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| Director of Highways, Transport and Planning | Ref No: OKD24_19-20 |
| November 2019 | Key Decision: Yes |
| Award of Contracts for Highway Maintenance Services | Part I |
| Report by Project Manager, Highway Services | Electoral Divisions: All |

Summary

West Sussex County Council (WSSCC) is a designated Highways Authority under the Highways Act 1980 and has a duty to maintain highways maintainable at public expense.

Following the abandonment of procurement for highway services in 2018, The County Council has retained Balfour Beatty Living Places to continue to provide necessary services under an interim arrangement pending a new and full procurement.

Using a model derived from a subsequent Options Appraisal report and further market insight engagement the County Council published the requisite OJEU notice and commenced formal procurement on 22 July 2019. The services have been procured in six separate Lots;

1. Core Maintenance
2. Drainage Cleansing
3. Hedge Maintenance and Grass Cutting
4. Carriageway and Footway Resurfacing
5. Carriageway Micro and Carriageway & Footway Treatments
6. Highway Improvements

Compliant tenders have been received against all Lots and a full and detailed evaluation and moderation process has been duly followed resulting in the recommendations of this Key Decision report.

West Sussex Plan: Policy Impact and Context

The delivery of critical maintenance and infrastructure build of the highway network assets fundamentally underpin the ability of the Council to meet its vision and strategic aims set out in the "West Sussex Plan".

Delivery of the procured services will tie directly to three of the five stated aims:-

A strong, safe and sustainable place: By ensuring the highway network across the county is safe for all users and provides for efficient and effective transportation of people and goods.

A prosperous place: Maintaining an infrastructure that supports the economy in the movement and access for residents and commerce.

A council that works for the community: Working to improve the efficiency of the network, reducing delay and providing West Sussex with a safe highways network.

Financial Impact

Funding the delivery of the highway services to meet the obligations of a Highways Authority is made through a combination of Capital block funding from Department for Transport and the Council's approved annual budget of Revenue.

Revenue approved funding for the financial year 2019/20 is set at £8.7million. As set out in the [Cabinet report](#) "*Medium Term Financial Strategy (MTFS) 2019/20 to 2022/23, Revenue Budget 2019/20, Capital Strategy 2019/20 to 2023/24 and Treasury Management Strategy Statement 2019/20*", [Annex 2 Appendix 3](#) page 17.

The value of the core capital funding that supports the delivery of infrastructure renewal and build is derived of the following elements:

- Integrated Transport Block - £3,734,000
- Local Highways Maintenance Block - £11,043,000
- Incentive Fund Element - £2,300,000 (Band 3 status)

The revenue funding set out in the paragraph above is sufficient to meet the tendered prices set out in the bids received for Lots 1, 2 and 3, whilst the call off from the frameworks in Lots 4, 5 and 6 will be let within the annual capital funding allocated.

Recommendations: That the Director of Highways, Transport and Planning:

1. Awards the following single supplier contracts for highways maintenance services of 5 years with options to extend to a maximum of 10 years, to commence 01 April 2020:
 - Lot 1: Core Services: **Balfour Beatty Living Places**
 - Lot 2: Drainage Cleansing: **Drainline Southern Ltd**
 - Lot 3: Hedge Maintenance & Grass Cutting: **Grasstex Ltd**
2. Appoints the following contractors to a four-year Framework Agreement to commence 01 April 2020 for capital works for highways:
 - Lot 4: Carriageway & Footways Resurfacing:
Aggregate Industries UK Ltd
Associated Asphalt Contracting Ltd
Balfour Beatty Living Places
FM Conway Ltd
Tarmac Trading Limited
 - Lot 5: Carriageway Surface Dressing and Carriageway & Footways Treatments
Colas Limited
Eurovia Infrastructure Limited
JPCS Limited
Kier Highways Limited
Road Maintenance Services Limited
 - Lot 6: Infrastructure Improvements – Planned Works
Balfour Beatty Living Places
Dyer & Butler Ltd
Jackson Civil Engineering Group Ltd
Landbuild Ltd
Tarmac Trading Limited

Proposal

1. Background and Context

- 1.1 West Sussex County Council (WSCC) is a designated Highways Authority under the Highways Act 1980 and has duty to maintain highways maintainable at public expense.
- 1.2 The most recent Term Maintenance Contract for highway infrastructure with Balfour Beatty Living Places (BBLP) expired on 30 June 2018.
- 1.3 Following the abandonment of a procurement tender process seeking to award a next generation Term Maintenance Contract for these services, WSCC retained BBLP to continue to provide these necessary services under an interim arrangement in line with the Cabinet Member decision [HI21 18.19](#) of 14 January 2019, pending a new and full procurement.
- 1.4 [WSCC Highway Infrastructure Asset Management Policy and strategic approach](#) fundamentally underpins maintenance activity across our infrastructure and aligning this procurement to deliver a scope of services to meet the needs of asset management approach is a critical driver to the project.
- 1.5 In response to the abandonment of service procurement, the Director for Highways & Transport commissioned an independent Options Appraisal study, as set out in Select Committee papers of 14 January 2019, [Options Appraisal study](#), which formed the basis of the outline business case for a new procurement strategy, to explore available routes to procure and alternate models that should be considered for the future provision of highway maintenance services.
- 1.6 As part of decision [HI22 18.19](#) the Cabinet Member delegated authority to the Director of Highways, Transport and Planning to “*finalise the terms of and award the Highway Maintenance Term Contract, or set of contracts at the conclusion of the procurement process.*”
- 1.7 Following a series of market insight forums over February 2019, engaging with industry suppliers to explore and validate the findings of the Options Appraisal report a model of disaggregated services proposed for procurement was presented to [Environment, Communities and Fire Select Committee](#) on 09 May 2019.
- 1.8 Governance and oversight of the procurement process was assured through the establishment of a Project Board constituted of;
 - Executive Director, Place (Acting Chief Executive)
 - Director, Highways, Transport & Planning
 - Head of Procurement and Contract Services
 - Group Manager, Commercial Finance
 - Commercial Solicitor
 - Head of Local Highway Operations
 - Head of Planned Delivery
 - Head of Transport & Countryside

- 1.9 WSCC published the requisite OJEU notice, and commenced formal procurement, on 22 July 2019.
- 1.10 Seventy valid expressions of interest were registered across all Lots.
- 1.11 Compliant tenders were received and evaluated against all Lots as set out below;
 - 2 for Core Maintenance
 - 2 for Drainage Cleansing
 - 1 for Hedge Maintenance and Grass Cutting
 - 7 for Carriageway & Footway Resurfacing
 - 6 for Carriageway Micro and Carriageway & Footway Treatments
 - 8 for Highway Improvements
- 1.12 The published evaluation criteria for each Lot stated that the most economically advantageous tender (MEAT) would be recommended for award of the contract. The rationale for the agreed weighting was based upon the need to ensure provision of a quality service and value for money.
 - Lots 1 - 3: 60% Commercial / 40% Technical
 - Lots 4 – 6: 40% Commercial / 60% Technical(which will be worth 20% of the Successful contractors non price score in any subsequent mini competitions which will be weighted as 70% Commercial / 30% Technical – 20% carried forward + 10% project specific criteria)
- 1.13 Each Lot was evaluated by a minimum of three subject matter experts from within the service.
- 1.14 Following independent evaluation the evaluators and their scoring were subject to scrutiny and moderation by a senior management panel.
- 1.15 The Head of Procurement appointed the procurement Category Lead for Place to ensure the procurement process was compliant and in accordance with regulations.
- 1.16 The procurement for contracts to provide a range of low-value specialist services is continuing. This element of the procurement will align service provision to start as of 1st April 2020 and will establish contracts for;
 - Structures Underwater Inspections – Professional Divers
 - Bespoke Fencing (Timber & Metal) for conservation
 - Stonemasonry for conservation
 - M&E maintenance for Pumps and Pump Stations
 - M&E maintenance for Bridge Systems

This separate exercise will be subject to a further Officer Key Decision to award contracts in due course.

2. Proposal Details

- 2.1 It is recommended to award the winning tenderers single supplier contracts for Lots 1, 2 and 3 for the duration of five years plus extensions, to a maximum contract period of ten years.
- 2.2 In addition, it is recommended to appoint the top five scoring tenderers for Lots 4, 5 and 6 to the Framework Agreement for a period of four years and thereby be eligible to compete for mini-tenders relevant to the Lots for works let under that framework. No direct award will be permitted under these frameworks to ensure fair competition and value for money throughout the life of the frameworks.

Factors taken into account

3. Consultation

- 3.1 Following the publication of the [Options Appraisal study](#), a series of industry insight days were conducted to offer input and feedback from potential bidders and to evaluate the level of interest for different models of contracting.
- 3.2 During the procurement process progress reports have been delivered to the Environment, Communities and Fire Select Committee.

4. Financial (revenue and capital) and Resource Implications

4.1. Revenue consequences of proposal

The tendered prices fit within the existing budget provision for Highways maintenance set out within the current MTFs. There is sufficient flexibility within the contracts to vary the annual cost to fit with any future changes to the financial strategy

| | Year 1 2020/21 £ | Year 2 2021/22 £ | Year 3 2022/23 £ |
|----------------------|------------------------|------------------------|------------------------|
| Revenue budget | 8,700,000 | 8,700,000 | 8,700,000 |
| Change from Proposal | 0 | 0 | 0 |
| Remaining budget | 8,700,000 | 8,700,000 | 8,700,000 |

4.2. Capital consequences

| | Year 1 2020/21 £ | Year 2 2021/22 £ | Year 3 2022/23 £ |
|------------------------|------------------------|------------------------|------------------------|
| Annual Works Programme | 14,777,000 | 14,777,000 | 14,777,000 |
| Change from Proposal | 0 | 0 | 0 |
| Remaining budget | 14,777,000 | 14,777,000 | 14,777,000 |

- 4.3. The implementation of this new model of contracting will ensure greater control and visibility in the delivery of critical maintenance operations. Furthermore, the future commissioning of capital works through the framework arrangements will offer flexibility and continued clarity of value for money in capital expenditure.
- 4.4. The disaggregation of the services, while ensuring a closer direct management of the delivery of services on the ground, will be managed within the existing levels of staff resource.
- 4.5. Existing systems and established contract management tools will continue to underpin the delivery governance and data collation for all services provided under the new contracts.

Resources

- 4.6. Under the guidance of the Project Board the procurement project has been run by a dedicated Project Manager and Assistant Project Manager from within Highway, Transport & Planning.
- 4.7. Specialist support for the procurement has been provided through a procurement Project Team which has met weekly throughout the process and included team members from;
 - Highways, Transport & Planning
 - Procurement and Contract Services
 - Commercial Finance
 - Legal Services
 - Human Resources
- 4.8. The client function and service requirements were represented by a Technical User Group which included all Heads of Service from Highways, Transport & Planning and other service leads.
- 4.9. For further scrutiny to ensure the suite of tender documents were clear, compliant and robust an independent review of the final contract documentation was commissioned and undertaken by external legal Counsel.

5. Legal Implications

- 5.1. The form of contract adopted for each Lot will be;
 - Lots 1, 2 and 3: NEC4 Term Service Contract
 - Lots 4, 5 and 6: NEC4 Framework Agreement: Engineering Construction Contracts
- 5.2. The contractors have accepted the Terms of Offer and Conditions of Contract issued with the invitation to Tender.
- 5.3. All contracts will be effective as of 1st April 2020.

6. Risk Implications and Mitigations

- 6.1. A full Risks & Issues register has been maintained throughout the process with weekly reviews by the Project Team and monthly review of red risks by the Project Board.

7. Other Options Considered (and reasons for not proposing)

- 7.1. Options for alternate contract models were fully assessed and analysis is contained within the Options Appraisal study.

8. Equality and Human Rights Assessment

- 8.1. The public sector equality duty will apply to the delivery of the services which fall within the contract, and the terms of the contract will ensure that they enable the County Council to fulfil its obligations through the delivery of the contract, and provide sufficient assurance that the duty will be complied with.
- 8.2. The proposal has no implications under the Human Rights Act 1998.

9. Social Value and Sustainability Assessment

- 9.1. The new set of contracts has been tendered with consideration as to how contractors will provide added social value, reflecting the County Council's duty under the Public Services (Social Value) Act 2012.
- 9.2. The design of the contract landscape considers the wider social, environmental and economic benefits and aims to support the County Council's goals in relation to combatting climate change, working more efficiently, driving down costs and improving resilience.

10. Crime and Disorder Reduction Assessment

- 10.1. None

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Background Papers - None