

Decision Report - Executive Decision

Forward Plan Reference: FP/23/10/11

Decision Date – 06 December 2023

Key Decision – Yes



Award of contract for highway lighting, illuminated and electrical assets

Executive Member(s): Cllr Mike Rigby. Executive Lead Member for Transport and Digital
Local Member(s) and Division: All

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

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Summary/Background

1. This is to request a decision to award a contract for Highway Lighting, Illuminated & Electrical Assets. The contract is for a period of 8 years with the option to extend for a fixed 4 year period.
2. The anticipated contract spend for the full duration is £15m to £30m for highway lighting and may be up to £75m including the electrical assets previously owned by the four District Councils (which includes routine services, electrical & structural testing, emergency attendance, non-routine replacements major asset replacement, LED conversions).

Recommendations

3. The Executive
 - a. Delegates approval of the award of an 8 year contract with the option of a four year extension for the provision of Highway Lighting, Illuminated & Electrical Assets to the Leader in consultation with the Executive Director for Climate and Place. The award to be made in accordance with the outcome of the published tender evaluation process and contract to commence from 1st April 2024.
 - b. Delegates the future decision regarding the extension of the contract beyond the initial term to the Executive Lead Member or equivalent responsible for Highways Services having due regard to the contract terms.

Reasons for recommendations

4. The proposed supplier offers best value to the Council, in terms of quality and price in accordance with the published evaluation models.

5. A requirement for submission of additional information to enable completion of the tender process has resulted in a short delay to the process, such that a delegated decision is necessary to award the contract with sufficient time for mobilisation before the start date.
6. The contract will deliver Statutory Highway requirements including maintenance and improvement of highway lighting & other electrical assets.

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 suite of highways 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. The financial pressure associated with the Highway Lighting, Illuminated & Electrical Assets contract scope and terms are being considered within the MTFP process: The emerging rates are likely to lead to the following annual cost increases with assumed 5% contract inflation on revenue works £62,800 (additional cost in the rates between tender submission and start of contract) ; 12% contract Price List fluctuation (rebasing

the costs based on the newly tendered rates to reflect current market conditions) £150,700.

11. 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 the contract 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)
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Legal Implications

12. This decision will enable the Council to continue to deliver its statutory highway services. Consultation with Legal Services and Commercial & Procurement Services started in 2021. 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 tenderer.
13. The situation regarding Somerset Council property for this contract is that there is 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. This contract is necessary to ensure that we can continue to discharge our duty of care to our communities through ensuring that agreed lighting is well maintained and that electrical assets do not present a safety hazard.
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.
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Climate Change and Sustainability Implications

19. It is hard-wired into the contract that the contractor will seek to achieve a 50% reduction in carbon emissions over the initial contract term. The contractor 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.
 - The contract 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.
 - The contract will deliver services which maintain our lighting, illuminated and other electrical assets according to the policies set by the Council. We are currently exploring a range of policies to reduce energy from lighting. In addition to our ongoing programme of replacing sodium lamps with LED, we are considering part-night lighting options and options to reduce the amount of lighting that we utilise to illuminate the highway in line with Dark Skies initiatives. This work is ongoing, and the contractor will fulfill the policy that the council determines in due course with a key focus on ensuring the lighting and other assets that we choose to retain are maintained in a safe and servicable state.

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 Appendix.

Scrutiny comments / recommendations:

27. Scrutiny considered the procurement strategy and are content that the award of the suite of highway contracts proceeds.

Background

28. A great deal of preparatory work has been undertaken in commissioning a new suite of highways contracts including:
 - 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).
 - 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 to replace the current arrangements with five separate contracts including a replacement contract for maintenance of highway lighting, which will also encompass other illuminated and electrical assets to reflect the integration of related services within the new Unitary Authority.
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 Highway Lighting, Illuminated & Electrical Assets contract was issued on 23rd June 2023, with final tenders received 15th September 2023.

Background Papers

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

Appendices

- Appendix A – Confidential Tender Evaluation Report

Report Sign-Off

	Officer Name	Date Completed
Legal & Governance Implications	David Clark	24/11/23
Communications	Peter Elliot	17/11/23
Finance & Procurement	Jason Vaughan/ Nicola Hix	28/11/23
Workforce	Alyn Jones	27/11/23
Asset Management	Oliver Woodhams	28/11/23
Executive Director / Senior Manager	Mickey Green	15/11/23
Strategy & Performance	Alyn Jones	27/22/23
Executive Lead Member	Cllr Mike Rigby, Executive Lead Member for Transport and Digital	27/11/23
Consulted:		
Local Division Members	All	
Opposition Spokesperson	Cllr Diogo Rodrigues, opposition Spokesperson for Transport.	15/11/23
Scrutiny Chair	Cllr Martin Dimery, Chair of Scrutiny for Climate and Place	15/11/23