

Report to Matt Davey, Director of Highways, Transport and Planning

May 2021

Award of contract for Highways Maintenance Services, Lot 4.9

Report by Gary Rustell, Programme Manager

Electoral division(s): All

Summary

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

In January 2019, the Cabinet Member for Highways and Infrastructure approved the commencement of a procurement process for a new Highways Maintenance Term Contract or set of contracts [and delegated authority](#) to the Director of Highways and Transport to finalise the terms of and award the Highway Maintenance Term Contract or set of contracts, at the conclusion of the procurement process.

In November 2019, the Director of Highways, Transport and Planning awarded framework agreements under Lots 4, 5 & 6 under Key Decision [OKD24 19-20](#).

Further to the [approval](#) of the Highways and Transport Delivery Programme 2021/22 and the Capital Programme 2021/22 – 2025/26 approved by Full Council in February 2021, a procurement process via the NEC4 Lot 4 Framework Agreement (carriageway and footpaths resurfacing) has been completed.

Recommendations

That the Director of Highways, Transport and Planning awards a contract to Tarmac Trading Ltd to deliver works programme (Lot 4.9) for Highway Carriageway Resurfacing during 2021-22.

Proposal

1. Background and context

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

- 1.2 The decision made by the [Director of Highways, Transport and Planning in December 2019](#) referred to the procurement for the provision of a range of highway services utilising a range of contractual arrangements within six lots.
- 1.3 Single supplier contracts for 5 years with options to extend to a maximum of 10 years, commenced 1 April 2020:
- Lot 1: Core Services
 - Lot 2: Drainage Cleansing
 - Lot 3: Hedge Maintenance & Grass Cutting
- 1.4 Four-year Framework Agreements commenced 1 April 2020 for capital works for highways:
- Lot 4: Carriageway and Footpath Resurfacing
 - Lot 5: Footway and Carriageway Micro asphalt
 - Lot 6: Improvement Schemes
- 1.5 The services in the sub lot (4.9) being considered here are being procured following publication of the requisite Official Journal of the European Union notice and commenced formal procurement on 4th March 2021.

2. Proposal details

- 2.1 Lot 4.90 consists of 16 Work Packages consisting of significant resurfacing works for:
- A2011 - 4 work packages
 - A2220 - 3 work packages
 - A264 - 4 work packages
 - A24 - 5 work packages
- 2.2 The published evaluation criteria for each Lot stated that the most economically advantageous tender (MEAT) would be recommended for award of the contract. Scoring was originally split 40% Commercial and 60% Technical. Subsequently, 20% of the successful contractor's non-price score carried through to the mini competitions process which is weighted as 70% Commercial and 30% Technical – 20% carried forward + 10% project specific criteria.
- 2.3 The Lot was evaluated by a minimum of three subject matter experts from within the service. Following independent evaluation, the evaluators and their scoring were subject to scrutiny and moderation by a senior management panel.
- 2.4 The Head of Procurement appointed the procurement Category Lead (Place) to ensure the procurement process was compliant and in accordance with regulations, overseeing the evaluation and moderation process.

3. Other options considered

The County Council has a legal duty to maintain highways maintainable at the public expense. In February, the County Council approved additional capital funding for highways, therefore doing nothing is not an option and has been discounted.

4. Consultation, engagement and advice

- 4.1 The Highway and Transport Delivery Programme engaged all asset owners, local transport improvement managers and public rights of way officers within WSCC Highways and Transport.
- 4.2 The procurement process for the delivery of the Delivery Programme has enabled full engagement and consultation through corporate governance.

5. Finance

- 5.1 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 the Department for Transport and the Council's approved annual revenue budget.
- 5.2 The capital funding approved for the Highways and Transport Delivery Programme 2021/22 (decision ref HI15 20/21) that supports the delivery of infrastructure renewal is £26.775m, funded by DfT allocations £17.895m, Corporate Funding £1.750m, S106 Developer Contributions £1.053m and carry forward from the Highways and Transport Delivery Programme 2020/21 of £6.077m. In addition a further £12m has been allocated for additional highways maintenance in the Capital Programme 2021/22 – 2025/26 approved by Full Council in February 2021.
- 5.3 The capital funding as set out above includes an allocation for the award of this contract.
- 5.4 There are no revenue implications arising from the award of this contract. Ongoing revenue maintenance for Highways Infrastructure is met from the Highways Revenue Maintenance budget which has an allocation of £10m in 2021/22.
- 5.5 The effect of the proposal:
 - (a) The implementation of this model of contracting will ensure greater control and visibility in the delivery of critical maintenance operations. This model allows for a direct contractual arrangement with the contractors which has resulted in lower costs as there are no third-party costs included.
 - (b) It is anticipated that the new contract model will provide improved value for money with regard to the delivery of highways works. The way of working and the engagement with contractors within the framework will mature during the life of the contracts and provide an opportunity to explore efficiencies and innovations that will benefit the county council, residents and visitors to the county.
 - (c) The disaggregation of the services, whilst ensuring a closer direct management of the delivery of services on the ground, will be managed within the existing levels of staff resource.
 - (d) 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.

6. Risk implications and mitigations

- 6.1 The authority has moved away from a traditional Highways Term Maintenance contract which would have previously sub-contracted these specialist areas of works. In some cases, contracting directly with a number of these sub-contractors will present new challenges including monitoring contractor performance.
- 6.2 To mitigate most of the risk, the evaluation panel included subject matter experts who would also be monitoring performance of the contractors from the start.
- 6.3 This project applies techniques and strategies to manage and mitigate risk. The status of current identified risks are summarised in a risk register, where they remain until the risk has either been removed entirely or moderated to an acceptable level. The risk register is a live document which is regularly updated and reviewed. There are currently no 'red risks' on this project.
- 6.4 It should be noted that during the current pandemic, potential additional operating costs are likely. These will be managed through standard contractual arrangements. The costed risk is constantly under review alongside the current pandemic situation and resulting restrictions.
- 6.5 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.

7. Policy alignment and compliance

- 7.1 Social Value – 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.
- 7.2 Crime and Disorder - implications are considered in the social, economic and environmental prioritisation of the Highway and Transport Delivery Programme and alongside the design of each maintenance or improvement scheme within the Delivery Programme.
- 7.3 West Sussex County Council Reset 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 as set out in the authority's Reset Plan 2021-2025.
 - Delivery of the procured services will tie directly to corporate priority within Reset Plan 2021-2025:
 - Priority 2 - 'A sustainable and prosperous economy'
 - Outcome 3 - 'Sustainable growth by developing modern infrastructure'
 - KPI 18 - Percentage length of A and B roads that require maintenance
- 7.4 Legal implications - the form of contract adopted for each Lot will be a call off from the NEC4 Framework Agreement: Engineering Construction Contracts. The contractors have accepted the Terms of Offer and Conditions of Contract issued

with the Invitation to Tender. All framework agreements were effective as of 1 April 2020 and subsequent call offs will be effective upon award of contract.

- 7.5 Equality and Human Rights Assessment - 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. The proposal has no implications under the Human Rights Act 1998.
- 7.6 Climate change -
- West Sussex County Council is committed to becoming a more sustainable organisation and wants sustainability to be more central to the way it works.
 - Within all framework agreements that were effective as of 1 April 2020 and the subsequent call-offs awards of contract, contractors are clear on the role and ambitions of West Sussex County Council.
 - Framework contractors through the procurement process have set out their position and evidenced how they can work in partnership to support and enhance the organisation's ambitions. This includes considering new products and ways of working that increase efficiency and decrease the carbon footprint.

Matt Davey

Director of Highways, Transport and Planning

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Appendices – none

Background papers - none