

Cabinet – 12 December 2018

Highways and Infrastructure Services Contract

Portfolio: Councillor Adrian Andrew (Deputy Leader) – Regeneration

Service: Planning, Engineering and Transportation

Wards: All

Key decision: Yes

Forward plan: Yes

1. Summary

- 1.1 In July 2016 Cabinet gave authority to pursue the tendering of the, then named, Highway Repair and Maintenance Contract as set out within the report recommendations.
- 1.2 In consultation with the Portfolio Holder, officers have prepared the tender documentation which was published in the Official Journal of the European Union 'OJEU' on 17 August 2018.
- 1.3 This report provides an overview of the tendering process leading up to approval being sought to award the contract for the provision of Highways and Infrastructure Services from 1 April 2019. Delegation is being sought to the Executive Director for the Economy and Environment, in consultation with the Portfolio Holder for Regeneration, to finalise the contract documents to ensure satisfactory completion prior to sealing and signing of the contracts, deeds or other related documents for the new Highways and Infrastructure Services Contract.
- 1.4 Any decisions made to award the contract for provision of Highways and Infrastructure Service Contract will be published in accordance with the Public Contract Regulations 2015 and the Council's constitution.
- 1.5 Subject to approval, the new contract will commence on 1 April 2019 and be valid for a period of 6 years with options to extend for a further two periods of two years depending on performance.
- 1.6 This report should be read in conjunction with the Highways and Infrastructure Services Contract Private Session Cabinet Report, to be considered by Cabinet on this Agenda

2. Recommendations

Note; following consideration of the confidential information in the private session of the agenda, the Cabinet is recommended to:

- 1.1 Approve the contract award for the provision of Highways and Infrastructure Services to Tarmac Trading Limited. The contract will start on 1 April 2019 for a period of six years initially with options to extend for a further two periods of two years (depending on performance) and have an annual (indicative) contract value of up to £15 million.
- 2.2 Delegates authority to the Executive Director for the Economy and Environment, in consultation with the Portfolio Holder for Regeneration, to finalise the contract documents to ensure satisfactory completion prior to sealing and signing of the contracts, deeds or other related documents for the new Highways and Infrastructure Services Contract.

3. Report detail

Introduction

- 3.1 The Council holds responsibility for the maintenance of approximately 856Km (532 miles) of road network excluding the M6 and A5 trunk road. This network and associated assets has a gross replacement value of over £1.4billion.
- 3.2 Maintaining a healthy and efficient highway network and improving transport links supports the Council's vision as outlined in the Corporate Plan 2018 – 2021.

What is the form of contract?

- 3.3 The previous Highways Repair and Maintenance Contract was let under the New Engineering Contract (NEC3) Term Service Contract (with Amendments) and permitted the use of two Main Options A (Priced Contract with Activity Schedule) and Option E (Cost Reimbursable).
- 3.4 The NEC is an internationally recognised suite of contract documents that combine project management and contracting in one best practice process. It has been used to successfully deliver some of the highest profile projects in the world including the London 2012 Olympics and Crossrail. The Term Service Contract (TSC) is used for the appointment of a supplier for a period of time to manage and provide a service e.g. maintenance services.
- 3.5 In 2017 NEC3 was updated to NEC4 which is the version used for this new contract. It reflects procurement and project management developments and emerging best practice, with improvements in flexibility, clarity and the ease of administration. Drawing on the experience of the previous Highways Repair and Maintenance Contract the Highways and Infrastructure Services Contract permits the use of three Main Options that include:
 - Option A: Lump Sum priced contract with activity schedule (Price List)
 - Option C: Target Cost contract with activity schedule (Price List)
 - Option E: Cost Reimbursable contract
- 3.6 Inclusion of the above Options provides a platform for collaboration while presenting opportunity for the Council to deliver larger and more complex infrastructure works alongside its maintenance activities.

What is the contract term?

- 3.7 An effective partnership requires time to develop and mature if it is to succeed. The new contract will be for a core period of 6 years with the option to extend for a further two periods of two years; extension is dependent on contract performance and Council priorities at that time. Contract extensions will be subject to further Cabinet approval.
- 3.8 Subject to approval, this contract could operate up to a maximum of 10 years providing time for the partnership to develop and deliver an efficient and effective highway service for Walsall.

What can be expected from the new contract?

- 3.9 NEC4 contract has collaboration embedded within it and the Highways and Infrastructure Services Contract will utilise this collaborative approach to provide residents and business of Walsall with an efficient and effective service.
- 3.10 The Highways and Infrastructure Services Contract will deliver all highway maintenance activities including reactive, planned and winter service (gritting). In addition, the proposed service provider will be able to deliver infrastructure projects such as public realm and bridge replacement/maintenance. Furthermore, the contract will allow delivery of infrastructure works associated with other Council functions including schools, leisure and regeneration. During the life of the contract, it is the intention to deliver third party infrastructure works through the contract such as those completed under Section 38/278 Agreements.
- 3.11 A robust contract and operational key performance monitoring regime has been developed that will ensure quality and value for money is provided throughout the life of the contract. If service levels fall short of that expected within the performance monitoring regime, the Council has the ability not to award works through the contract and utilise existing frameworks including Black Country Framework Contract for Minor Works.
- 3.12 For the life of the contract, an Operational Board will be established to manage and monitor operational performance of the contract on a monthly basis. A Partnership Board will be created to manage and monitor the performance of the Contract overall (including social value commitments) to ensure efficient and effective delivery and ongoing value for money. The Partnership Board will provide strategic direction for the contract while exploring continued opportunities for adding value.

How was the contract procured?

- 3.13 A well-attended Industry Day took place in June 2017; this session was an opportunity to generate interest in the contract while shaping the contract documentation with feedback received on the day. The Prior Market Engagement (PME) was published on 20 July 2017 that outlined the contract proposal and the process for those interested in tendering.
- 3.14 Following a period of document preparation and refinement, in accordance with the Public Contract Regulations 2015, the Invitation to Tender (ITT) was published

via the Official Journal of the European Union, using the Council's E procurement portal 'InTend', for a 9 week period from 17 August 2018. The Council's procurement team managed the procurement process with technical input sought from external consultants alongside senior officers who assisted in the preparation of the contract documents.

3.15 34 organisations of varying size and capability registered interest on the Councils procurement system. During the 9 week tender period the Council arranged a tenderers session for prospective tenderers to hear more about the contact and meet lead officers involved.

3.16 The tender period closed on 19 October 2018.

How was the submitted bid evaluated?

3.17 Contractor Selection was based on an evaluation with a 60/40 Quality/Cost assessment assessing both written submissions, the Contractor's Plan, and tendered Price List (schedules). The ITT provided detailed assessment criteria which is shown in Table A below:

Table A

Ref.	Description			Score (%)
Cost Element				
01	<i>Contractor's fee percentage</i>			3.00%
02	<i>Contractor's rates for regular items</i>	quantified items	15%	25.00%
		unquantified items	10%	
03	<i>Contractor's rates for other items</i>	quantified items	5%	7.00%
		unquantified items	2%	
04	Depot			5.00%
Total Score (Cost Element) 40%				
Quality Element				
05	<i>Contractor's plan</i>			20.00%
06	Continuous improvement			10.00%
07	<i>Contractor's ability to Provide the Service</i>			10.00%
08	Scenario 2 – Emergency minor works			5.00%
09	Scenario 3 – Emergency major works			5.00%
10	Scenario 4 – Planned major works			5.00%
11	Social Value			5.00%
12	Presentation and Interview			
Total Score (Quality Element) 60%				
Total Score (Overall) 100%				

3.18 The Contractor's Plan is the element of the submission within which the bidder described and detailed how it will deliver the service as set out in the scope; assessment of this part forms the main part of the Quality Assessment (60%).

3.19 The Price List (representing 40% of the total weighing) is the element of the submission within which the bidder identifies the schedule of prices (cost) for

specific activities and marks were awarded for all aspects of both the quality and financial assessment.

- 3.20 A Project Board was established to oversee procurement; the Board was led by the Head of Planning, Engineering and Transportation and comprises senior technical, legal, financial and procurement officers.
- 3.21 The Evaluation Panel comprised a team of seven officers representing the disciplines above and was accompanied by additional specialist input from Fleet Services and the Council's appointed external consultants. The Panel developed specific and detailed criteria by which to assess the various submissions. Financial due diligence was completed by the Council's Finance team.
- 3.22 The evaluation process included an interview and clarification session to provide opportunity for officers to seek further clarification. This process did not form part of the tender evaluation scoring.

What are the next steps?

- 3.23 Subject to approval, it is proposed that the Executive Director for the Economy and Environment, in consultation with the Portfolio Holder for Regeneration, will finalise the contract documentation and enter into the new contract for the provision of Highways and Infrastructure Services. The preferred bidder will then implement their mobilisation plan in readiness for 1 April 2019 contract start and will operate for a core period of 6 years initially.
- 3.24 This will be followed by enhancements at the Apex Road depot and necessary branding to give the partnership unique identification to residents and business across Walsall. Contract/partnering workshops will be arranged to foster collaboration and outline how the contract will operate in delivering the service.

4. Council Corporate Plan priorities

- 4.1 Well maintained and reliable transport infrastructure supports the Council's vision to reduce inequality and maximise potential as outlined in the Corporate Plan 2018 - 2021. Furthermore, it underpins delivery against the Council's priorities which include;
- Economic growth for all people, communities and businesses;
 - People have increased independence, improved health, and can positively contribute to their communities;
 - Communities are prospering and resilient with all housing needs met in safe and;
 - Healthy places that build a strong sense of belonging and cohesion
- 4.2 Provision of the Highways and Infrastructure Services contract will ensure that the highway network continues to be improved and maintained. As outlined in the report the new contract also provides for the delivery of larger infrastructure works that can assist with regeneration and third party development projects.

5. Risk management

- 5.1 As outlined in this report and supporting appendices procurement of this contract has been undertaken with specialist advice using well-established and internationally recognised forms of contract.
- 5.2 If there is a risk to business continuity, as a result of unforeseen issues (e.g. liquidation) this can be mitigated through provisions contained in the contract and the use of services available from existing Framework Contracts such as the Black Country Framework Contract for Minor Works.
- 5.3 A contract risk register will be developed once the contract commences; this will be reviewed and updated at quarterly Contract Board meetings.

6. Financial implications

- 6.1 As outlined in the report, procurement has been focused on obtaining value for money to Walsall while providing opportunity for innovation.
- 6.2 Typically the annual contract value will be in the region of £10m - £15m depending on available maintenance budgets and capital schemes being delivered through the contract. Expenditure relating to this contract will be funded through existing allocated budgets or other grants as awarded.

7. Legal implications

- 7.1 Under section 41 of the Highway Act 1980 the Council has a duty to maintain the highway which is carried out at public expense.
- 7.2 Legal advice has been sought throughout procurement of this contract with recommendations incorporated into the contract documentation as published.

8. Procurement Implications/Social Value

- 8.1 Procurement has been carried out in accordance compliance with the Public Contracts Regulations 2015 Policy and the Council's Contract Rules.
- 8.2 The Council's Procurement and Legal Services Teams have worked closely with Economy and Environment officers to ensure that the tendering and evaluation process is compliant. Steps have been taken to minimise procurement-related risk. However, there will always remain an inherent risk of legal challenge associated with any procurement undertaken by the Council.
- 8.3 Social Value is an integral part of this contract and the new contract will seek to deliver on social value commitments made at tender submission stage through contract performance monitoring. In accordance with procurement guidelines, the evaluation has included the assessment of social value commitments including employment and volunteering opportunities as part of its delivery to Walsall.
- 8.4 The approach taken to incorporating social value into the contract allowed the supply chain to demonstrate their social value commitments in accordance with the Corporate Priorities and Social Value Policy. This allowed tenderers to provide

innovative approaches in delivering social value with each commitment made at tender stage monitored as part of the contract performance regime.

8.5 The preferred bidder has demonstrated in their bid submission how they will incorporate social value into the services to be provided under the contract. Such commitments comprise:

- Development of a 'Social Value Plan' to target initiatives which will create maximum positive outcomes in accordance with the Council's priorities
- Support local education by providing opportunity for two apprenticeship places through the Walsall Looked After Children scheme
- Contract vacancies to be advertised via Walsall Works/Job Centre Plus
- Employment of 1 apprentice per annum working with Walsall College and other partners
- School competitions and engagement including one road safety awareness workshop per year in local schools
- Support contract staff to become STEM Ambassadors working with local schools to promote Science, Technology, Engineering and Mathematics (STEM) skills within the construction industry
- Contract team to undertake 75hrs per annum volunteering within the local community
- 1 local charity fundraising event per year
- Quarterly contract litter picking along rights of way and canal towpaths

The above will be monitored as part of the contract performance board and incorporated into the contract key performance indicators.

9. Property implications

9.1 The Highways and Infrastructure Services contract includes the granting of a new lease for the Council owned Apex Road depot and the preferred bidder proposes that enhancements, largely to temporary installations (such as office units and storage) owned and maintained by the contractor, will be carried out during the contract mobilisation period. Such modifications will also see the installation and utilisation of Electric Vehicle (EV) charging points, material recycling plant and desk sharing space for joint working. Under the terms of the lease, the contractor will be liable for the repair and maintenance of the area of the depot demised to it.

9.2 The Asset Strategy Group (ASG) is aware of the proposed lease arrangements and modifications put forward within the tender submission.

10. Health and wellbeing implications

10.1 During the contract period the social value commitments made by the preferred bidder, as outlined in section 8 of this report, will be tested against the Marmot objectives to ensure that they support the Council in its statutory duty to promote health and wellbeing.

10.2 As indicated in paragraph 7.1 the responsibility for maintaining the highway is a statutory duty of the Council; the ability to do this impacts on health and wellbeing in two ways:

- It contributes directly to the potential risk of accidents and injury; and
- The economic wellbeing of an area and its relative employment rates has clear health impacts.

10.3 A smooth and efficient highway network is a recognised essential contributor to a region's economy.

11. Staffing implications

11.1 There are no direct staffing implications for the Council.

12. Reducing inequalities

12.1 A well-maintained highway network is essential to the safe and efficient movement of all members of the community, residents, and businesses. It is an essential contributor to the economic wellbeing and regeneration of the Borough and the Highways and Infrastructure Services contract is key to effectively and efficiently delivering this.

12.2 The supporting EQIA has been consulted with the Councils Equalities Team

13. Consultation

13.1 This report has been discussed with Finance, Legal, Fleet, Asset Management and Procurement whose comments have been considered and incorporated where appropriate. Preparation of contract documents has been undertaken with Finance, Legal, Fleet, Procurement, Risk & Insurance and Information Governance.

Background papers

1. Cabinet Report – 27 July 2016 Review of Highways Repairs and Maintenance Contract & Future Delivery Options
2. Cabinet Report – 14 December 2016 Procurement of the Highway Repairs and Maintenance Contract
3. Highways Maintenance Strategy 2015 – 2018
4. Highways Asset Management Plan 2015 – 2021
5. Highways and Infrastructure Services Contract Tender Documentation – August 2018

Author

Dean Sargeant
Group Manager, Highways and Environment

☎ 658031

✉ Dean.Sargeant@walsall.gov.uk



Simon Neilson
Executive Director

4 December 2018



Councillor A Andrew (Deputy Leader)
Portfolio Holder Regeneration

4 December 2018

Appendix A – Scope of Services

Brief description of the Scope of Service is outlined below:

1. Structural repair of bridges, footways and carriageways – planned maintenance programme, inclusive of major bridge maintenance and replacement works and reconstruction to surface dressing;
2. Major / Minor highways improvements – capital works including public realm enhancement and maintenance works, traffic calming schemes and major / minor junction and route improvements;
3. Reactive highway repair work – repair and maintenance of such items as pot holes, pedestrian guard rails and small patchworks;
4. Highway drainage systems and stream cleaning – repair and maintenance of highway sewers, cleansing of grids and watercourses within the ownership of the *Client* and 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 and associated signage;
7. Road markings – installation of new and replacement of road markings such as white lining, white carriageway markings and yellow lining;
8. Traffic signs – manufacturing, installation and maintenance of road traffic signs such as statutory signs, regulatory signs, warning signs, traffic management and directional signs;
9. Pedestrian direction signs – manufacturing, installation and maintenance of pedestrian directional signs;
10. Street nameplates – manufacturing, installation and maintenance of street nameplates;
11. Signal installation – provision of signals, ducting, loop cutting etc.;
12. Winter maintenance – pre salting and snow clearance, Provision of winter service including gritting, ploughing and snow removal from footpaths
13. Domestic vehicle crossings – construction of vehicle crossing and dropped kerbs;
14. Capacity for design work – Provision of design capacity for highway capital and maintenance projects to remove peaks from *Client's* retained design staff;
15. Anti-skid surfaces – Installation of anti-skid surfacing;
16. 24h emergency call out – Provision of 24 hour emergency call out service Duties are varied and include attending road traffic accidents, providing assistance to the police and fire services, providing temporary fencing, setting up road closures, responding to Category 1 pot holes and recovering domestic dead animals;
17. Procurement services – Procurement and commissioning of the services such as Topographical Surveys, Ground Penetration Radar (GPR) and other intrusive surveys on behalf of the *Client*; and
18. Scheme development support – Supporting the *Client's* team with scheme development activities, including cost estimation, works programming and construction / delivery phasing e.g. in support of Major Scheme Business Case funding applications.