

CABINET

15 November 2022

HIGHWAYS CONTRACT – PROCUREMENT

Report of the Portfolio Holder for Planning, Highways and Transport

| | | |
|--------------------------------|--|---------------------------------------|
| Strategic Aim: | A special place | |
| Key Decision: Yes | Forward Plan Reference: FP/020922 | |
| Exempt Information | No | |
| Cabinet Member(s) Responsible: | Cllr R Powell, Deputy Leader and Portfolio Holder for Planning, Highways and Transport | |
| Contact Officer(s): | Penny Sharp, Strategic Director for Places | 01572 758160 psharp@rutland.gov.uk |
| | Andrew Tatt, Principal Highways Manager | atatt@rutland.gov.uk |
| Ward Councillors | N/A | |

DECISION RECOMMENDATIONS

That Cabinet:

1. Approves the re- procurement of the Highways Term Maintenance Contract (HTMC).
2. Delegates authority to the Director – Places in consultation with the Portfolio for Planning, Highways and Transport to award the contract to the highest scoring bidder following evaluation of tenders.

1. PURPOSE OF THE REPORT

- 1.1 The purpose of the report is to obtain approval for the re-procurement of the Highways Term Maintenance Contract (HTMC) and to award the contract following tender evaluation.
- 1.2 The report outlines the scope of the new HTMC and provides the key dates for the re-procurement exercise. It also sets out the objectives to be achieved during the procurement and the partnership approach being taken on the provision of services

2. BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 The current HTMC with our provider Tarmac had maximised its tendered extensions to 30th November 2023. It was further extended upon reliance of Regulation 72 (1)(b) of the Public Contract Regulations 2015 of the Council by an additional six (6) months from 1st December 2023 until 31st May 2024, to ensure service continuity during the commissioning period of the new Rutland County Council HTMC. This particularly applied to Winter Service (gritting) provision where it has been identified as high risk to change contracts within this period
- 2.2 The further six-month extension was permitted given the intention to procure a new contract and to ensure service continuity, particularly during the winter service period.
- 2.3 It is proposed that the new HTMC will commence on the 1st June 2024 and run for a period of ten (10) years to 31st May 2034 with a further option of two (2) x five (5) year extendable terms if performance is met to a suite of Key Performance Indicators (KPIs). A table of example KPIs is shown at Appendix A.
- 2.4 A comprehensive Soft Market Testing exercise with the industry was undertaken in March 2022, which has helped to develop the contract and to raise awareness of the market of the intention to tender the service.
- 2.5 The scope of the new Highway Term Maintenance Contract includes the following activities:
- Construction.
 - Highways maintenance including maintenance work for bridges.
 - Traffic control, street lighting and street furniture provision and maintenance.
 - Gully cleansing and emptying.
 - Drainage works including verge grip cutting. Pothole and patching reinstatements.
 - Resurfacing and reconstruction.
 - Carriageway surface treatments.
 - Footway surface treatments.
 - High friction surfacing.
 - Recycling.
 - Footway/Cycleways.

- Drainage including jetting.
- Road markings and studs.
- Signage.
- Safety Barriers – vehicular and pedestrian.
- Street Lighting including illuminated signs and bollards.
- Street Furniture including bollards.
- Capital Highway Schemes.
- Cyclical – Sign and gully cleansing.
- Structures – Bridges and culverts.
- Public Rights of Way.
- Winter maintenance services, including provision of gritting vehicles.

2.6 The procurement **key dates** are set out in Table 1 below:-

| | |
|---|---------------------------|
| Industry Day | December 2022 |
| Issue Standard Selection Questionnaire (SSQ) – an initial qualification check to ensure bidders meet minimum requirements | January 2023 |
| Issue Tender | April 2023 |
| Tender Evaluation | July 2023 |
| Award Contract | December 2023 |
| Mobilisation 6 month period (this is the period for contract transfer including TUPE transfer of any staff) | December 2023 to May 2024 |
| Contract Go-Live | 1st June 2024 |

3. PROJECT OBJECTIVES

3.1 The re-procurement of the new Highways Term Maintenance Project is underpinned by the following project objectives:

- Development/exploration of the most appropriate contract delivery model – a single provider model as currently operated will be adopted.
- Potential income generation.
- Alignment with the Highways Asset Management Strategy.
- Flexibility within the contract – interdependencies with other service areas.
- Provision of a Depot - could be part of a development with Environmental services.
- Innovation.
- Environmental – carbon reduction.
- Maximise benefits to the local economy.

4. PARTNERSHIP APPROACH OF WORKING WITH THE SUPPLIER.

4.1 The value of partnership working has been recognised in the current contract arrangements. Working with a key supplier with the support of specialist supply chain partners has brought expertise, innovation and resources as well as social value to the local community.

4.2 The new Highways Term Maintenance Contract (HTMC) will build on this partnership approach to further explore innovation and bring efficiencies as well as being best placed to effect carbon reductions in both vehicle fleet and materials used.

5 TENDER EVALUATION AND CONTRACT AWARD

5.1 It is proposed that the HTMC evaluation criteria ratio is set at Price 50% with Quality 40% and Social Value 10%.

5.2 External technical support is in place to support the evaluation process and will also include senior Council highway officers and experienced external expertise.

- 5.3 It is recommended that authority is delegated to the Strategic Director – Places in consultation with Portfolio Holder for Planning, Highways and Transport to award the contract in an efficient and timely manner. The contract will be awarded to the highest scoring bidder following a robust evaluation of all submitted tenders in line with the agreed evaluation criteria.
- 5.4 Robust steps will be taken to ensure that the contract award process demonstrates that due diligence is undertaken and the contract is signed in line with the Council’s Contract Procedure Rules and our constitution. Key dates for the Contract award process are outlined in Table 2 below;

.Table 2

| | |
|--|---|
| Issue Tender | April 2023 |
| Tender Evaluation | June 2023 |
| Governance <ul style="list-style-type: none"> • Scrutiny • Cabinet • Full Council | August 2023 September 2023 October 2023 |
| Standstill period | November 2023 |
| Award contract | December 2023 |
| Mobilisation | December 2023 to May 2024 |
| Joint Training | May 2024 |
| Contract Go Live | 1 st June 2024 |

CONSULTATION

- 4.3 The value of the contract exceeds the relevant UK Procurement threshold, so Welland Procurement have provided advice on the procurement prior to any procurement activity.
- 4.4 The Highway Term Maintenance Contract procurement is overseen by a Project Board that includes the Portfolio Holder for Planning, Highways and Transport, Portfolio Holder for Resources, the Director of Resources (s151 Officer) and Welland Procurement.
- 4.5 The Project Board has been key to properly brief the Director of Places and portfolio holders for finance and highways and to shape and direct development of the procurement exercise.

- 4.6 The Project Initiation Document, sets out the detail of the procurement and this was considered by Cabinet in March 2021. This has allowed sufficient time to ensure that comments and feedback could be taken into consideration in the design of the procurement.
- 4.7 The Highways Term Maintenance Contract (HTMC) supports the Council to undertake its statutory duties as a highway authority. The HTMC allows the Council to programme and undertake works prioritised from highways asset condition surveys and inspections under a risk-based approach. To ensure the highway network is kept safe and maintained in a sustainable manner.
- 4.8 Consultation has been undertaken with the market through a comprehensive soft market testing exercise undertaken in March 2022.
- 4.9 Public consultation was undertaken on the Highways Asset Management Strategy 2021-2026 which sets the framework for the HTMC delivery.

5. ALTERNATIVE OPTIONS

- 5.1 An alternative option would be not to reprocure the HTMC. This was discounted as it would break procurement rules and leave the authority exposed to legal challenge and would not allow us to carry our statutory function as Highway Authority.
- 5.2 Another option would be to set up a Direct Labour Organisation (DLO) to insource the service and directly deliver highway works. This was discounted as Rutland County Council is a small authority with limited capacity and this would not give us the breadth of expertise and resilience required to deliver the service effectively.

6. FINANCIAL IMPLICATIONS

- 6.1 The contract value is anticipated to be in the region of £3.5 million a year for an initial term of 10 years (circa £35million in total for the initial term).
- 6.2 The proposed new contract will be subject to Contract's standard annual price fluctuation clause. This enables prices to go both down as well as up.
- 6.3 The actual cost of the contract pricing will not be known until tenders are received and evaluation taken place. Ultimately work ordered through the contract will need to align with available budgets so if costs increase then less work will be carried out on the network.
- 6.4 The tender evaluation criteria, gives contract price a ratio of 50%.
- 6.5 Given the current economic climate, inflation will impact an operational costs of work undertaken in the contract. The Highways Capital Grant available will be spent in full, however, the work programme may need to flex to accommodate the additional costs
- 6.6 Maintenance work delivered within revenue costs are also impacted by the current economic climate and inflation and therefore the revenue spend may

also need to flex to accommodate the additional costs.

7. LEGAL AND GOVERNANCE CONSIDERATIONS

7.1 The Council has a statutory duty under Section 41 of the Highways Act 1980, to maintain the Highway in such a state as to be safe and fit for the ordinary traffic that may reasonably be expected to use it. The Highways Term Maintenance Contract is the vehicle that allows us to fulfil our statutory duty as highway authority and also meets the strategic aims of “delivering sustainable development.”

7.2 Internal and external legal advice from Weightmans has been sought and followed in developing the specification and contract documents.

8. DATA PROTECTION IMPLICATIONS

8.1 A Data Protection Impact Assessments (DPIA) has not been completed because there are no risks/issues to the rights and freedoms of natural persons.

9. EQUALITY IMPACT ASSESSMENT

9.1 An Equality Impact Assessment screening has not been undertaken as there are no adverse effects due to this policy.

10. COMMUNITY SAFETY IMPLICATIONS

10.1 The HTMC will allow the authority to deliver safe, sustainable, good and well maintained highways and contributes towards road safety.

11. HEALTH AND WELLBEING IMPLICATIONS

11.1 The HTMC will allow the authority to deliver safe, sustainable, good and well maintained highways and contributes towards road safety.

12. ORGANISATIONAL IMPLICATIONS

12.1 Environmental implications.

12.2 The new HTMC will explore and implement the use of materials where practicable, which optimises the use of carbon reduction measures and will reduce emissions if possible, while ensuring a functional and cost-effective balance is maintained. Environmental best practice will be implemented where practicable throughout the contract.

12.3 Procurement Implications

12.4 The HTMC is being procured in line with Public Contract Regulations 2015 and will be a competitive open procurement based on the New Engineering and Construction (NEC) 4 Contract Terms. This contract type is industry best practice and is widely used for highway term maintenance contracts. The existing highways contract uses NEC 3 Terms which has

now been refined to NEC 4, which supports the drive for further collaboration and integration with greater use of modern methods and better avoidance of disputes. The procurement process is being managed by Welland Procurement and will be conducted on-line via the Pro-Contract e-tendering portal.

13. CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 13.1 It is recommended to approve the procurement of the Highways Term Maintenance Contract (HTMC) for the future maintenance of the carriageway, footways, public rights of way, bridges and drainage assets using a risk-based approach. Additionally, the new contract will deliver the highways maintenance capital and Integrated transport programmes to provide investment in carriageways, much needed investment in footways and highways drainage and road safety. Approval will allow the Council to fulfil its statutory duties with regard to highway maintenance and road safety.

14. BACKGROUND PAPERS

- 14.1 There are no background papers to the report.

15. APPENDICES

- 15.1 Appendix A – Example of KPIs
- 15.2 Appendix B – Milestones
- 15.3 Appendix C – Project Initiation Document

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