

COUNCIL

6 November 2023

HIGHWAY TERM MAINTENANCE CONTRACT AWARD DECISION

Report of the Portfolio Holder for Highways, Transport, and the Environment

Strategic Aim:	Sustainable lives	
Exempt Information	Yes, Appendix A to the report contains exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, namely commercially sensitive information.	
Cabinet Member(s) Responsible:	Cllr C Wise, Portfolio Holder for Highways, Transport, and the Environment	
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Ward Councillors	All	

DECISION RECOMMENDATIONS

That Council:

- 1) Authorises the award of the Highway Term Maintenance Contract to the highest scoring bidder resulting from this procurement in line with the Award Criteria and as required by the Council's Contract Procedure Rules.

1 PURPOSE OF THE REPORT

- 1.1 The purpose of this report is for Council to make a decision on the award of contract following the outcome of the recently undertaken tender process for Rutland's Highway Term Maintenance Contract (HTMC).

2 BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 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 with a risk-based approach. The asset management approach will deliver proactive maintenance measures to ensure the highway network is kept safe and maintained in a sustainable manner.

- 2.2 The current Highways Term Maintenance Contract (HTMC) ends on the 31st May 2024. This contract was extended 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.
- 2.3 The new HTMC commences on the 1st June 2024 and will 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).
- 2.4 A six-month mobilisation period has been included to ensure a smooth transition to the new delivery model. There will be a series of workshops and regular meetings during this period to ensure the new contract is understood and embedded.

3 SCOPE OF THE NEW CONTRACT

- 3.1 The scope of the new Highway Term Maintenance Contract includes the following activities:
 - 3.1.1 Construction
 - 3.1.2 Highways maintenance including maintenance work for bridges
 - 3.1.3 Traffic control, street lighting and street furniture provision and maintenance.
 - 3.1.4 Gully cleansing and emptying.
 - 3.1.5 Drainage works including verge grip cutting.
 - 3.1.6 Pothole and patching reinstatements.
 - 3.1.7 Resurfacing and reconstruction.
 - 3.1.8 Carriageway surface treatments.
 - 3.1.9 Footway surface treatments.
 - 3.1.10 High friction surfacing.
 - 3.1.11 Recycling.
 - 3.1.12 Footway/Cycleways.
 - 3.1.13 Drainage including jetting.
 - 3.1.14 Road markings and studs.
 - 3.1.15 Signage.
- 3.2 Safety Barriers – vehicular and pedestrian.
- 3.3 Street Lighting inc illuminated signs and bollards.
- 3.4 Street Furniture inc bollards.

- 3.5 Capital Highway Schemes.
- 3.6 Cyclical – Sign and gully cleansing.
- 3.7 Structures – Bridges and culverts.
- 3.8 Public Rights of Way.
- 3.9 Winter maintenance services, including provision of gritting vehicles.
- 3.10 In addition, there is flexibility built in as day one options for Permitting of street works, salt procurement and the cutting of grass on the public rights of way (PROW) network.

4 CHANGES FROM EXISTING CONTRACT

- 4.1 The new contract uses an updated version of the New Engineering Contract (NEC4) which is designed with the aim of encouraging partnership working and preventing costly disputes.
- 4.2 There is now an emphasis on social value to realise positive benefits to the local community ranging from employment to community engagement.
- 4.3 There is a focus on carbon reduction methods with regards to materials used, method of working and vehicle fleet during the term of the contract.
- 4.4 Neighbouring authorities have been named in the contract to allow for its use at an agreed fee. This gives the council potential for income generation.
- 4.5 Learning from the existing contract is built in with a Schedule of Rates (SOR) element introduced to give more cost certainty, including a more comprehensive list of materials used and being updated to the latest specifications.
- 4.6 There will be a reduced cost on the depot lease by direct internal transfer of costs, which removes any additional fees from the contractor.
- 4.7 Flexibility has been built into the contract to enable adjustment to financial and market influences during its term.

5 PROCUREMENT METHOD

- 5.1 The procurement was a two-stage restricted process to ensure that only suitably qualified and experienced contractors were invited to tender.
- 5.2 The procurement was undertaken via the online ProContract Standard Selection Questionnaire (SSQ), this was completed by five bidders and evaluated to short-list those who were then invited to Invitation to Tender stage (ITT).
- 5.3 The award criteria was set as follows:
- 5.4 Quality 40%
- 5.5 Social Value 10%
- 5.6 Price 50%

- 5.7 The qualitative element of the tenders was evaluated by two officers (the Principal Highways Manager and the Asset Manager) together with an industry expert from Watermans. These officers scored the tenders individually and met as a panel with the addition of the Strategic Director for Places to agree moderated scores. The panel was chaired by the Head of Procurement.
- 5.8 Analysis of the financial assessment cost model was undertaken by Watermans and the Head of Procurement. The outcome of the financial analysis was shared after the quality and social value evaluation and moderation had been completed.
- 5.9 During the tender evaluation process, further clarification questions were asked to all bidders in connection with the pricing cost model submitted. The evaluation and moderation of the full tenders submitted has now been completed together with analysis of the total scores of the award criteria (Quality, Social Value and Price) and a winning bid identified. Due diligence checks have taken place on all bidders and no issues have been identified.
- 5.10 A summary and breakdown of scoring against the award criteria for all bidders is provided in exempt Annex A of this report, due to commercial sensitivity.

6 CONSULTATION

- 6.1 A comprehensive soft market test exercise was undertaken with the industry in March 2022 prior to procurement, to ensure the makeup of the contract was viable and that the market was aware of the opportunity to bid. This was further reinforced with a successful industry day to present the make-up of the new contract, which took place in December 2022. Fourteen suppliers attended from both Tier 1 and 2 suppliers and fed back from the market's perspective.
- 6.2 No consultation is required for the award of the Highway Maintenance Term Contract.

7 ALTERNATIVE OPTIONS

- 7.1 The following delivery options were considered and rejected:
- 7.2 Deliver the service in-house. This is a model primarily used by authorities who have their own Direct Labour Organisation (DLO) staff employed by the authority, to deliver. This model would require both delivery staff and a separate contract management structure which the Council does not have sufficient capacity to undertake.
- 7.3 To join Peterborough City Council's contract. The Council were included in Peterborough City Council's original contract which commenced in October 2013 for a period of 10 years plus two 5-year extensions, and therefore had the opportunity to join during that contract period. At the point the Council was ready to procure a new contract, however, it was unclear whether and for how long, the existing Peterborough contract would be extended by. It was not considered viable therefore to join Peterborough's contract as if it had ended without running the full extension period, there would not have been sufficient time to run a comprehensive procurement exercise.
- 7.4 In addition, the option of producing a Rutland-specific bespoke contract was considered. This would have been very labour intensive with no obvious benefits

over using the updated NEC4 contract which is the industry standard and so was rejected.

8 FINANCIAL IMPLICATIONS

- 8.1 The contract value is c£3.5 million per year. Funding comprises both Revenue and Capital grant funding from the Department for Transport (DfT).
- 8.2 There will be some fluctuation in spend under the contract depending on the work needed and exact programme of works undertaken. The annual programme of works for both revenue and capital works and schemes will be set and operated within the Councils Medium-Term Financial Plan.
- 8.3 The proposed new contract will be subject to the Contract's standard annual price fluctuation clause in line with inflation. This enables prices to go both down as well as up, but again the programme of works will be set within the Medium-Term Financial Plan.
- 8.4 In addition, a three-year capital programme for highway capital maintenance as well as integrated transport schemes is being developed to commence for 2024/25 financial year.
- 8.5 The Finance Team have been involved throughout the procurement process, analysis and due diligence undertaken and are comfortable appropriate controls have been followed to manage risk with this contract award.

9 LEGAL AND GOVERNANCE CONSIDERATIONS

- 9.1 The Council has a 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 (HTMC) is a primary contract that allows RCC to fulfil its statutory duties as part of the Council's strategy to keep the highway network safe for the travelling public and communities and meets the strategic aim of "Sustainable Lives".
- 9.2 The current HTMC with our provider Tarmac was 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.
- 9.3 The procurement process was undertaken in line with the Public Contract Regulations 2015, and in line with the council's own Contract Procedure Rules. The approval of award of contract is as set out in the council's Contract Procedure Rules.

10 DATA PROTECTION IMPLICATIONS

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

11 EQUALITY IMPACT ASSESSMENT

- 11.1 An Equality Impact Assessment (EqIA) has not been completed for the following

reasons: The Highways Term Maintenance Contract is a fully encompassing standard contract model and there are no adverse effects of this contract.

12 COMMUNITY SAFETY IMPLICATIONS

12.1 There are no community safety implications on the awarding of this contract.

12.2 The delivery of Highway Maintenance contributes to the safety of Rutland's roads.

13 HEALTH AND WELLBEING IMPLICATIONS

13.1 There are no changed health and wellbeing implications on awarding the contract.

14 ORGANISATIONAL IMPLICATIONS

14.1 Environmental implications

14.2 The contract requires the supplier to explore and implement best practice and the use of new ways of working through innovation, materials and vehicles/plant where practicable, to optimise carbon reduction measures and their usage, while ensuring a functional and cost-effective balance is maintained.

14.3 There are no other direct organisational implications from the award of the contract.

15 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

15.1 Following a thorough and comprehensive procurement process undertaken a winning bidder has been identified. See exempt Annex A.

15.2 The Council's Contract Procedure Rules stipulate that the bidder with the highest evaluation score will be awarded the contract and that in cases where the total value of the contract is at or above £1 million, the contract award must be authorised by Council.

15.3 It is recommended that Council authorises the award of the Highway Terms Maintenance Contract to the highest scoring bidder resulting from this procurement in line with the Award Criteria and as required by the Council's Contract Procedure Rules.

16 BACKGROUND PAPERS

16.1 There are no additional background papers to the report.

17 APPENDICES

17.1 Annex A – Procurement Outcome - marked as "Not For Publication". Annex A contains exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, namely commercially sensitive information.

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