder agree to decommission the Pest Control Services and re-tender the Stray Dog & Rehoming Service contract as outlined in this report,

for a period of three years with the potential to extend for two further years, at an estimated total contract value of £310k.

- 9.2 Under the Council's Contract Procedure Rules, approvals of contract values between £200,000 and £500,000 can be approved by the Chief Officer. As this report recommends decommissioning the Pest Control Service, and the estimated costs may increase, then approval is being sought from the Portfolio Holder rather than the Chief Officer.
- 9.3 The Council has a statutory duty to provide the stray dog services as fully explained in this report. Although there is no statutory requirement for a local authority to provide a pest control service, there are legislative requirements on the Council to take such steps as may be necessary to secure as far as practicable that their district is kept free from rats and mice and to deal with insect infestation. This report explains why there appears no value in the Council procuring its own pest control service but that it should rather rely on local providers.
- 9.4 A contract to procure the stray dogs service is a public contract within the meaning of the Public Contracts Regulations 2015. As the value of the stray dogs service is likely to be above the services threshold it would require a full procurement to be undertaken as required by the Regulations.
- 9.5 Officers are requested to instruct Legal Services to assist, where necessary, with the procurement and associated legal documentation.

Non-Applicable Headings:	Stakeholder Engagement, Transformation/Policy Implications, IT and GDPR Considerations, Personnel Considerations, Property Implications, Carbon Reduction/Social Value Implications, Customer Impact, Ward Councillor Views
Background Documents: (Access via Contact Officer)	ES16043 28/09/2016 – Gateway. ES17076 27/09/2017 – Contract Award. ES20094 22/06/2021 – Contract Extension