



EXECUTIVE

Wednesday, 8 November 2023

10.00 am

**Council Chamber, Council Offices, Brympton
Way, Yeovil BA20 2HT**

SUPPLEMENT TO THE AGENDA

To: The members of the Executive

We are now able to enclose the following information which was unavailable when the agenda was published:

Agenda Item 12 Award of contract for Highways Services (Pages 3 - 50)

To consider the report (to follow).

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Decision Report - Executive Decision

Forward Plan Reference: FP/23/07/12

Decision Date – 8 November 2023

Key Decision – Yes



Award of contract for highways services

Executive Member(s): Executive Lead Member for Transport and Digital

Local Member(s) and Division: All

Lead Officer: David Carter. Service Director for Infrastructure and Transport

Author: Sarah Stanistreet, Principal Highways Transformation Officer.

Contact Details: sarah.stanistreet@somerset.gov.uk

Summary/Background

1. This is to request a decision to award three contracts for Highway Surfacing, Highway Surface Treatments, and Highway New Assets, to the proposed suppliers as per the attached confidential Appendices A, B and C.

1.1 Highway Surface Treatments services

The contract is for a period of 4 years with the option to extend for a 4 year period. The anticipated contract spend for the full duration is £50m (which includes activities such as Carriageway surface dressing, thin overlay microsurfacing, footway crack sealing, ironwork strengthening & support, footway slurry sealing, preparatory drainage, patching & cleaning, post surfacing road markings, studs & high friction surfacing).

1.2 Highway Surfacing services

The contract is for a period of 4 years with the option to extend for a fixed 4 year period. The anticipated contract spend for the full duration is £50m (which includes activities such as carriageway surfacing, reconstruction, preparatory drainage & footway, post surfacing road markings, studs & high friction surfacing).

1.3 Highway New Assets services

The framework contract is for a period of 4 years. The anticipated contract spend for the duration is £20m to £40m (which includes activities such as safety

improvements & traffic calming, junction improvements, active travel, public transport mobility hubs, electric vehicle infrastructure, third party default works).

2. Somerset Council's current Highways Term Maintenance Contract (TMC) runs for 7 years to the end of March 2024 with the opportunity of three separate further one-year extensions enabled by good performance in achieving contract key performance indicators. The performance requirements which would enable an extension of the contract have not been met. Therefore, under the terms of the contract the existing Highways TMC is due to finish on 31st March 2024 and a new contract or set of contracts will need to be in place on 1st April 2024 to ensure that the Council can continue to deliver essential statutory highway maintenance services (in its capacity as Highway Authority), and construct new small and medium sized new asset schemes (such as safety schemes and infrastructure funded by the Bus Service Improvement Plan, and Active Travel programmes).

Recommendations

3. The Executive

- a. Approves the award of a 4 year contract with the option of a four year extension to Supplier B as identified in the attached confidential Appendix A; for the provision of Highway Surface Treatments services from 1st April 2024.
- b. Approves the award of a 4 year contract with the option of a four year extension to Supplier B as identified in the attached confidential Appendix B; for the provision of Highway Surfacing services from 1st April 2024.
- c. Approves the award of a framework contract for a period of 4 years to Supplier D as identified in the attached confidential Appendix C; for the provision of Highway New Assets services from 1st April 2024.
- e. Delegates the future decision regarding the extension of the contracts beyond their initial term to the Executive Lead Member or equivalent responsible for Highways Services having due regard to the contract terms.

f. Agrees that Appendices A, B and C be treated in confidence, as the case for the public interest in maintaining the exemption outweighs the public interest in disclosing that information.

g. Agrees to exclude the press and public from the meeting where there is any discussion at the meeting regarding exempt or confidential information (Appendices A, B and C).

Reasons for recommendations

4. The proposed suppliers offer best value to the Council, in terms of quality and price in accordance with the published evaluation models.
5. Appendices A, B and C contain exempt information. “Exempt Information” is defined by Section 100 of the Local Government Act 1972 and by Schedule 12A to that Act. The information in Appendices A, B and C is exempt information because it is considered to fall within paragraph 3 of Schedule 12A; “information relating to the financial of business affairs of any particular person (including authority holding that information). The public interest test is then applied and in this instance it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
6. The contracts will deliver Statutory Highway requirements including carriageway surfacing, carriageway surface dressing & other surface treatments.

Other options considered

7. Alternative delivery options were thoroughly considered in the earlier commissioning stages of the process, as set out in the ‘Highway Service Delivery Options Review (Sept 2020)’ which utilised a standardised Future Highways Research Group options toolkit to consider a range of in-house, outsourced and arms-length delivery models. The review concluded that we should continue to utilise highways contracts for elements of service delivery beyond March 2024 whilst strengthening our in-house asset management team.

Links to Council Plan and Medium-Term Financial Plan

8. The contracts will help achieve the Council Plan 2023-27 vision and priorities, in particular the priority for a greener, more sustainable Somerset which notes the importance of reducing carbon emissions from transport; a fairer Somerset which requires a well-maintained highway network to enable access to basic services such as employment, education and healthcare; and a flourishing & resilient Somerset which requires a well-maintained highway network to enable economic activity such as movement of goods.
9. The Medium-Term Financial Planning (MTFP) process is currently considering the cost pressure of maintaining current levels of services under the new contracts taking into account the newly tendered rates. The new contracts do not have any minimum spend thresholds, so the amount of activity delivered through the contracts can be tailored to available budgets at any point in time and can reflect the outcome of the MTFP process each year via the agreement of an annual plan with the contractors.

Financial and Risk Implications

10. There is a likelihood that the new contracts will result in increased rates for capital and revenue highways activity from April 2024 onwards since the previous procurement process (2017) included a pricing mechanism which sought to keep rates for revenue funded services at a level that did not exceed that of the previous contract awarded in 2010. Whilst every effort has been taken through the procurement process to incentivise and achieve the best possible rates the market can offer; it would be unrealistic to assume that the rates awarded in 2010 can still be matched in 2024. A lessons learned review has also concluded that seeking to achieve artificially low rates at the outset of a new contract can lead to a challenging commercial relationship and significant cost claims once in-contract. A contract that is commercially sustainable for the contractor is more likely to lead to a collaborative and innovative relationship that can add real value to delivery of highway services.
11. The key risk is that an increase in rates could lead to reductions in service levels and a failure to achieve published intervention levels, which carries an associated risk of increased personal injury claims. The MTFP process will need to consider options to accommodate an increase in rates in the context of the available capital and revenue budgets including options such as reducing funding for

activity elsewhere, reducing the annual programme of work delivered through the contracts, and if necessary, reducing published service levels.

The budget for Surfacing and Surface Treatments is capital funding, predominantly from DfT: The proposed contracts include the following financial changes which the capital programme will need to account for:

- Surfacing capital works: 5% contract inflation and 9% Contract Price List Fluctuation.
- Surface treatments capital works 5% contract inflation and -25% Contract Price List Fluctuation.

The budget for New Assets is capital funding, from DfT and other sources and varies according to the nature of DfT funding programmes and competitive grants that have been secured. Schemes delivered under the current maintenance contract were usually costed individually by sub-contractors so there is no direct comparison possible with the new rates. The move to a set of agreed rates for items of work will now allow more surety of outturn costs for each scheme.

In the event that service levels and intervention criteria need to change to work within available budgets, then the risk of increased cost claims can be mitigated by updating the intervention criteria set out in the highway safety inspection manual. It is considered that the risk of not awarding these contracts at this stage is greater given that the Council would then have no service delivery arrangements in place to continue to deliver statutory maintenance services beyond March 2024.

| | | | | | |
|-------------------|----------|---------------|----------|-------------------|----------------|
| Likelihood | 3 | Impact | 3 | Risk Score | 9 (Med) |
|-------------------|----------|---------------|----------|-------------------|----------------|

Legal Implications

12. These decisions will enable the Council to continue to deliver its statutory highway services. Consultation with Legal Services and Commercial & Procurement Services started in 2021. These services have supported the development of these contracts through to this recommendation report. Specialist external Legal Services were engaged when deemed necessary by the Council's Legal Team. A compliant procurement process has been undertaken to enable a contract award to be made to the successful tenderers.

13. The situation regarding Somerset Council property for these three contracts is as follows:
- **Surface Treatments:** Somerset Council owned chipping landings. The tender documents state that Somerset Council makes available to the surface treatments contractor a number of chipping landings across Somerset. As part of the mobilisation for this new contract, the new surface treatments contractor will inform Somerset Council which, if any, of these landings it intends to use in connection with providing the service. Once this list has been confirmed, then a Licence to Occupy will be compiled and signed to cover this.
 - **Surfacing:** No Somerset Council property involved.
 - **New Asset Delivery:** No Somerset Council property involved.

HR Implications

14. Any change in contractor will involve consideration of Transfer of Undertakings (Protection of Employment) (TUPE) Regulations 2006. Advice has been sought and provided from the HR Team with ongoing engagement. The highways service `organisational structure and business processes will also need to adapt to reflect the changes in the model of service delivery.

Other Implications:

Equalities Implications

15. The Somerset Equality Impact Assessment is appended to this report. Highway contracts can have various equality implications, and it is essential for Somerset Council and its contractors to consider and address these implications to ensure fairness, non-discrimination, and inclusivity. These have been considered and addressed through the commissioning and procurement phase, the demobilisation of the current contracts, and mobilisation of the new contracts. Some of the key equality implications considered include:
- **Equal opportunity in contracting:** When awarding highway contracts, Somerset Council has ensured fair and equal opportunities for all potential contractors, regardless of their size, ownership, or previous contracting experience. This has served to avoid discriminatory practices that favour certain groups or companies which can lead to inequalities in the distribution of public contracts.

- **Supplier diversity:** Encouraging supplier diversity in highway contracts can have positive equality implications. Somerset Council has provided no barriers for main contractors or suppliers owned by minorities, women, veterans, or other underrepresented groups as contractors or subcontractors. Whilst further work will be necessary after contract award, the Council is committed to promote economic inclusion and help reduce disparities in contracting opportunities.
- **Fair employment practices:** Contractors are required to follow fair employment practices, including non-discrimination policies, equal pay for equal work, social inclusion, and reasonable accommodation for individuals with disabilities. These policies, sponsored through social value initiatives, will promote equality among workers and ensure a diverse and inclusive workforce.
- **Accessibility and inclusivity:** Highway contracts should include provisions for accessibility and inclusivity, such as designing and maintaining roads and infrastructure to accommodate individuals with disabilities. The Council will be assuming the design function as part of the procurement process so a more integrated, and community-driven approach through Local Community Networks, will be advocated.
- **Environmental justice:** The Council will ensure that highway projects do not disproportionately impact communities as reasonably practicable. Scheme development will assess the potential environmental and health impacts of maintenance activities and mitigate any adverse effects on vulnerable communities.
- **Community engagement:** Somerset Council will involve the local community, especially underrepresented groups, in the decision-making process for highway projects. The Local Community Networks together with highway and traffic representatives will ensure that their concerns and needs are considered during planning and implementation.
- **Monitoring and reporting:** Through highway contract mobilisation, Somerset Council and its contractors will agree and establish mechanisms for monitoring and reporting on equality-related metrics throughout the duration of the contracts. This may include tracking the diversity of the workforce, adherence to fair employment practices, social value, and any environmental justice concerns.
- **Training and awareness:** The Council requires its contractors and subcontractors to provide training on diversity, equity, and inclusion to their employees working on the project. This helps foster a more inclusive work

environment and reduces the potential for discrimination. This has been evaluated as part of the procurement process.

- **Dispute resolution mechanisms:** The Council, working in collaboration with its contractors, will establish clear dispute resolution mechanisms in case issues related to equality and discrimination arise during the contract's execution. This will allow for a fair and timely resolution of conflicts.

Community Safety Implications

16. The implications for community safety have been considered and as the decision is to award replacement contracts this represents no change. The responsibility for policy and direction of services remains with the Council.
17. The implications for the public's perception of crime and disorder and anti-social behaviour rates in their neighbourhood in Somerset. The implications have been considered and as the decision is to award replacement contracts this represents no change. The responsibility for policy and direction of services remains with the Council.
18. The implications have been considered and as the decision is to award replacement contracts this represents no change. The responsibility for policy and direction of services remains with the Council.

Climate Change and Sustainability Implications

19. It is hard-wired into the contracts that there will be up to a 50% reduction in carbon emissions over 4 to 8 years. These contracts will collaborate with other Highway contracts via the Highways Contracts Collaborative Board. The carbon emissions in this contract will be baselined in year 1 and monitored using the Future Highways Research Group (FHRG) Carbon Calculation & Accounting Standard & Carbon Analyser (CCAS).
20. Key areas where decarbonisation will be achieved are as follows:
 - All vehicles up to and including 3.5 tonnes GVW must be EV within 18 months of the start of the contracts for the surfacing and surface treatments contracts. By moving to electric vehicles for 3.5 tonnes and under (and indeed much of the larger vehicle stock), and possibly moving to other alternative fuels for larger vehicles, there will be a significant reduction in vehicle emission pollution.

- There is an emphasis on recycling to reduce waste, reduce carbon emissions and lessen the use of virgin materials such as aggregates which will reduce the demand on quarry products.
- The contracts will focus on reducing climate change factors by considering commuting to work, travel at work, processes and materials as these all form part of the Scope 3 Emissions that are actively monitored in these contracts.

21. Continuing to maintain the highway will have no effect on the Council's ability to meet the Local Development Framework.

Health and Safety Implications

22. Health and safety implications have been considered. The new contracts include specific health and safety requirements for the contractors.

23. The highways construction and maintenance sector places considerable importance on the health and safety of the workforce and communities and customers.

24. The contractors' approach to health and safety was scored as part of the tender evaluation process and the successful tenderers met the requirements set out.

Health and Wellbeing Implications

25. Health and wellbeing implications have been considered and the contracts present no adverse impacts on health and wellbeing. The Highway services provided through the contracts include maintaining routes used for active travel.

Social Value

26. The tender process required contractors to propose Social Value commitments in line with the Themes Outcomes Measures approach and the social value benefits associated with the proposed contractors are discussed in the confidential Appendices.

Scrutiny comments / recommendations:

27. Scrutiny considered the procurement strategy and are content that the award of the contracts proceed.

Background

28. A great deal of preparatory work has been undertaken through the stages of the commissioning cycle to date including:
 - Financial analysis of spend through the contract (June 2021).
 - Value for money review to establish a benchmarked value for money position compared to other authorities for current highway service/ contract delivery and improvement priorities. (issued June 2021)
 - Lessons-learned review in respect of procurement and delivery of the current highways contract. This covered overall approach and outcomes, commercial and contract, service delivery, fleet maintenance and new asset delivery (April 2021).
 - Highway service delivery options review utilising a standardised Future Highways Research Group options toolkit. (issued Sept 2020).
 - Internal scoping workshop to consider the preferred shape and scope of a replacement term maintenance contract. (July 2021).
 - Highway services market analysis undertaken by DMSqd independent highways services consultancy. (issued August 2021).

29. In October 2021 the Project Board approved a new procurement strategy, based on the above, for replacing the current arrangements by dividing the Term Maintenance Contract activity into 4 separate contracts, (Term Maintenance Service, Surfacing, Surface Treatments, and New Assets Delivery). A separate related contract for maintenance of highway lighting and electrical assets is also being progressed.

30. A Non-Key Decision was taken in November 2021 authorising commencement of a procurement process and market engagement activity, and to appoint Mills & Reeve as legal advisors to support the creation of contract Terms and Conditions under the Framework 'Wider Public Sector Legal Services RM3788'.

31. In January 2022 a Prior Information Notice (PIN) Market Engagement – Highways Maintenance Future Requirements was published. In February 2022 a virtual Market Engagement event was held. During March and April 2022, a total of 21 one-to-one sessions were held with the industry to test and refine the procurement strategy prior to preparing detailed contract documents.

32. In June 2022 Hampshire County Council (HCC) undertook a peer review of the draft contract documentation which informed the programming, production and content of the contract documents from then on.

33. No public consultation has taken place since the contracts are simply a replacement mechanism to deliver existing highway activities which are set out in published service policy and standards.
34. The agreed procurement approach aims to:
- Take more control over the design and delivery of the highways programmes, taking a stronger client asset management approach and determining the most appropriate standards and locations for treatment.
 - Develop a more direct relationship with the supply chain, reducing outsourced management of sub-contractors and enabling direct discussion about potential innovation.
 - Provide a more bespoke arrangement for delivery of new asset schemes (such as small and medium sized improvement schemes) to give greater cost predictability.
 - Where possible incorporate specification of a wider range of Unitary Council public realm maintenance services rather than solely highway related services (e.g., by widening the highway lighting contract to incorporate all illuminated and electrical assets) and allow flexibility for a wider range of relevant Unitary Council public realm maintenance services to be delivered through these contracts over time.
 - Include explicit requirements for up to 50% reduction in carbon emissions over the lifetime of the contracts through an agreed climate change plan.
35. Following the preparation and review of contract documents including the scope of works, contract terms and evaluation process; an Invitation to Tender (ITT) for a new Surface Treatments contract was issued on 23rd June 2023, with final tenders received 18th August 2023; an Invitation to Tender (ITT) for a new Surfacing contract was issued on 23rd June 2023, with final tenders received 1st September 2023; an Invitation to Tender (ITT) for a New Assets framework contract was issued on 14th July 2023, with final tenders received 6th October 2023.

Background Papers

Non-Key Decision to commence procurement of highways contracts Nov 2021

Appendices

- Appendices A, B and C – Confidential Tender Evaluation Reports

Report Sign-Off

| | Officer Name | Date Completed |
|-------------------------------------|--|----------------|
| Legal & Governance Implications | David Clark | 31/10/23 |
| Communications | Peter Elliot | 26/10/23 |
| Finance & Procurement | Jason Vaughan/ Nicola Hix | 31/10/23 |
| Workforce | Alyn Jones | 31/10/23 |
| Asset Management | Charlie Field on behalf of Oliver Woodhams | 30/10/23 |
| Executive Director / Senior Manager | Mickey Green | 30/10/23 |
| Strategy & Performance | Alyn Jones | 31/10/23 |
| Executive Lead Member | Cllr Mike Rigby, Executive Lead Member for Transport and Digital | 18/10/23 |
| Consulted: | | |
| Local Division Members | All | |
| Opposition Spokesperson | Cllr Diogo Rodrigues, opposition Spokesperson for Transport. | 22/10/23 |
| Scrutiny Chair | Cllr Martin Dimery, Chair of Scrutiny for Climate and Place | 18/10/23 |

NOT USUALLY PUBLISHED ON THE COUNCIL'S WEBSITE (SEE GUIDANCE NOTES)

Decision Report - Non-Key Decision

Decision Date - 12/11/21



NON-KEY DECISION TAKEN BY THE DIRECTOR FOR ECONOMIC AND COMMUNITY INFRASTRUCTURE COMMISSIONING

Author Contact Details: Mike O'Dowd-Jones / Strategic Commissioning Manager
Highways and Transport / 01823 356238

Details of the decision:

That the Director of Economic and Community Infrastructure Commissioning:

- Authorises commencement of a procurement process and market engagement activity to replace the current Highways Term Maintenance contract by April 2024.
- Appoint Mills & Reeve as legal advisors to support creation of contract Terms and Conditions under the Framework 'Wider Public Sector Legal Services RM3788' to a maximum value of £200k (noting that the cost incurred under this contract is likely to be of the order of £100k-£150k).

Reasons for the decision:

Somerset County Council's current Highways Term Maintenance Contract (TMC) runs for 7 years to the end of March 2024 with the opportunity of three separate one-year extensions enabled by good performance in achieving contract key performance indicators. The contractor (Milestone) has not met the performance requirements which would enable extension of the contract. Therefore, under the terms of the contract the existing Highways TMC is due to finish on the 31st March 2024 and a new contract or set of contracts will need to be in place on the 1st April 2024 to ensure that the Council can continue to deliver essential highway maintenance services and construct new small and medium sized new asset schemes (such as the small improvement schemes, and safety schemes programmes).

Background to the decision:

Background

Skanska was awarded current the Highway Term Maintenance contract which commenced in April 2017 following a competitive procurement process. The contract subsequently transferred to Milestone in 2021 who acquired the Skanska highways business. The approximate annual value is circa £30m although this varies according to the available budget, with government grants tending to fluctuate significantly on an annual basis. The scope of the contract covers a wide range of capital (construction) and revenue (service

based) highway maintenance activity including winter and emergency service; and includes design services and construction of certain smaller new asset schemes.

Under the terms of the contract, it is due to finish on the 31st March 2024 and a new contract or set of contracts will need to be in place on the 1st April 2024.

A great deal of preparatory work has been undertaken through the stages of the commissioning cycle to date including:

- A financial analysis of spend through the contract to date (June 2021).
- A value for money review to establish a benchmarked value for money position compared to other authorities for current highway service/ contract delivery and improvement priorities. (issued June 2021)
- A lessons-learned review in respect of procurement and delivery of the current highways contract. This covered overall approach and outcomes, commercial and contract, service delivery, fleet maintenance and new asset delivery (April 2021).
- A highway service delivery options review utilising a standardised Future Highways Research Group options toolkit. (issued Sept 2020).
- An internal scoping workshop to consider the preferred shape and scope of a replacement term maintenance contract. (July 2021).
- A highway services market analysis undertaken by DMSqd independent highways services consultancy. (issued August 2021).

A detailed project programme has been developed to undertake the procurement process between now with invitation to tender programmed for August 2022 and contract award targeted for September 2023 in order to enable mobilisation by April 2024. Resources are currently being put in place to support this programme within commissioning, commercial & procurement and highways operations. Engagement and input will also be needed from finance and HR services with TUPE issues likely to need HR resource at the relevant point in the process.

The next stage is to undertake a Market Engagement process with contractors in the Highways Sector to validate our assumptions regarding the preferred scope and formulation of contracts for effective delivery of highway maintenance services and delivery of new highway assets beyond 2024. This decision will enable the Market Engagement stage to commence shortly.

External expert legal support is required to prepare the legal contract documentation and having reviewed options it is proposed to appoint the firm Mills and Reeve who have substantial experience on advising the Council on highways contract matters. A compliant route to market to appoint Mills and Reeve is through the framework 'Wider Public Sector Legal Services RM3788' which is available to the Council and enables a direct award for services up to £200k value. Additional top-up resource from technical consultancies may well also be needed via existing frameworks for discrete elements of subject matter expertise.

Financial, legal and business risk implications.

The Medium Term Financial Plan (MTFP) has allocated £100k in 21/22 and indicatively £200k in 22/23 (subject to approval by Members in February 2022) to undertake this activity and this along with current vacancy underspends in highways and transport commissioning for 21/22 (circa £90k) is currently considered sufficient financial resource to undertake the procurement process.

There is a likelihood that the new contract from 2024 will result in increased rates for capital and revenue highways activity since the previous procurement process (2017) included a price hurdle which sought to keep revenue rates in particular at a level that did not exceed that of the previous contract awarded in 2010. Whilst every effort will be taken through the procurement process to incentivise and achieve the best possible rates the market can offer, it would be unrealistic to assume that the rates awarded in 2010 can still be matched in 2024. The lessons learned review has also concluded that seeking to achieve artificially low rates at the outset of a new contract can lead to a challenging commercial relationship and significant cost claims once in-contract. A Contract that allows an appropriate profit margin for the contractor is more likely to lead to a collaborative and innovative relationship that can add real value to delivery of highway services. The MTFP process in the lead-up to award of the new contract will need to take account of financial modelling for the new contract which will emerge from the tender process. The MTFP process will need to consider options to accommodate an increase in rates in the context of the available capital and revenue budgets at the time including options such as reducing funding for activity elsewhere, reducing the annual programme of work delivered through the contracts, and reducing service levels on revenue funded routine maintenance activity.

The new contract is likely to lead to a limited insourcing of some functions which are currently undertaken by the contractor and there will likely be TUPE processes to undertake as part of the demobilisation and mobilisation process. The highways service organisational structure is also likely to need to adapt to reflect the changes in the model of service delivery.

‘Due regard’ considerations.

Consideration has been given to people with protected characteristics. Whilst this work is at a very early stage with a decision to commence the procurement stage, an initial review has identified potentially positive outcomes as follows:

- Continued delivery of a well-maintained highway which if not maintained would present risks (such as trip hazards on footways) to older people and people with disabilities.
- Continued delivery of a well-maintained highway which is essential in providing rural areas with access to essential services.

Links to the County Vision, Business Plan.

The new highways contract or contracts will have strong links to the following business plan outcomes:

- A county infrastructure that drives recovery, supports economic prosperity, productivity and sustainable public services.

- Safe, vibrant and well-balanced communities, able to enjoy and benefit from the natural environment whilst addressing climate change.

Alternative options considered and rejected.

- Options around the timing of this procurement process have been considered and it has been concluded that, given the terms of the current contract, if we wish to use a contract for highway service delivery beyond March 2024 than we have a legal responsibility to undertake a compliant procurement process.
- Many options have been considered regarding delivery options for highway services as set out in the commissioning work referred to above. The work concludes that we should continue to utilise highways contracts for elements of service delivery beyond March 2024. The market engagement work triggered by this decision will enable us to complete the procurement strategy and finalise the shape and scope of contracts to be procured, and take a formal decision on these matters under the Councils scheme of delegation.

Background papers:

None.

Compliance section:

| | |
|--|--------------------------|
| Members consulted; members informed : | Yes |
| Officer consultations completed: | Yes |
| Senior (including statutory) officer sign off completed | Yes |
| Public / other consultations undertaken | Not considered necessary |
| Do you have sufficient budget or additional funding available and approval to commit this budget or funding and has this been confirmed with the appropriate Finance Service or Strategic Manager? | Yes |
| Are there any legal considerations to be made? | Yes |
| Has Legal Services been consulted (specific requirement for changes in service delivery, procurement, contracts or property matters? | Yes |
| Are there any TUPE implications arising? | Yes |
| Has HR/OD been consulted? | Yes |
| Is the decision likely to lead to a procurement exercise or contract award / change ? | Yes |
| Has the Commercial and Procurement Team been consulted? | Yes |
| Strategic Commissioning Group consulted for commissioning ? | Yes |
| Are there any risks arising? (liaise with Pam Pursley regarding these below. | Yes – see below. |
| Have mitigating actions already been taken? | Yes |
| Have all Due Regard (equalities) implications been considered? (liaise with Tom Rutland regarding these) | Yes |
| If ticked 'No' or 'not considered necessary' for any of the above, please provide your justification below: | |

Public consultation: Public consultation with respect to the contractual form of service delivery is not considered necessary or appropriate.

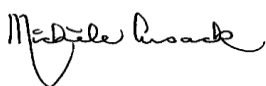
Risks: Risk in commencing the procurement process has been carefully considered and the key risk identified is the impact on other highways activity in directing staff capacity at this project. The project board to director level considers that as there is no choice but to undertake this activity, the risks should be monitored and managed appropriately. A specific risk in relation to the commercial management of the existing contract has been identified and will be monitored whilst there is reduced capacity in that area (for approximately 3 months).

| Member consultation completed: | Name(s) | Date |
|--|---|-------------|
| Relevant local County Councillors consulted where decision directly affects their Division | Not Applicable. | |
| Relevant Cabinet Member(s) consulted (if applicable) | Cllr John Woodman – Cabinet Member for Highways and Transport | 05/11/21 |
| Opposition Spokesperson informed (if applicable) | Cllr Mike Rigby – Opposition Spokesperson. | 11/11/21 |
| Chairman of relevant Scrutiny informed (if applicable) | Cllr Anna Groskop for Scrutiny Place | 11/11/21 |

Decision Maker

I am aware of the details of this decision, have considered the reasons, options, representations and consultation responses (where applicable) and give my approval / agreement to its implementation.

Signed by relevant SLT Director:



Name: Michele Cusack.

Post: Director Economic and Community Infrastructure Commissioning

Date: 15.11.21

Note – a copy of this signed decision should be sent to Scott Wooldridge, Monitoring Officer, Democratic Services

Somerset Equality Impact Assessment

Before completing this EIA please ensure you have read the EIA guidance notes – available from your Equality Officer

| | | | |
|---|---|-------------|----------|
| Version | 1 | Date | 05/11/21 |
| Description of what is being impact assessed | | | |
| Decision to commence procurement of a new highways contract or contracts. | | | |
| Evidence | | | |
| <p>What data/information have you used to assess how this policy/service might impact on protected groups? Sources such as the Office of National Statistics, Somerset Intelligence Partnership, Somerset's Joint Strategic Needs Analysis (JSNA), Staff and/ or area profiles,, should be detailed here</p> | | | |
| Professional judgement on typical impacts of highways service activity. | | | |
| Who have you consulted with to assess possible impact on protected groups? If you have not consulted other people, please explain why? | | | |
| None. Initial decision to commence procurement activity so consultation with protected groups not appropriate at this stage. | | | |

13/06/20

Analysis of impact on protected groups

The Public Sector Equality Duty requires us to eliminate discrimination, advance equality of opportunity and foster good relations with protected groups. Consider how this policy/service will achieve these aims. In the table below, using the evidence outlined above and your own understanding, detail what considerations and potential impacts against each of the three aims of the Public Sector Equality Duty. Based on this information, make an assessment of the likely outcome, before you have implemented any mitigation.

| Protected group | Summary of impact | Negative outcome | Neutral outcome | Positive outcome |
|--------------------------------|--|------------------|-----------------|------------------|
| Age | <ul style="list-style-type: none"> New contract will enable continued delivery of a well-maintained highway which if not maintained would present risks (such as trip hazards on footways) to older people. | ☐ | ☐ | ☒ |
| Disability | <ul style="list-style-type: none"> New contract will enable continued delivery of a well-maintained highway which if not maintained would present risks (such as trip hazards on footways) to people with disabilities. | ☐ | ☐ | ☒ |
| Gender reassignment | <ul style="list-style-type: none"> None identified. | ☐ | ☒ | ☐ |
| Marriage and civil partnership | <ul style="list-style-type: none"> None identified | ☐ | ☒ | ☐ |
| Pregnancy and maternity | <ul style="list-style-type: none"> None identified | ☐ | ☒ | ☐ |

| | | | | |
|---|---|---|---|---|
| Race and ethnicity | <ul style="list-style-type: none"> None identified | □ | ⊗ | □ |
| Religion or belief | <ul style="list-style-type: none"> None identified | □ | ⊗ | □ |
| Sex | <ul style="list-style-type: none"> None identified | □ | ⊗ | □ |
| Sexual orientation | <ul style="list-style-type: none"> None identified | □ | ⊗ | □ |
| Other, e.g. carers, veterans, homeless, low income, rurality/isolation, etc. | <ul style="list-style-type: none"> New contract will enable continued delivery of a well-maintained highway which is essential in providing rural areas with access to essential services. | □ | □ | ⊗ |

Negative outcomes action plan

Where you have ascertained that there will potentially be negative outcomes, you are required to mitigate the impact of these. Please detail below the actions that you intend to take.

| Action taken/to be taken | Date | Person responsible | How will it be monitored? | Action complete |
|--------------------------|-------------|--------------------|---------------------------|-----------------|
| None | Select date | | | □ |
| | Select date | | | □ |
| | Select date | | | □ |

| | | | | |
|--|-------------|--|--|--------------------------|
| | Select date | | | <input type="checkbox"/> |
| | Select date | | | <input type="checkbox"/> |
| | Select date | | | <input type="checkbox"/> |
| | Select date | | | <input type="checkbox"/> |
| | Select date | | | <input type="checkbox"/> |

If negative impacts remain, please provide an explanation below.

N/A




Page 2

| | |
|---|--------------------------|
| Completed by: | Mike O'Dowd-Jones |
| Date | 05/11/21 |
| Signed off by: | Mike O'Dowd-Jones |
| Date | 05/11/21 |
| Equality Lead/Manager sign off date: | |
| To be reviewed by: (officer name) | |
| Review date: | |

(Officer Non-Key Decision between £50k and £499k – [Click **here** and type date])

Somerset Equality Impact Assessment

Before completing this EIA please ensure you have read the EIA guidance notes – available from your Equality Officer or www.somerset.gov.uk/impactassessment

| | | | | | | |
|--|--|--------------------------------------|--|-------------------|--|--|
| Organisation prepared for (mark as appropriate) |  Somerset Council | <p style="text-align: center;">x</p> |  NHS Somerset | |  NHS Somerset NHS Foundation Trust | |
| Version | 1 | | Date Completed | 31/10/2023 | | |
| Description of what is being impact assessed | | | | | | |
| <p>Decision to award 3 contracts for the provision of Highway services, as follows:</p> <ul style="list-style-type: none"> • Highway Surfacing services • Highway Surface Treatments services • Highway New Assets services <p>The provision of Highway Surfacing services, which include but are not limited to the following: Carriageway surfacing, Preparatory drainage & Footway, Carriageway reconstruction, Post-Surfacing road markings, studs & high friction surfacing.</p> <p>The provision of Highway Surface Treatments services, which include but are not limited to the following: Carriageway surface dressing, Carriageway/Footway crack sealing, Footway slurry sealing, Preparatory drainage, patching & cleaning, Carriageway thin overlay microsurfacing, Carriageway retexturing, Carriageway ironwork strengthening & support, Post-surfacing road markings, studs & high friction surfacing.</p> <p>The provision of Highway New Assets services, which include but are not limited to the following: Safety improvements/traffic calming, Active travel, Public transport infrastructure/mobility hubs, Junction improvements, Electric vehicle infrastructure, Third party default works.</p> | | | | | | |

| Evidence | | | | |
|---|---|------------------|-----------------|------------------|
| <p>What data/information have you used to assess how this policy/service might impact on protected groups? Sources such as the Office of National Statistics, Somerset Intelligence Partnership, Somerset's Joint Strategic Needs Analysis (JSNA), Staff and/ or area profiles, should be detailed here</p> | | | | |
| <p>There is not intended to be a change in policy or public facing services, and the specifications of the contracts is very similar to the existing contracts. The responsibility for policy and direction of services remains with the Council. The contractor will deliver works in accordance with the Dignity at Work Code of Practice.</p> | | | | |
| Who have you consulted with to assess possible impact on protected groups and what have they told you? If you have not consulted other people, please explain why? | | | | |
| <p>The Council's Public Health Promotions Manager – Equalities has been consulted.</p> | | | | |
| Analysis of impact on protected groups | | | | |
| <p>The Public Sector Equality Duty requires us to eliminate discrimination, advance equality of opportunity and foster good relations with protected groups. Consider how this policy/service will achieve these aims. In the table below, using the evidence outlined above and your own understanding, detail what considerations and potential impacts against each of the three aims of the Public Sector Equality Duty. Based on this information, make an assessment of the likely outcome, before you have implemented any mitigation.</p> | | | | |
| Protected group | Summary of impact | Negative outcome | Neutral outcome | Positive outcome |
| Age | <ul style="list-style-type: none"> Having considered this characteristic, there are no disproportionate impacts either positive or negative. | □ | ☒ | □ |

| | | | | |
|---------------------------------------|--|---|---|---|
| Disability | <ul style="list-style-type: none"> Having considered this characteristic, these contracts will allow the Council to deliver its aspirations to improve access for those people with mobility issues (such as wheelchairs, walking frames etc), and those with visual impairments. This will apply to schemes for both the improvement and maintenance of the highway asset. | □ | □ | ☒ |
| Disability | <ul style="list-style-type: none"> During the construction phase of highway works, it is potentially possible that there may be temporary situations when it is not possible to provide access for those people with mobility issues (such as wheelchairs, walking frames etc) and those with visual impairments. This will apply to schemes for both the improvement and maintenance of the highway asset. | ☒ | □ | □ |
| Gender reassignment | <ul style="list-style-type: none"> During the construction phase of highway works, it is potentially possible that there may be situations when operatives of the contractors may use derogatory language directed at people passing by the site who are undergoing or have undergone gender reassignment. | ☒ | □ | □ |
| Marriage and civil partnership | <ul style="list-style-type: none"> Having considered this characteristic, there are no disproportionate impacts either positive or negative. | □ | ☒ | □ |
| Pregnancy and maternity | <ul style="list-style-type: none"> Having considered this characteristic, these contracts will allow the Council to deliver its aspirations to improve access for people using pushchairs and holding children by hand. This will apply to schemes for both the improvement and maintenance of the highway asset. | □ | □ | ☒ |

| | | | | |
|--|---|---|---|---|
| Pregnancy and maternity | <ul style="list-style-type: none"> • During the construction phase of highway works, it is potentially possible that there may be temporary situations when it is not possible to provide access for people using pushchairs and holding children by hand. This will apply to schemes for both the improvement and maintenance of the highway asset. | ☒ | ☐ | ☐ |
| Race and ethnicity | <ul style="list-style-type: none"> • During the construction phase of highway works, it is potentially possible that there may be situations when operatives of the contractors may use derogatory language directed at people passing by the site who are of different races or ethnicities. | ☒ | ☐ | ☐ |
| Religion or belief | <ul style="list-style-type: none"> • During the construction phase of highway works, it is potentially possible that there may be situations when operatives of the contractors may use derogatory language directed at people passing by the site who are of different religions or hold different beliefs. | ☒ | ☐ | ☐ |
| Sex | <ul style="list-style-type: none"> • During the construction phase of highway works, it is potentially possible that there may be situations when operatives of the contractors may use derogatory language directed at people passing by the site who are of different sexes. | ☒ | ☐ | ☐ |
| Sexual orientation | <ul style="list-style-type: none"> • During the construction phase of highway works, it is potentially possible that there may be situations when operatives of the contractors may use derogatory language directed at people passing by the site who are of different sexual orientation. | ☒ | ☐ | ☐ |
| Armed Forces (including serving personnel, families and veterans) | <ul style="list-style-type: none"> • Having considered this characteristic, these contracts incorporate the Somerset Armed Forces Covenant in the Social Value Calculator. | ☐ | ☐ | ☒ |

| | | | | |
|--|--|---|---|---|
| <p>Other, e.g. carers, low income, rurality/isolation, etc.</p> | <ul style="list-style-type: none"> Having considered this characteristic, these contracts will allow the Council to deliver its aspirations for accessibility for rural and isolated communities. | □ | □ | ☒ |
|--|--|---|---|---|

Negative outcomes action plan
 Where you have ascertained that there will potentially be negative outcomes, you are required to mitigate the impact of these. Please detail below the actions that you intend to take.

| Action taken/to be taken | Date | Person responsible | How will it be monitored? | Action complete |
|--|------------|--------------------|---|-----------------|
| <p>Disability:</p> <p>During the construction phase of highway works, it is potentially possible that there may be temporary situations when it is not possible to provide access for those people with mobility issues (such as wheelchairs, walking frames etc) and those with visual impairments. This will apply to schemes for both the improvement and maintenance of the highway asset.</p> <p>These potentially negative outcomes are mitigated by the requirement in the contracts that temporary measures must be implemented by the contractor in line with "Safety at Street Works and Road Works: a Code of Practice".</p> | 01/04/2024 | Head of Operations | Regular contract checks and monitoring ensuring compliance throughout the length of the contract. | □ |
| <p>Gender reassignment</p> <p>During the construction phase of highway works, it is potentially possible that there may be situations when operatives of the contractors may use derogatory language</p> | 01/04/2024 | Head of Operations | Regular contract checks and monitoring ensuring compliance throughout the | □ |

| | | | | |
|--|------------|--------------------|---|---|
| <p>directed at people passing by the site who are undergoing or have undergone gender reassignment.</p> <p>These potentially negative outcomes are mitigated by the inclusion in the contracts of the Somerset Council "Dignity at Work Code of Practice" so that the contractors and their operatives are bound by the same requirements as Somerset Council and its employees.</p> | | | length of the contract. | |
| <p>Pregnancy and maternity:</p> <p>During the construction phase of highway works, it is potentially possible that there may be temporary situations when it is not possible to provide access for people using pushchairs and holding children by hand. This will apply to schemes for both the improvement and maintenance of the highway asset.</p> <p>These potentially negative outcomes are mitigated by the requirement in the contracts that temporary measures must be implemented by the contractor in line with "Safety at Street Works and Road Works: a Code of Practice".</p> | 01/04/2024 | Head of Operations | Regular contract checks and monitoring ensuring compliance throughout the length of the contract. | □ |
| <p>Race and ethnicity:</p> <p>During the construction phase of highway works, it is potentially possible that there may be situations when operatives of the contractors may use derogatory language directed at people passing by the site who are undergoing or have undergone gender reassignment.</p> | 01/04/2024 | Head of Operations | Regular contract checks and monitoring ensuring compliance throughout the length of the contract. | □ |

| | | | | |
|--|------------|--------------------|---|---|
| <p>These potentially negative outcomes are mitigated by the inclusion in the contracts of the Somerset Council "Dignity at Work Code of Practice" so that the contractors and their operatives are bound by the same requirements as Somerset Council and its employees.</p> | | | | |
| <p>Religion and belief:</p> <p>During the construction phase of highway works, it is potentially possible that there may be situations when operatives of the contractors may use derogatory language directed at people passing by the site who are of different religions or hold different beliefs.</p> <p>These potentially negative outcomes are mitigated by the inclusion in the contracts of the Somerset Council "Dignity at Work Code of Practice" so that the contractors and their operatives are bound by the same requirements as Somerset Council and its employees.</p> | 01/04/2024 | Head of Operations | Regular contract checks and monitoring ensuring compliance throughout the length of the contract. | □ |
| <p>Sex:</p> <p>During the construction phase of highway works, it is potentially possible that there may be situations when operatives of the contractors may use derogatory language directed at people passing by the site who are of different sexes.</p> <p>These potentially negative outcomes are mitigated by the inclusion in the contracts of the Somerset Council "Dignity at Work Code of Practice" so that the contractors and their</p> | 01/04/2024 | Head of Operations | Regular contract checks and monitoring ensuring compliance throughout the length of the contract. | □ |

| | | | | | |
|--|--|--|--------------------|---|--------------------------|
| operatives are bound by the same requirements as Somerset Council and its employees. | | | | | |
| <p>Sexual Orientation:</p> <p>During the construction phase of highway works, it is potentially possible that there may be situations when operatives of the contractors may use derogatory language directed at people passing by the site who are of different sexual orientation.</p> <p>These potentially negative outcomes are mitigated by the inclusion in the contracts of the Somerset Council "Dignity at Work Code of Practice" so that the contractors and their operatives are bound by the same requirements as Somerset Council and its employees.</p> | | 01/04/2024 | Head of Operations | Regular contract checks and monitoring ensuring compliance throughout the length of the contract. | <input type="checkbox"/> |
| If negative impacts remain, please provide an explanation below. | | | | | |
| None remaining. | | | | | |
| Completed by: | | David Peake, Service Manager - Highways | | | |
| Date | | 31/10/2023 | | | |
| Signed off by: | | Mike O'Dowd-Jones, Strategic Manager - Highways and Transport | | | |
| Date | | 31/10/2023 | | | |
| Equality Lead sign off name: | | | | | |

| | |
|--|--|
| Equality Lead sign off date: | |
| To be reviewed by: (officer name) | |
| Review date: | |

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