

## **Cabinet – 17 December 2008**

### **Highways Repair & Maintenance Procurement**

**Portfolio:** Councillor Anthony Harris, Transport  
Councillor Rachel Walker, Environment

**Service Area:** Built Environment

**Wards:** All

**Key Decision:** Yes

**Forward Plan:** Yes

#### **1. Summary of Report**

Cabinet previously gave approval for the preparation of an Option Appraisal and Procurement Strategy to identify the preferred means of delivering highways repairs and maintenance services (HRM) across the Borough. At its meeting on 29 November 2006, Cabinet agreed that the Council should enter into a partnered contract to secure the improved delivery of the services.

The arrangement is to be capable of delivering both planned and routine highways repairs and maintenance and top-up services to the design team as required. The objective is to improve speed and quality of highways maintenance procurement and ensure improved delivery meeting efficiency requirements e.g. Gershon and recently introduced European and national procurement directives. The overriding objective is to improve the service, in accordance with the Council Vision, as measured by Best Value Performance Indicators (BVPIs) and new National Indicators. Improvements in quality will be matched by year-on-year efficiency savings which will be a contractual requirement.

Authority to progress this decision was delegated to the Assistant Director for the Built Environment as was the appointment of specialist procurement advice to assist with its delivery and ensure that the services to be included within the partnership were appropriately defined. Regular reporting to Neighbourhoods Scrutiny and Performance Panel has been undertaken throughout the procurement process.

At its meeting of 17 September 2008 Cabinet approved Tarmac Ltd as the 'potential service provider' which has permitted discussions to continue.

This report now seeks approval for the formal award of contract as discussions are now at an advanced stage subject still to satisfactory completion of certain conditions. The contract will comprise of an initial term of 4 years with possible extension options based on performance of 2 years plus a further 2 years.

## **2. Recommendations**

- 2.1 That Cabinet approve the contractual arrangements and award the contract to Tarmac Ltd subject to satisfactory completion of conditions as detailed within Section 3 of this report.
- 2.2 That Cabinet authorises the Executive Director, Neighbourhood Services, in consultation with the Portfolio Holder for Transport, to satisfy themselves as to the satisfactory conclusion of all outstanding matters as detailed within Section 3 of this report and then to take all necessary steps to enter into a formal sealed contract for the delivery of highway repair and maintenance services.
- 2.3 That Cabinet approves the grant of an 8-year maximum lease to Tarmac Ltd for the occupation of a part of the existing Suffolk Place depot now to be known as Cable Drive Depot. Such lease to be outside of the Security of Tenure provisions of Sections 24-28 Landlord & Tenant Act 1954 (as amended), allowing the council to break the lease by giving Tarmac 6 months notice at any point should the situation change.

## **3. Background Information**

Walsall Metropolitan Borough Council (WMBC) holds responsibility for the maintenance of some 856 kilometres (532 miles) of road networks excluding the M6 and A5 trunk road. This network has an asset replacement value of some £800 million and occupies a significant position in the West Midlands Local Transport Plan (LTP 2006).

Maintaining the condition of the road network and improving transport links are strategic features of reports generated by Central Government (Transport 2010); the seven Metropolitan Authorities (Local Transport Plan 2006) and Walsall itself in its Highways Maintenance Strategy 2005-2008, recently approved Highways Asset Management Plan 2008 and Vision. WMBC has sought to improve the delivery of Highways Repairs and Maintenance services over a number of years and seeks to implement a long term strategy for such delivery.

Delivery is currently achieved through a wide number of agreements and service providers together with an in-house provision known as Street Pride. In common with most councils across the country, Walsall's roads need additional investment to tackle a repairs backlog and bring them up to the standard the Council would like.

Cabinet previously gave approval for the preparation of an Options Appraisal to identify the preferred means of delivering highways maintenance services across the Borough. The Environment Inspection undertaken during September 2004 also identified the need to consider effective delivery of all services with particular reference to quality and value for money. The objective is to improve speed and quality of the service meeting the requirements of the Department for Communities and Local Government (DCLG) and efficiency agenda. This approach will ensure maximum flexibility and the opportunity to access further resources.

In accordance with subsequent Cabinet approvals and in compliance with new European Procurement Directives, a Procurement Strategy was developed which also conformed to Council initiatives such as the Strategic Transformation Programme which involved development of a procurement and commissioning strategy.

A full and detailed assessment of all services and options was undertaken considering all aspects and issues including timetable for delivery, variability, flexibility, value for money, affordability practicality, deliverability, procurement costs, impacts on human resources and risks. The consultant's recommendation was for an integrated partnership via an appropriate contract to be used to potentially consolidate many of the contracts currently in place. The objective is to improve speed and quality of highways maintenance procurement. This will ensure benefits whereby there will be streamlined internal management with the Council retaining control of strategy, flexible resource for use by the Council as and when required, improved value for money through streamlined procurement and built-in efficiency targets available through contractual mechanisms (e.g. target cost; gain/pain).

This approach would ensure that the Council can demonstrate clearly that we are striving to achieve excellence of service delivery for the benefit of the community through a collaborative/partnering theme.

The strategy also identified the potential need to transfer, via TUPE arrangements, the Street Pride highways team and also operatives within Engineering and Transportation to the service provider with potentially some forty staff/operatives transferring. Any partner organisation should provide a pension scheme broadly comparable to the existing local authority scheme to transferred staff. This can either be membership of the Local Government Pension Scheme or an equivalent to this Scheme. Tarmac Limited have bid on the basis of adopting the admission option, so called Admitted Body Status or ABS. Strategy and asset management planning is to remain with Walsall Council. The detailed scope of services is included as **Appendix A**.

The formal procurement process commenced on the 20 July 2007 with the publication of the Official Journal European Union (OJEU) advertisement explaining the proposal and the process for those interested in tendering. The Memorandum of Information (MOI) and Pre-Qualification Questionnaire (PQQ) were prepared and despatched to the fifteen companies expressing interest.

The procurement process continued as outlined below. The Contractor Selection was based on an evaluation with a 60/40 Quality/Cost assessment assessing both the written submissions, the Contractor's Plan, and tendered Price Lists (schedules).

Selection Timetable:

- 11 April 2008
- 28 April 2008
- Tenders despatched
- Bidder Workshops – to explain and clarify requirements

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|-----------------------------|---|
| - 13–15 May 2008            | - Bidder Interview Sessions   |
| - 10 July 2008              | - Tender Submission   |
| - 24 July 2008              | - Revised Tender Submission due to Bidder requests and option for Suffolk Place |
| - August 2008               | - Evaluation of Bids  |
| - 17 September 2008         | - Selection of Preferred Bidder   |
| - October 2008/January 2009 | - Conclude negotiations & address personnel matters                             |
| - December 2008             | - Award Contract subject to conditions  |
| - March 2009                | - Commence Service Delivery   |

The Project Board is led by Assistant Director for the Built Environment and comprises of senior technical, legal, financial, and human resources officers. The Evaluation Panel comprised a team of 8 officers representing the disciplines above and had additional specialist input from Legal, Information Technology and Fleet Services. The Panel developed specific and detailed criteria by which to assess the various submissions.

The report to Cabinet of 17 September 2008 fully detailed the process and assessment of the five bids received which led to the appointment of Tarmac Ltd as the 'potential service provider'.

The Neighbourhoods Scrutiny Panel was formally briefed of progress at its meetings on 12 June 2007, 2 August 2007, 6 December 2007 and subsequent verbal updates have also been provided most recently to 25 November 2008.

Discussions have continued with Tarmac Ltd to address issues such as consideration of TUPE consultation matters, OJEU, Alcatel, pension arrangements & Admitted Body Status (ABS) and other Contractual procedures.

To consider all aspects of the prospective partnership contract, separate work streams have been set up:

- **Operational** – matters are now well advanced and have already implemented transition arrangements including shadowing current operations to ensure such matters as Winter Service are maintained until transfer. These matters have not had a direct financial impact and required clarification only.
- **Contractual** - well advanced but conditions still to be finalised include:
  - Lease arrangements for Cable Drive Depot facility
  - Fleet Services – Service Level Agreement and management arrangements to permit Tarmac to use the existing facility
  - Confirmation of Admitted Body Status (ABS) and conclusion of all pension arrangements
  - Affordability of Pension arrangements, actuarial assessment and discretionary aspects
  - Risks and liability matters related to pension and contractual termination implications
  - Conclusion of all contractual terms and conditions and policy and procedures as part of the TUPE transfer

The project mobilisation programme is attached as **Appendix B** and the Anticipated Key Dates are scheduled below:

<b>Date</b>	<b>Description</b>
13 November 2008	Draft depot lease to be forwarded to Tarmac
14 November 2008	Discuss fleet/workshop SLA
25 November 2008	Provide update to Neighbourhood scrutiny panel
28 November 2008	HR information and final TUPE list to be forwarded to Tarmac
1 December 2008	Walsall to issue final contract for reviewing and signing
1 December 2008	Dummy payroll to be set up by Tarmac
17 December 2008	Cabinet report recommending award subject to achievement of conditions
23 December 2008	Cabinet approval, following Call-In period, to award contract subject to achievement of conditions
24 December 2008	Depot lease to be agreed
15 January 2009	ABS to be agreed
19 February 2009	Provide update to Neighbourhood Scrutiny Panel
27 February 2009	Sign ABS and Contract
2 March 2009	Commence Contract

#### **4. Resource Considerations**

4.1 **Financial:** A key objective of this proposal is to improve the delivery of the quality of the service, as recommended by the 2004 Environment Inspection and to streamline the procurement process which otherwise involves a multitude of contracts. It also meets the efficiency agenda in its delivery and coordinated approach and, indeed, year-on-year efficiency savings have been built into the specification for the new contract.

The annual service expenditure has been identified as approximately £7 million (subject to confirmation as part of the current budget process for 2009/10 onwards). As the contract is a Price List subject to specific Orders, then the budget will be controlled. The finance team have been represented on the Project Board and will continue to advise on the funding available and processes to follow. The financial evaluation of the bids was undertaken by an internal team representing a number of services.

The contract clearly sets out the requirements for the new service and, with the assistance of specialist advisers, incorporates best practice to ensure that delivery meets performance targets with ongoing efficiency improvements. A key element of the tender appraisal has been the assessment of both quality and price to ensure that value for money is achieved. The works will be instructed in accordance with the available approved budget and so affordability will be ensured.

An affordability assessment has to be undertaken in terms of risks and liabilities related to the transfer of staff including the implications of any future termination of the contract. The contract and ABS will not be signed until this has been considered and accepted.

Approval to this report will permit Tarmac Ltd to commence preparation to construct and complete necessary alterations to the existing Cable Drive Depot facility. At present Tarmac is carrying all risk prior to contract award. However the construction of the Depot in order to meet the contract commencement date must precede the contract award and this risk will be carried by the Council, potentially to the value of £250k. This is seen as an acceptable risk as the existing highways service will be relocated in due course. This is because at present the HSE has served a notice on the council for necessary works to be carried out at the Norfolk Place Depot and on completion other Council services will be relocated within Norfolk Place resulting in the need to locate the highways service at Cable Drive.

- 4.2 **Legal:** Eversheds legal advisers have assisted Council officers to ensure all matters related to certain contractual (e.g. Fleet Maintenance SLA, Depot Lease) and TUPE matters have been properly addressed and implemented.

Knowles Legal Services (now Hill International) have advised and assisted in the procurement process and ensuring the contractual arrangements meet legislative requirements and incorporate best practise.

The procurement process accords with European and national requirements and Walsall Council's Financial and Contract Rules and will be subject to a sealed contract. The contractual arrangements adopted will be in compliance with recent Government directives. Matters to be addressed will include staff employment terms and conditions, ownership of assets, property deals, pension rights and financing arrangements.

The legal team have been represented on the Project Board and an integral element in developing the financial models and evaluating the bids.

**Cable Drive Depot** - Cabinet previously resolved to close the North Walsall Depot (Suffolk and Norfolk Place) complex and dispose of the site as part of a plan to transfer services to a new depot in Fryers Road, Bloxwich. This project has not been pursued, for a number of reasons, and the prospect of disposing of the existing Depot in the current economic climate appears remote. As such Cabinet is requested to approve the utilisation of a section of the existing Suffolk Place Depot (recently vacated by Walsall Housing Group) for the operation of the HRMPs and approve the granting of the necessary lease. Tarmac Ltd have to obtain an Operators License for the fleet, and to avoid any confusion with Suffolk Place, we have renamed this area as Cable Drive Depot. The council could break the lease by giving Tarmac 6 months notice at any point should the situation change. In such circumstances, there would be an expectation that the council would meet the cost of relocation. The fact that a peppercorn rental is applicable is reflected in the bids received.

- 4.3 **Staffing:** Human Resources and Development Officers have been represented on the Project Board and given significant input to the requirements relating to staffing matters. This has included matters relating to issues such as TUPE, pension legislation, contractual terms and conditions and specification requirements.

Regular meetings have been held and Newsletters issued to staff and operatives to ensure they have been kept informed of progress at each stage.

Staff and trades union briefings have been undertaken and many queries raised and addressed.

<b>Workforce Meetings</b>	<b>Consultation Meetings</b>	<b>Newsletter</b>
Meetings initially held weekly on a Friday, but now held every two weeks	Meetings held with non-union and union representatives initially on a weekly basis, but now every two weeks	Issued to all operatives initially monthly, but now every two weeks

Meetings have been held with operatives to specifically discuss matters related to pensions and officers from Wolverhampton City Council as administrators of the pension fund will be holding meetings with each operative to discuss and resolve any specific personal matters

Tarmac has submitted the ABS application and received verbal confirmation from Wolverhampton City council that it is acceptable in principle.

## 5. Citizen Impact

The implementation of a new procurement and delivery approach for highways maintenance services will maximise effective delivery for the benefit of the whole community. These improvements will ensure that the public benefit by receiving a service that delivers better value for money and improved quality.

## 6. Community Safety

The improved service delivery will ensure that all roads and footways receive a higher standard of maintenance and therefore safer for all users

## 7. Environmental Impact

The delivery of the highways maintenance service conforms to the requirements of environmental issues and includes minimising pollution. This will all contribute to the Council's Vision.

Every opportunity will be taken to address environmental considerations in the provision of works and so part of the specification for the contract will be the requirement to recycle materials wherever practicable. These aspects will be developed further during the implementation phase.

## 8. Performance and Risk Management Issues

**8.1 Risk:** The brief to the procurement specialist included the identification and preparation of options together with a timetable and for the identification of risks for any alternatives including financial, delivery, and personnel matters. The risks for each procurement option were considered and detailed within the Report together with the implications.

Project Team was set up and the Walsall Project Management Approach was adopted which included the development of the risk assessment and management regime to conform to the approved Walsall format.

The implementation of the contract will be managed in accordance with the Council Project Methodology and a Team will ensure Risks are assessed and actively managed to conform to delivery timetables.

**8.2 Performance Management:** The implementation of this proposal will demonstrate continuous improvement where significant savings should be achieved through time and cost of delivery.

With the increases in HRM funding over recent years, the condition of the highway has improved as demonstrated by appropriate indicators (BVPI) with a consequent reduction in the assessed backlog in required repairs.

Performance will be monitored as part of the contractual requirements. This process, together with benchmarking with similar authorities in respect of indicators and targets, will lead to the delivery of an improved service.

## **9. Equality Implications**

None directly arising from this proposal. However, as part of the TUPE process this matter will be addressed in accordance with statutory requirements.

## **10. Consultation**

There has been extensive consultation throughout the procurement. Ongoing briefings and meetings with staff and trade unions have taken place as identified above. In addition the project has consulted a range of professional advisers both within the Council and externally.

## **Background Papers**

1. Highways Maintenance Strategy 2005 - 2008
2. Highways Repair and Maintenance 2008 Tender Documentation – April 2008
3. Tender Submissions – July 2008

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# Highways Repairs and Maintenance Procurement Strategy

## Scope of Services

### Summary

1. Structural repair of footways and carriageways – planned maintenance programme, inclusive of major reconstruction to surface dressing
2. Minor Highways Improvements – Capital works involving traffic calming schemes and small junction improvements.
3. Reactive Highway Repair Work - Repair and maintenance of such items as potholes pedestrian guard rails, small patchworks etc.
4. Highway drainage systems – Road Drainage and Stream Cleaning - Repair and maintenance of highway sewers, cleansing of grids and watercourses within the ownership of the council. Emergency work on grid cleansing in storm condition weather.
5. Cleaning of Highway Drains and Gullies - Cleansing of gullies and connections. Routine maintenance for cleansing of gullies on a rota system and emergency cleansing in storm condition weather.
6. Public Rights of Way – Structural repair of the surface of Rights of Way, erection of stiles, signing
7. Road Markings - Installation of new and replacement road markings such as white lining, signing and yellow lining
8. Traffic Signs - Manufacture and installation and maintenance of road traffic signs such as statutory signs and directional signs
9. Pedestrian Direction Signs - Manufacture and installation and maintenance of pedestrian directional signs
10. Street Nameplates - Manufacture and installation and maintenance of street nameplates
11. Winter Maintenance – pre salting and snow clearance, Provision of winter service including gritting, ploughing and snow removal from footpaths
12. Domestic vehicle crossings - Construction of vehicle crossing, dropped kerbs etc
13. Capacity for design work - Provision of design capacity for highway maintenance to remove peaks from council retained design staff.
14. Anti-skid surfaces - Installation of anti-skid surfacing
15. 24 hour Emergency Call Out - Provision of 24 hour emergency call out. At present duty driver and pick up. Duties include attending RTA's, other assistance to police, fire, such as blocking roads off, providing temporary fencing, Priority 1 pot holes and recovering small domestic dead animals



