

## CABINET

27<sup>th</sup> October 2020

# PROPOSED EXTENSION TO THE HIGHWAYS TERM MAINTENANCE CONTRACT

### Report of the Strategic Director for Places

Strategic Aim:	Sustainable Growth	
Key Decision: Yes	Forward Plan Reference: FP/280920	
Exempt Information	No	
Cabinet Member(s) Responsible:	Cllr Lucy Stephenson Portfolio Holder for Culture and Leisure, Highways & Transportation & Road Safety	
Contact Officer(s):	Penny Sharpe, Acting Strategic Director for Places	Telephone 01572 758426 email: Penny.sharpe@rutland.gov.uk
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Ward Councillors	All	

### DECISION RECOMMENDATIONS

That Cabinet:

Approve the one year extension to the Highway Term Maintenance Contract for Contract Year 10, (November 2022 to December 2023), of the potential 10 year contract, in accordance with the contract extension criteria as set out in the Highway Term Maintenance Contract.

## 1 PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to set out the present contractual performance of the highway maintenance service provider (Tarmac) since 1 December 2018 and to determine whether their present performance satisfies the criteria as set out in of the Highway Term Maintenance Contract. Additionally, to confirm that the Contract can be extended by a further year, i.e. from 1 December 2022 to 30 November 2023.

## **2 BACKGROUND AND MAIN CONSIDERATIONS**

- 2.1 On 17 September 2013, Cabinet noted the award of the Highway Term Maintenance Contract to Lafarge Tarmac (Now Tarmac), the successful bidder, who was selected through the Midlands Highway Alliance (MHA) Model Term Contract tender procedure. The reasons for the decision were:-
- 2.1.1 To ensure the continued, efficient and effective, delivery of the Highway Term Maintenance Services.
- 2.1.2 To realise savings over the life of the Medium Term Financial Plan
- 2.2 The scope of the Highway Maintenance Contract includes the following activities:
- Highways maintenance
  - Construction and maintenance work for bridges
  - Traffic control, street lighting and street furniture provision and maintenance
  - Gully cleansing and emptying
  - Drainage works
  - Winter maintenance services, including provision of vehicles
- 2.3 Following the mobilisation period, the Contract started on 1 December 2013 and the initial contract length was for 5 years to 30 November 2018.
- 2.4 The Contract also allowed for it to be extended for a further 5 years, made up of individual annual extensions based upon satisfactory performance reviews.
- 2.5 The Contract extensions started after year 2 (2015) of the initial contract period, to 30 November 2018 to enable a 3-year forecast for business planning and facilitate a potential exit from the Contract in the event of poor performance.
- 2.6 As a result of the ongoing service provider's acceptable performance, the Highway Term Maintenance contract has already been extended in annual increments to 30 November 2022.

## **3 CRITERIA FOR EXTENDING THE CONTRACT PERIOD FURTHER**

- 3.1 For the Highway Term Maintenance Contract to be further extended to 30 November 2023, the criteria as defined in the Contract are as follows:-
- The limit of the amount of work set out in the OJEU Notice has not been exceeded.
  - The Contractor has achieved a satisfactory performance standard over the prior years to agreed targets of extension related performance indicators.
  - The Contractor has passed further financial checks, in line with the original checks undertaken at PQQ stage.

- The Term Contract is still meeting the MHA's member organisation's requirements and procurement strategy.

## **4 HIGHWAY MAINTENANCE CONTRACT PERFORMANCE**

- 4.1 The cumulative value of work set out in the OJEU Notice, dated 4 December 2012, was set in a range between £25 million and £40 million. The value of work that has already been awarded through the contract between 1 December 2013 and 30 June 2020 has not exceeded this range and is unlikely to be exceeded within the new maximum Contract timeframe to 30 November 2023. This criteria for the Contract extension has therefore been met.
- 4.2 A set of 12 Key Performance Indicators (KPIs) were set out in the Highway Maintenance Contract. These KPIs are standard MHA Contract KPIs and considered appropriate to monitor the performance of the service provider, they can also be benchmarked with other MHA contracts if appropriate.
- 4.3 The Contract KPI outputs for each Financial Year since the commencement of the contract have been presented to the annual Network Board (consisting of officers of the Council and representatives of Tarmac) meeting for review.
- 4.4 At the Network Board on 13 September 2020, the performance of the service provider for the 2019/20 period was discussed and confirmed as being satisfactory. The 2019/20 KPI performance is set out in Appendix A. This criteria for the Contract extension has therefore been met.
- 4.5 Financial checks have been undertaken by Rutland County Council's Finance Team to Tarmac in line with the checks used at the PQQ stage. These new financial checks confirm that Tarmac are a low risk company and their financial position has not identified any areas in need of further investigation. This criteria for the Contract extension has therefore been met.
- 4.6 The highway maintenance contract still meets Rutland County Council's requirements for effective highway maintenance delivery in accordance with the terms of the contract. This criteria for the Contract extension has therefore been met.
- 4.7 All the criteria required under the Contract for there to be an extension have been satisfied and there is no contractual reason why the Contract cannot be extended to 30 November 2023.

## **5 CONSULTATION**

- 5.1 There is no need for any further consultation associated with the request for an extension to the Highway Maintenance Contract.

## **6 ALTERNATIVE OPTIONS**

- 6.1 This paper is to approve the final year of a 10-year contract and Tarmac have achieved all the criteria for the extension. No alternative options have been considered.

## **7 FINANCIAL IMPLICATIONS**

- 7.1 The proposed additional year of the contract will be the subject to the Contract's price fluctuation clause.
- 7.2 During the lifetime of the Contract, cashable and non-cashable savings have been delivered. Since December 2013, the start of the Contract, savings of in excess of £2.4 million have been identified and delivered via this Contract.
- 7.3 A review of the highways maintenance Contract Price List has been undertaken comparing the prices from a number of other Tarmac Term Maintenance Contracts. The face value prices for 6 contracts (including Rutland) show that the Rutland prices are broadly comparable. It would be difficult to complete a full value for money assessment because each contract value, the contract duration, base costs (including underlying TUPE liabilities) and other unknown price make up may be different to the Rutland Price List. It is confirmed therefore that the Rutland Highways Maintenance Contract is broadly comparable with similar term maintenance contracts in operation around the United Kingdom.

## **8 LEGAL AND GOVERNANCE CONSIDERATIONS**

- 8.1 The Highway Term Maintenance Contract has provision for the Contract to be extended. The extension allows for the authority to extend can be given to the relevant chief officer, the monitoring officer, and appropriate portfolio officer. However, in this case, the chief officer has requested Cabinet be consulted on the matter.
- 8.2 The criteria for extending the end of the contract period as set out in the Contract have been assessed and found to be fully compliant.
- 8.3 There is therefore no reason why the extension cannot be allowed.

## **9 DATA PROTECTION IMPLICATIONS**

- 9.1 A Data Protection Impact Assessments (DPIA) has not been completed for the following reasons: "because there are no risks/issues to the rights and freedoms of natural persons.

## **10 EQUALITY IMPACT ASSESSMENT**

- 10.1 No Equality Impact Assessment has been undertaken because this is for an extension for an existing contract and there are no proposed changes to the operation of the contract.

## **11 COMMUNITY SAFETY IMPLICATIONS**

- 11.1 There are no community safety implications on the awarding an extension to the existing contract.

## **12 HEALTH AND WELLBEING IMPLICATIONS**

- 12.1 There are no changed health and wellbeing implications on the awarding an

extension to the existing contract.

### **13 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

- 13.1 The Highway Term Maintenance Contract, where the initial contract period was from December 2013 to November 2018 and has already been further extended in annual increments to November 2022.
- 13.2 The criteria set out in the Highway Term Maintenance Contract based upon the Contactor performance for 2019/20 have been fully satisfied. It is therefore recommended that the Highways Term Maintenance Contract be extended from 1 December 2022 to 30 November 2023.

### **14 BACKGROUND PAPERS**

- 14.1 There are no additional background papers to report.

### **15 APPENDICES**

- 15.1 Appendix A: Highway Term Maintenance – Key Performance Indicators

**A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577**