

Mr Roger Elkins, Cabinet Member for Highways and Infrastructure	Ref No: HI22 18.19
December 2018	Key Decision: Yes
Highway Maintenance Term Contract Procurement	Part I or Part II: Part I
Report by Executive Director Economy, Infrastructure and Environment and Director of Highways and Transport	Electoral Division(s): All
<p>Summary</p> <p>The Highways Term Maintenance Contract is used to deliver a range of statutory highways maintenance services. There is currently no long term contract in place. To address the absence of that contract an interim contract commenced on 1st July 2018 with an initial term of three months and an option to extend, subject to governance controls, to a maximum period of twelve months (therefore terminating on 30th June 2019).</p> <p>A new contractual arrangement is required to commence on expiry of the current contract. Arrangements will be put in place, which are subject to a separate key decision, to extend the current arrangements for service delivery to enable the procurement process for the longer term service solution. This is to ensure that the statutory services are provided whilst ensuring sufficient time for an effective new procurement.</p> <p>The length and scope of the new contract or set of contracts, and the detailed terms, will be developed once the procurement is underway. Input from Legal, Procurement and Finance is being sought to help make the final plans for the procurement route and contract model.</p>	
<p>West Sussex Plan: Policy Impact and Context</p> <p>The proposal supports the prosperous place priority in the West Sussex Plan. The new procurement will facilitate maintenance of the highway network. A well maintained highway helps to support local businesses and communities by ensuring safe, reliable, and consistent journey times.</p>	
<p>Financial Impact</p> <p>The new contract landscape will be designed with sufficient flexibility to contain expenditure within projected budgets.</p>	
<p>Recommendations</p> <p>That the Cabinet Member for Highways and Infrastructure approves;</p> <ol style="list-style-type: none"> 1) The commencement of a procurement process to procure a Highways Maintenance Term Contract, or set of contracts, to commence on expiry of the interim contract (with any required extensions); and 2) To delegate 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, and to extend if appropriate in accordance with the County Council's Standing Orders on 	

PROPOSAL

1. Background and Context

- 1.1. The principal contract for the delivery of statutory highways maintenance services expired on 30th June 2018. Whilst a full procurement process for a new contract was undertaken it was not successful and, for legal and technical reasons the decision was taken to abandon that procurement process. The service provider under the previous contract was Balfour Beatty Living Places. The current Highway Maintenance Term Contract (HMTC) is an interim contract delivered by Balfour Beatty Living Places (BBLP). The interim contract commenced 1st July 2018 for an initial period of 3 months. An extension has been agreed and the contract is now due to expire on 31st March 2019. A further extension is currently available to 30th June 2019. The incumbent was selected in order to maintain continuity and avoid unnecessary service disruption.
- 1.2. Approval is now being sought from the Cabinet Member for Highways and Infrastructure for the County Council to procure and enter into a new HMTC, or set of contracts, to commence on 1st April 2020.
- 1.3. The current contract includes all aspects of highway maintenance with the exception of Public Rights of Way (PROW), Street Lighting, and Traffic Signals which have separate contracts. There will be an opportunity to review these separate contractual arrangements and, where there is added value, include provisions to incorporate some of these service areas into the new contractual landscape. It is unlikely to include the Street Lighting service however, since this is part of a 25 year, PFI contract.
- 1.4. An options appraisal has been commissioned from an external specialist consultant, which outlines the broad approach to delivering a new term maintenance contract within the current national highways maintenance landscape. A project plan is being produced and updated as the project is advanced in line with the principles of the Prince2 project management methodology.
- 1.5. The options appraisal will be fully developed, and when complete will outline how the new contract will be constructed, and how the available options will be distilled to achieve a single procurement model.
- 1.6. The new contract(s) will reflect changes to the legislative framework, current best practice, and industry standard documentation.
- 1.7. A Full Business Case will be developed before the formal procurement stage commences. The procurement will be designed to comply with Standing Orders on Procurement and Contracts, the Public Contracts Regulations 2015, and the County Council's internal systems and processes for commissioning and procurement.
- 1.8. Primary drivers for the new contract are customer service, financial savings, efficiency and continuous improvement, integrated service delivery, flexibility

of the contract model, and achieving the most economically advantageous offering for the County Council.

2. Proposal Details

- 1.9. It is proposed to procure a new HMTc, or set of contracts, for an initial period of five to seven years. It is anticipated that contract extensions will be available, subject to performance, to a maximum contract length of ten years. The arrangement of the contract landscape, including the recommended length of the contract(s), is subject to the recommendations of an options appraisal, which has been commissioned with an independent specialist consultant. Final decisions regarding the arrangement of the contract landscape will be made by the highways team and Project Board, with input from legal, procurement and finance.

FACTORS TAKEN INTO ACCOUNT

3. Consultation

- 1.10. The industry sector has been consulted, through a soft market testing questionnaire, which has informed development of the options appraisal. Further market engagement is planned to help shape the detail of the new contract landscape.
- 1.11. A Local Government Association peer review has previously been held, the findings have been reported, and this project will address the suggestions made by the peer review.
- 1.12. Visits to other local authorities have taken place, to explore the advantages and disadvantages of various procurement models for a new contract landscape, and to identify contemporary best practice.
- 1.13. The procurement will be available to be scrutinised by Environment, Communities and Fire Select Committee.
- 1.14. Ultimately the procurement will be signed off by the Cabinet Member for Highways and Infrastructure supported by a Project Board, which will include the Executive Director for Economy Infrastructure and Environment, the Director of Highways and Transport and the Section 151 Officer.
- 1.15. Governance arrangements will be established (Appendix A), to initiate good levels of engagement and accountability, and a communication plan will be developed to ensure good communication as the project evolves.

4. Financial and Resource Implications

- 1.16. Core average annual expenditure through the HMTc from financial years 2016/17 to 2018/19 is in the region of £10million revenue and £20million capital. Further expenditure has also come through exceptional or one off funding streams, for example the Better Roads Programme.

	2016/17	2017/18	2018/19
	£m	£m	£m
Revenue Works Contract Spend Estimate	12.2	8.8	8.3
Capital Contract Spend Estimate	15.9	20.3	22.3
	15.9	20.3	22.3

1.17. The new contract, or set of contracts, will contribute towards savings of £1.5m in the highways maintenance budget by 2020/21.

5. Legal Implications

1.18. Input from Legal, Procurement and Finance is being sought to help make the final plans for the procurement route and contract model.

6. Risk Assessment Implications and Mitigations

6.1 The risk of not authorising the procurement of a new HMTC, or set of contracts, is that the County Council's statutory duty to maintain the public highway will not be met.

6.2 This project will apply techniques and strategies to manage and mitigate risk. The status of current identified risks will be summarised in a risk register, where they remain until the risk has either been removed entirely, or moderated to an acceptable level through mitigating action. The risk register will be a live document which will be regularly updated and reviewed in line with industry best practice and the County Council's risk management processes and governance arrangements.

7. Other Options Considered

1.19. As the current maintenance contract approaches expiry, a new arrangement for the delivery of this statutory function is required. However, a number of procurement models and other options are available, and these will be fully explored in the development of the options appraisal. The initial options are currently a choice between two options, which are a single provider HMTC, and a multiple provider model. These options will be further distilled as the project matures.

8. Equality and Human Rights Assessment

1.20. 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.

9. Social Value and Sustainability Assessment

- 1.21. The new HMTc, or set of contracts, will be designed to provide added social value. This reflects the County Council's duty under the Public Services (Social Value) Act 2012. The design of the contract landscape will consider the wider social, environmental and economic benefits, which are set out in the County Council's 2015 Sustainability Strategy. The new contract arrangement will also include a commitment to the West Sussex Community Covenant.

10. Crime and Disorder Reduction Assessment

- 1.22. There are no foreseeable crime and disorder implications to this proposal.

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Appendices

Appendix A – Governance Arrangements

Background papers

None