



## Report to Cabinet.

**Date:** 2<sup>nd</sup> March 2021

**Title:** Future Highways Services Contract

**Relevant councillor(s):** Nick Naylor, Cabinet Member for Transport Services

**Contact officer:** Rob Smith

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**Ward(s) affected:** All wards, as a council wide service

### **Recommendations:**

- 1. To agree the proposed operating and procurement model and associated timescales in terms of the future delivery of this key service, ranked as 'Platinum Plus', requiring a council key decision.**
- 2. To note the increase in the capacity of the existing client team to meet the needs of procuring the new contract and thereafter manage and deliver the service as proposed.**
- 3. To note the new Governance arrangements and Programme which has been put in place to administer and deliver this procurement project.**

### **1.0 Reason for decision**

**1.1** The current contract was awarded to Ringway Jacobs in 2009. It is an 8-year contract with a possible extension of 7 years, 6 of which have already been granted. A decision has been taken not to grant the final 1-year extension and the current contract will expire on 31<sup>st</sup> March 2023.

**1.2** The current model of delivery is not viewed as being the most appropriate to achieve the outcomes of the service and to contribute towards some of the key strategic objectives of the council. Key current limitations include:

- working relationships and communication with the elected members, local councils and the local communities,

- the existing ability to demonstrate value for money,
- lack of client capacity to offer advice and guidance to elected members and key stakeholders including Town and Parish Councils, BIDs & Community Boards,
- lack of client capacity to deal with requests made for small improvements to the network

**1.3** In addition following the financial pressures and difficulties that have been experienced by some of the major service providers in the sector, including the collapse of Carillion, having a single provider for all areas of the service is also seen as a concern that needs addressing.

**1.4** Approximately 30 months is required to undertake a comprehensive procurement exercise for a contract of this nature, particularly if it is proposed to alter the model considerably from the current arrangement. To enable the associated procurement exercise to be carried out, then a decision on what operating model would best serve the council going forward is required.

## **2.0 Executive summary**

**2.1** A comprehensive analysis of the various models that are available in the market has been carried out and assessed to their appropriateness to deliver the key objectives of the Council and achieve value for money. The ranking order of these are contained within **Appendix 1**.

**2.2** Governance arrangements have been put in place for the procurement exercise with representation as shown in **Appendix 2**.

**2.3** The proposed model is a hybrid of the models that have been assessed and comprises:

- a larger in-house client team to better manage and direct the service as per **Appendix 3**.
- a term maintenance contractor who will be responsible for carrying out all routine maintenance on the network, comprising winter maintenance, small scale and localised pothole repairs, gulley cleaning and drainage maintenance, cyclical grass cutting, maintenance of traffic signals, signs and lines, bridges, structures, footpaths, and street lighting as well as potentially some of the capital maintenance projects.
- a term consultant, who will support the client but also have responsibility for transport planning, feasibility and business case development, design and project management of larger works and major projects.
- 2 number frameworks to provide competition and resilience
  - the first framework with 3 lots,

- 1 for conventional surfacing and reconstruction,
- 1 for surfacing treatments e.g. surface dressing, slurry sealing, high friction surfacing etc.
- 1 for other minor work activities, e.g. machine lay plane and patch, footway reconstruction, drainage schemes, etc.
- and the second framework for larger capital improvements and infrastructure works.
- and ultimately all members of the above to form an alliance and operate as a single team.

Further details of the proposed model are contained in this report, figure 1 below and attached as **Appendices 4 and 5 in terms of function and description**.

**2.4** The model being proposed will also address the other issues and recognised concerns of the existing model. The frameworks will promote value for money through cost analysis via tested and transparent schedule of rates, assessment of performance and contract mechanisms which incentivise right first time. In addition, having a range of service providers available to the council for different areas of the service, as opposed to a single provider, will present opportunities to compare rates and performance and give more assurance and resilience in delivery of service.

**2.5** In addition, the existing client team is one of, if not, the leanest in the country, and it is proposed to extend the capacity of this team. A proposed outline structure for the new client team is attached in **Appendix 3**. This will enable the client team to, facilitate the re-procurement of the highways services contract, manage the contractual arrangements going forward and to better influence and control the policy, levels of service, programmes of work and control of the use and occupation of the highway network. It will also enable and facilitate improved working relationships and communications with the elected members, key stakeholders including Town and Parish councils and the wider community by transferring back in-house the Local Area Technicians (LATs), the Customer Compliance Officers (CCOs) and the communications team.

### **3.0 Background**

**3.1** The Council's £45m per annum contract for highways services delivers all aspects of transportation and highways services, in terms of maintaining the highway. The current service is provided by Ringway Jacobs (RJ) and is delivered by approximately 220 staff, 5 of which are employed in managing the delivery of the off-street parking service which is contracted separately to NSL. They also use a supply chain of providers to deliver the service.

**3.2** The current scope of the contract includes the following services:



- Routine Maintenance including defect repairs, drainage, highway grass cutting (non-devolution areas), weed killing, signs and lines.
- Winter Maintenance including gritting
- Street Lighting Design and Maintenance Works
- Management of all Street works on the Highway
- Design and Delivery of the Capital Maintenance Programme (Resurfacing)
- Traffic Signals and Intelligent Traffic Systems
- Structures – maintenance and improvement work
- Network Safety and Casualty Reduction
- Network Improvements, including some larger capital projects for the council
- Asset Management
- Local Area Technicians and Customer Compliance Officer (CCOs)
- Communications
- On Street Parking including management of the NSL Contract

**3.3** The current contract was awarded to Ringway Jacobs in 2009. It is an 8-year contract with a possible extension of 7 years, 6 of which have already been granted. A decision has been taken not to grant the final 1-year extension and the current contract will expire on 31<sup>st</sup> March 2023.

**3.4** The contract is a bespoke contract but based on the principles of the New Engineering Contract (NEC) 3 Option C. It is a target cost contract where payment is based on actual (defined cost) and if the project cost comes under the Task Order values at the end of a contract year, the savings are shared between both parties through an open book arrangement.

**3.5** As the service is essentially outsourced, there is only a very small in-house client team to commission work, administer the contract, check and challenge in terms of value for money and monitor the quality of work delivered. In 2013 a Buckinghamshire County Council Select Committee enquiry concluded that the 'in house' client had been significantly reduced since the contract was awarded to such an extent that it had insufficient capacity to effectively carry out the above functions and manage the contract effectively. Although additional resources were subsequently introduced, it is still one of the slimmest 'in house' clients across the country comprising 4 full time and 3 part time staff.

**3.6** The current 'fully integrated' model in Buckinghamshire represents one of the more extreme cases of 'outsourcing' and, as stated above, comprise one of the leanest 'in house' client teams in the country. The size of the 'in house' team is determined by the level to which an authority wishes to have influence or control of, setting strategic direction, shaping policy, overall delivery, managing of performance, etc.

**3.7** In addition to the above, an element of the current outsourced model comprises the Parking Services, whereby the Council has a contract with NSL for their civil enforcement officers (CEO's) for 'on street' enforcement. The remainder of the service, including the

overall management of NSL is carried out by the transport services provider, Ringway Jacobs, (RJ). This NSL contract expires in September 2021.

## **4.0 Proposed Model**

**4.1** An analysis of the range of the different delivery models was carried out by a project team including the Cabinet Member for Transport Services, the Corporate Director Communities, Director Highways and Technical Services, Acting Head of Highways, Client Contract Manager and the Interim Service Director. External support and challenge were provided by an independent consultancy who work in partnership with the Association of Directors for Environment, Planning and Transportation, (ADEPT) and facilitate the Future Highways Research Group, (FHRG), a group who are represented by all highway authorities in England.

**4.2** Each model was assessed against a range of criteria with the resulting rankings, as shown in **Appendix 1**.

**4.3** Based on the analysis, and subsequent discussions with the Cabinet Member and the Member and Officer Reference Group, the proposed model as shown in figure 1 below and as described in more detail within this report is believed to be the best option, to not only address the issues and concerns but also deliver an efficient and effective service and meet all the requirements of the council. Further details are shown in **Appendices 4 and 5**.

**4.4** The proposed model comprises a hybrid of arrangements from the list of models which scored most highly and provides the ability to demonstrate quality and value for money, while maintaining resilience in delivering the service, in particular the winter service.



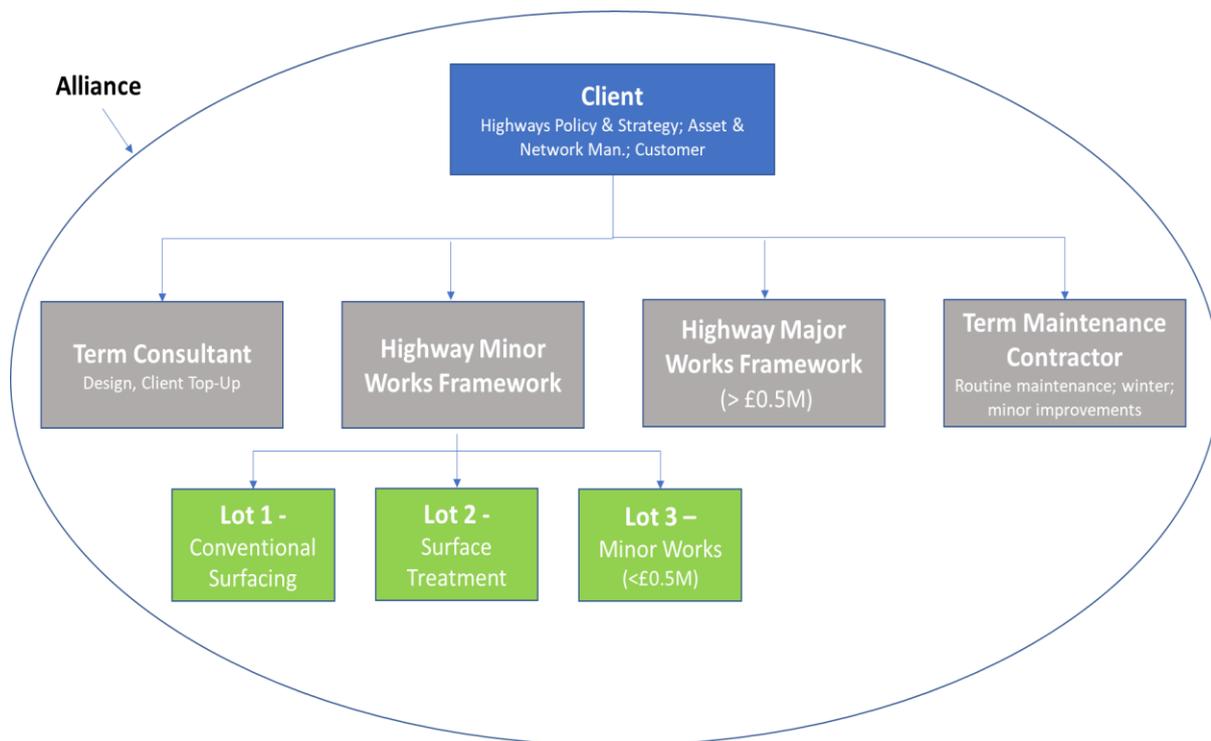


Figure 1

4.5 Appendices 4 and 5 show what this would look like in comparison to the existing arrangements with some further explanation and detail of the changes given below.

- In House Team.** The development of the in house team would both facilitate the procurement exercise, but thereafter have the capacity to effectively manage the contractual arrangements going forward and better influence and control the policy, levels of service, programmes and priorities of work and facilitate a better and closer working relationship with the elected members, local councils and the wider community. It will also enhance and improve the ability to communicate with the wider community and provide client capacity to improve advice and guidance to the elected members and key stakeholders.
- Term Maintenance Contractor.** The appointment of a term maintenance contractor to deliver all the routine maintenance, comprising small scale and localised pothole repairs, gully cleaning and drainage maintenance, cyclical grass cutting, maintenance of traffic signals, signs and lines, bridges, structures, footpaths, and street lighting as well as potentially some of the capital maintenance projects, ensuring sufficient workload to support a workforce that has resilience to carry out winter service.
- Works programmes.** The remainder of the works to be commissioned via 2 number, 4-year frameworks, subject to no changes in legislation. Work would then be awarded based on a performance and price basis. These frameworks would comprise functions and activities such as conventional surfacing and reconstruction works, surface dressing, machine lay plane and patch, as described in section 2.3 above.

- **Term Consultant.** In addition, it is proposed that a term consultant, be appointed which not only support the in-house client team and generally top up service in peak demand, but also have the ability to assist with network safety, preliminary design and major projects again as described in section 2.3 above. They would not only be able to support and assist within the highways service area, but across other parts of the council, in particular, planning and infrastructure services.
- Thereafter all parties would sign up to be part of an **alliance**. This would comprise all parties agreeing to share information and best practice, work together in a consistent and collaborative way to ensure efficient and effective delivery of service and operate as a single Buckinghamshire Highways team.

## 5.0 Contractual Arrangements

**5.1** As well as the type of model, research and analysis has also been conducted on the elements of the contractual arrangements, comprising form of contract, number of suppliers within each, duration, payment mechanisms. Further detail, analysis and benefits etc. of the various options for the above are contained with **Appendix 6**.

**5.2** The current contract uses the New Engineering Contract (NEC 3) suite of documents and it is recommended that the latest suite of NEC documents (NEC 4) be used for the future highway services contracts with amendments and additional clauses restricted to ensuring compliance with the Buckinghamshire Council constitution, governance and other corporate requirements.

**5.3** While we would only have a single service provider for the Term Maintenance contract and one for the Term Consultancy contract, it is proposed that we would have at least 2 suppliers for each of the frameworks and subsequent lots.

**5.4** For Frameworks, the current Public Contracts Regulations 2015, limit the duration to a maximum of 4 years, and while they can be for a shorter period, for the reasons contained in **Appendix 6**, it is believed that we should adopt this timescale.

**5.5** The current contract was for an initial 8-year duration with the option for up to 7, 1-year extensions. There is a huge variation of different contract durations across the sector, with some of the longer-term ones comprising an initial period of 10 plus years and with the potential for 2, 5-year extensions. The common and accepted minimum level for any initial period is usually 7 or 8 years, based on attractiveness to the market. It is also based around a nominal period in which any provider would have in terms of payback for any investment in equipment and vehicles etc., based around reasonable lifespan.

**5.6** Based on the above, it is recommended that for both the Term Maintenance and Term Consultancy, the initial contract duration be for 8 years, with the option of 2 number 2-year extensions dependant on criteria (to be determined) and being achieved/met. In addition,

any agreement would require to be approved through a laid down process involving Cabinet/Cabinet member.

**5.7** Under the NEC 4 suite of documents there are several payment mechanisms that can be used with the main ones that are applicable for highway term maintenance works being Lump Sum, Schedule of Rates, Target Cost and Cost Reimbursable. These are explained in more detail in **Appendix 6** attached. In order to best be able to demonstrate value for money it is recommended that the

- Term Maintenance Contract adopt a schedule of rates approach
- Term Consultancy Contract similarly adopt a schedule of rate approach based on hourly contractual rates
- The Frameworks/Lots be also on a schedule of rates and with an option for Target Cost approach for small and larger projects.

**5.8** The above contractual arrangements will also be able to promote and demonstrate value for money (VFM) and quality through a number of measures,

- a client team who has the expertise and capacity to be able to both challenge and check value and quality,
- mini competition via the frameworks and thereafter comparison against the term maintenance contractor,
- market tested and transparent schedule of rates,
- a term contractor and consultant who work under a clear client brief,
- contract mechanisms which both incentivise right first time and have the ability to ensure appropriate remediation at no extra cost to the council, with penalties applied if appropriate.

**5.9** In addition, the contractual arrangements will have clearly defined specifications, conditions and a range of performance indicators in which to measure performance and quality against. They will also have terms and conditions attached which will give guidance and direction on issues of dispute resolution, if such matters should arise.

## **6.0 Progress to date**

**6.1** A detailed programme with key dates and milestones has been developed and is attached as **Appendix 7**. Some of the key dates are as follows:

- Issue Contract Notices - June 2021
- Tender Documents issued - August 2021
- Initial Tenders submitted - November 2021
- Negotiation period – December 2021 – February 2022

- Final Tenders submitted - April 2022
- Select Preferred Bidders - June 2022
- Award of Contracts - August 2022
- Start of new Contractual arrangements - April 2023

**6.2** Governance arrangements together with membership of a Member Reference Group, chaired by the Cabinet member for Transport to oversee and set direction as well as ensuring the project has the appropriate level of member involvement and scrutiny has been established as shown in **Appendix 2**. A project team has also been formed with representatives from across the council, including, finance, HR, procurement, legal as well as highway officers.

**6.3** One of key changes was to increase the client capacity in several areas and, in particular, around how the service interacts and communicates with the members, community boards, parish and town councils and the wider community and particularly in relation to the wider devolutionary offer. To this end the TUPE transfer of the communications team, CCO's and LATs were successfully transferred back into the employment of the council on January 1<sup>st</sup> 2021, with the Communications team under the line management of the corporate communications team but embedded within the service and the LATs and CCOs under the direction of the Head of Service/Service Director.

**6.4** Another agreed change was the development of a larger in house team which can both facilitate the procurement exercise, but thereafter have the capacity to effectively manage the contractual arrangements going forward and better influence and control the policy, levels of service, programmes and priorities of work and facilitate a better and closer working relationship with the elected members, local councils and the wider community. Job descriptions have been developed and evaluated for all 5 new posts, and appointments have been made to 3 of the positions.

**6.5** The last part of the proposed future development of the Client team is the transfer back 'in house' of the network management, asset management, road safety and inspection teams. This will also involve a TUPE transfer of staff, from the existing service provider, and it is proposed that this would be best carried out towards the end of the current contractual arrangements, to be in place for the start of any new contractual arrangements in April 2023. This is a time when many changes are occurring including potentially other TUPE transfers between the current service provider and any new ones and would provide some stability and safeguard standards of service delivery. These changes will allow the client to better influence and control the policy, levels of service, programmes of work and control of the use and occupation of the highway network.

**6.6** In addition to the above, an element of the current outsourced model comprises the Parking Services, whereby the Council has a contract with NSL for their civil enforcement officers (CEOs) for 'on street' enforcement. The remainder of the service, including the management of the on-street parking service and NSL is carried out by the current transport services provider, Ringway Jacobs, (RJ). Following discussions with the Cabinet Member Logistics who has a responsibility for Parking Services, it was decided to firstly, transfer back into the council the existing parking management team from RJ. This was carried out on the 1<sup>st</sup> of January at the same time as the transfer of the LATs, CCOs and Communication teams. It has also been agreed that when the current contract with NSL for Civil Enforcement is scheduled to finish in September 2021, that the individuals involved in this area of work will also transfer back into the Council. A further piece of work on how these elements for on-street parking services will be incorporated into the council along with the existing off-street parking teams has already commenced.

## **7.0 Legal, Procurement, Financial and HR implications**

**7.1** The paper has been agreed with Legal Services, Procurement, HR and Finance Services.

**7.2** In respect of Finance, money has and will continue to be set aside to enable the re-procurement in line with the above recommendations. There is a Transport Contract Re-procurement Reserve which sits at £1,057,000 after a £440k top-up contribution in 2019/20 as per the MTFP plan. Thereafter from 2020/21 a £186k top up contribution each year up to 2022/23 is scheduled, leading to a £1,615k balance at the end of the MTFP period. This budget is monitored as part of regular budget monitoring.

**7.3** Additional resources will also be required for the first stage in the creation of the larger client team as shown in **Appendix 3**. Therefore, in the 2021/22 budget, as part of the MTFP process, there is a provision for 'one off' funding of £200k and a further £100k in 2022/23 for the additional posts. At the point of the start of the new contract (April 23), no further funding will be required as this will be at least a 'net nil' position as corresponding savings will be achieved as part of the new contract.

**7.4** Transforming into the new service model there will undoubtedly involve Transfer of Undertakings (Protection of Employment) (TUPE), which is normal for a procurement process of this nature and size. It is far too early to assess what the costs of this will be, but they will be assessed and monitored as the project progresses with HR and Finance colleagues involved throughout.

**7.5** It's anticipated that the new model will improve on the existing contractual arrangements in a number of ways, not just the benefits that have been articulated in this report, but also drive a more competitive process for works to secure improved value for

money as well as potential opportunities for investment and innovation which will deliver efficiencies that both offset any additional costs and deliver savings through transformation.

**7.6** Procurement are already involved in this project and discussions and agreement on both their role and level of support that they can bring to the project has been agreed.

**7.7** Equally, HR have already been involved with the initial TUPE transfers and will continue to support and advice as the project progresses.

**7.8** Legal Services are also part of the project team and as the type of operating model is developed and the relevant documentation is produced their support, input and advice will be required.

## **8.0 Corporate implications**

**8.1 Equality.** An initial equalities impact assessment has been undertaken and will be kept under review and updated as and when required.

**8.2 Data.** An initial data protection and security implication assessment has also been undertaken, to assist and inform the procurement process where necessary, and to ensure that any decisions take account of data security and GDPR requirements. These assessments will be kept under review and updated as and when required.

## **9.0 Consultation and communication**

**9.1** There has been consultation with other service areas from across the council who have either used the highways services contract in the past or may have call for using it in the future. Their feedback has been used to assist in determining what and how any new arrangements will function including the scope and content of the contracts.

**9.2** Officers have been in contact with a number of other highways authorities from across the country and have regular meetings with neighbouring councils to glean and share information.

**9.3** Members of the Transportation, Environment and Climate Change agreed that this matter should be considered for scrutiny as part of their work programme for 2020/21, and it was presented and discussed at their meeting on 21<sup>st</sup> January 2021.

**9.4** Any subsequent consultation and communication with relevant bodies, committees and boards will be included and taken account of as the project progresses through the various stages.

## **10.0 Next steps and review**

**10.1** Should the recommendations be accepted, then steps will be taken to implement the actions outlined within this paper and programme.

## **11.0 Your questions and views (for key decisions)**

**11.1** If you have any questions about the matters contained in this report please get in touch with the author of this report. If you have any views that you would like the cabinet member to consider please inform the democratic services team. This can be done by telephone 01296 382343 or email [democracy@buckinghamshire.gov.uk](mailto:democracy@buckinghamshire.gov.uk)

