



## Report to Cabinet.

**Date:** 29th June 2021

**Title:** Future Highways Services Contract

**Relevant councillor(s):** Steve Broadbent, Cabinet Member for Transport

**Contact officer:** Rob Smith

**Author:** David Farquhar

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

### **Recommendations:**

- 1. To note the progress made to date on the procurement of the new Highways Services Contract.**
- 2. To agree the Evaluation and Quality Criteria for determining the new service providers.**
- 3. To agree the Extension Criteria and Process.**
- 4. To note the proposed change in name for the service and the terms of the Alliance.**

### **1.0 Reason for decision**

**1.1** The current contract which was awarded to Ringway Jacobs in 2009 is due to expire on 31<sup>st</sup> March 2023.

**1.2** A previous paper presented to Cabinet on 2nd March 2021 set out the rationale and proposed way forward for the procurement of the Highways Services Contract. The paper also included a new operating model to best deliver the outcomes of the service and to contribute towards some of the key strategic objectives of the council.

**1.3** In addition it was agreed that a future paper would be presented to Cabinet to seek views and agreement on the evaluation and quality criteria that would be used to determine the selection process and outcome of the procurement exercise as well as the criteria and process for determining any potential future extensions of the contracts.

**1.4** The proposal also agreed the formation of an Alliance and this paper sets out the proposed governance arrangements and format of how the alliance would function and operate.

## **2.0 Executive summary**

**2.1** The project team, with support from the Member Reference Group and other disciplines from across the Council and externally have made excellent progress. Key actions and progress to date include:

- Agreement to use a Competitive Procedure with Negotiation (CPN) under the New Engineering Contract 4 (NEC 4) suite of documents as the most appropriate mechanism for the procurement of both the Term Maintenance Contract (TMC) and the Term Consultancy Contract (TCC) and a Restricted Procurement exercise to be used for the 2 frameworks.
- A service provider engagement day has been set for 8th July 2021 to announce and advise the market of the procurement exercise that Buckinghamshire Council will be using, how the new operating model will operate, and explaining what we are expecting and looking for.
- Initial tender documentation is programmed to be sent out in early August.
- Four main workstreams have been established and a summary of the progress on each is given below. Generally, progress is on track with the initial programme, attached as **Appendix 1**.
  - a) **Contract Documentation** – Development and writing of the contract documents is understandably the largest and most time-consuming element of the procurement process, with many elements including the specification and scope requiring significant re-writing, however it is progressing well. Other elements of the tender documentation, including the initial Selection Questionnaire have been drafted, along with the evaluation and assessment criteria, extension criteria and the proposed governance arrangements for the Alliance, all of which is explained more within this paper and as per the attached **Appendices 2, 3 and 4**.
  - b) **Accommodation and Fleet** – A full inventory of all the fleet, depot and office accommodation required for the new contract has been produced. Exploration of any potential additional site availability for carrying out the

operations including potential sites for recycling facilities are also being conducted.

- c) **IT systems and Interfaces** – Identification of all the systems, existing supplier arrangements, hosting etc. has been established and work to identify any potential rationalisation of the systems is progressing, including ensuring that the systems are all secured in the required timescales. This, along with other issues will be a key element in discussions with the successful bidders to ensure that any migration of information is carried out prior to the start of the new contracts.
- d) **Transition** – This workstream covers de-mobilisation and mobilisation and is closely linked into the work of the other workstreams. Contingency plans are being developed to ensure a smooth and seamless transfer from the current to the new arrangements. TUPE is invariably an area which brings challenges to most large procurement exercises. This has been recognised and understood at an early stage and requests for information of details for any TUPE transfers has already been made to our current service provider. In addition, significant support is being provided by HR and legal services who have extensive experience in carrying out TUPE transfers. Notwithstanding this has been highlighted as a key risk area within the project.

**2.2** The transfer back into the council from Ringway Jacobs, of various teams along with the recruitment of 4 of the 5 identified positions has progressed successfully. One of the key aspects of this early transfer was to enable and facilitate improved working relationships and communications with Members, key stakeholders, including Town and Parish councils, and the wider community. These, along with the other posts, are not only enabling the client team to better facilitate the re-procurement of the highways services contract but also manage the contractual arrangements going forward to better influence and control the policy, levels of service and programmes of work.

### **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).

**3.2** The recent scope of the contract includes the following services however, certain teams as shown below have already been transferred back to the Council:

- 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) – transferred to the council with effect from 1/1/21
- Communications - transferred to the council with effect from 1/1/21
- On Street Parking including management of the NSL Contract - transferred to the council with effect from 1/1/21

**3.3** New Engineering Contract (NEC 4) will 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.

**3.4** The previous paper also agreed that for both the Term Maintenance Contract (TMC) and Term Consultancy Contract (TCC), the initial contract duration would be for 8 years, with the option of 2 number 2-year extensions dependant on criteria, with this criteria and a process for approval to be determined and brought back to Cabinet for a decision.

**3.5** It was also agreed in the previous paper to Cabinet that the:

- Term Maintenance Contract would 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 but with an option for Target Cost approach for small and larger projects.

**3.6** Members were informed that 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 as shown in Diagram 1 below.

**3.7** The new model also gives the Client greater control over the allocation, programming and prioritisation of works, the ability to validate and check rates across the various service providers and within the industry, and even market test if required.

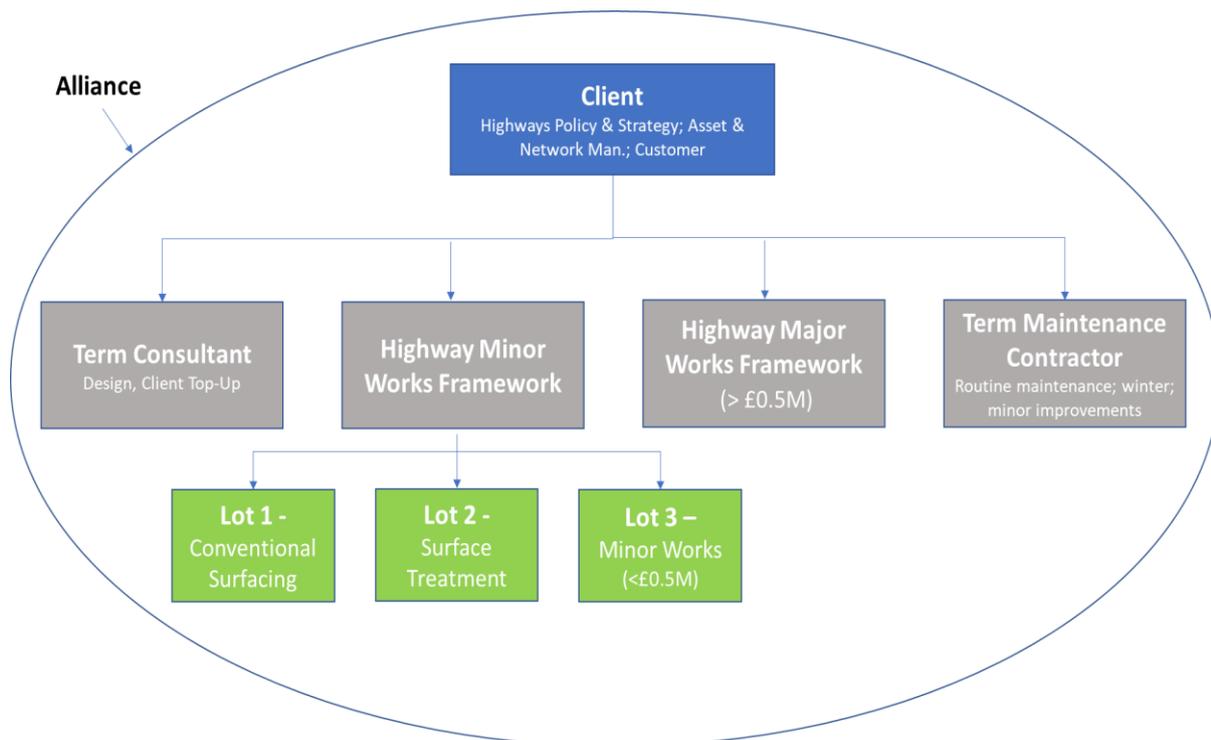


Figure 1

## 4.0 Buckinghamshire Highways

**4.1** One of the key features of the new model was the introduction of an Alliance. This comprises all parties agreeing to share information and best practice, working together in a consistent and collaborative way to ensure efficient and effective delivery of service and operate as a single Buckinghamshire Highways team. Terms of Reference for how this Alliance will operate and function along with governance arrangements are attached as **Appendix 2**.

**4.2** Currently the service is known as Transport for Buckinghamshire, (TfB). When the current contract was awarded, this name was representative of what the service comprised, in that transport, transportation and highways were all included.

**4.3** However, there has been a number of changes over the life of the current contract and the transport element has been transferred back into the council and no longer forms part of the contract.

**4.4** In addition, the current name is also synonymous with the current arrangements.

**4.5** It is believed that a change in name would be more representative of the service going forward and therefore, it is proposed to change the name from TfB to **Buckinghamshire**

**Highways.** This, not only, reflects what the service comprises but gives it an identity that is both recognisable to the communities and corporately to Buckinghamshire Council.

## **5.0 Evaluation Criteria**

**5.1** How tender submissions will be assessed and evaluated is a key element of any procurement exercise. What is seen as important, and the balance of assessing the ratio between quality and price, was an area where members wished to have an input into, in particular for the TMC and the TCC.

**5.2** Attached as **Appendix 3** is the proposed evaluation criteria for assessing and evaluating the tender submissions received by the council.

**5.3** In principle the criteria are based around a model that is generally used within the industry, with the ability to bespoke particular elements to the requirements and needs for these specific contracts.

**5.4** Across the country contracts of a similar type typically apply a top-level ratio from 50%/50% to a 70%/30% quality/ price split with the most common being 60%/40%.

**5.5** It is proposed that a 60% quality to 40% price split be used for both the TMC and the TCC. However, with the quality element also having sub sections for a) commercial terms and risk management and b) Value for Money (VfM), this proposal is believed to give the best overall balance between quality and price.

**5.6** The quality element contains a number of sub sections including Operational Delivery, Social Value, Environment and Climate change, Customer engagement and a number of others and is structured in a way that it not only asks for how the service providers propose to deliver in these areas but in many sub sections, for them to be able to demonstrate how this has been achieved previously including practical examples and references. This is to allow any proposals within submissions to be checked and validated.

**5.7** As mentioned above, there is a sub section included within quality relating to VfM. While overall the evaluation of quality and cost, provides value for money at the initial assessment and evaluation stage, this VfM sub section seeks to ascertain, how the service providers will ensure and give confidence that the costs and services delivered remain competitive and continue to provide VfM throughout the period of the contracts.

**5.8** In addition, the contractual arrangements will have clearly defined specifications, conditions and a range of performance indicators which we would expect and measure delivery against.

**5.9** How the overall assessment and evaluation process will operate is explained in more detail within **Appendix 3**.

## **6.0 Extension Criteria and Process**

**6.1** Members have previously identified the criteria and process for incentivising and offering any potential extensions to the TMC and TCC contracts as a key issue.

**6.2** The agreed contract duration for both the TMC and the TCC is 8 years with the opportunity to be awarded 2 number 2-years extensions. These extensions would be subject to a qualification criteria and further detail of what this comprises is contained with **Appendix 4**.

**6.3** Most, if not all, term contracts similar to the TMC and TCC, offer potential extensions, usually based around some assessment and performance related process. The extension criteria should not only incentivise services providers to deliver a good quality and efficient service, but it should also promote continual improvement and as such, there will be two levels of performance, a minimum which is expected to be met and a desirable which, while challenging, should also be attainable.

**6.4** Subject to the relevant criteria being met/achieved then it would be proposed that a review be carried out by officers with a recommendation by the Head of Service/Service Director for a Key decision by the Leader or Cabinet Member (if delegated) to approve the award of any extension.

**6.5** Notwithstanding the above, the Council/Client reserves the right to award or not to award any of the two number 2-year extensions.

## **7.0 Progress to date**

**7.1** Attached as **Appendix 1** is a programme with key dates and milestones showing the latest progress. As explained previously positive progress has been made and the project team remain confident of being on track to be able to commence the new contracts on 1<sup>st</sup> of April 2023 allowing for a minimum of 6 plus months for mobilisation. This is accepted as a good minimum period, to allow a smooth and seamless transfer. The key dates are as follows:

- Service Provider Engagement day – 8th July 2021
- Initial Tender Documents issued – early 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

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

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

**8.2** There is a Transport Contract Re-procurement reserve which sits at £1.24m. This budget is monitored as part of regular budget monitoring.

**8.3** As previously reported and as part of the MTFP process there is a provision for 'one off' funding of £200k in 2021/22, and a further £100k will be proposed as part of the budget for 2022/23 for the additional posts. At the point of the start of the new contract (April 23), this one off funding will no longer be required as this will be at least a 'net nil' position as corresponding savings will be achieved as part of the new contract.

**8.4** As previously mentioned, transforming into the new service model will undoubtedly involve Transfer of Undertakings (Protection of Employment) (TUPE), which is normal for a procurement process of this nature and size. We have requested the information from Ringway Jacobs to be able to assess what these costs will be, working with HR and Finance colleagues involved in the project.

**8.5** Procurement are also heavily involved in this project and external expertise and support has been sourced and is currently working along with internal procurement as part of the project team.

**8.6** Legal Services are also part of the project team and again, external support as well as expertise within the council are working in developing the contract documentation with procurement colleagues.

## **9.0 Corporate implications**

**9.1 Equality.** An initial equalities impact assessment has been undertaken and is reviewed and updated as required.

**9.2 Data.** Data protection and security implication assessment has also been undertaken, to assist and inform the procurement process to ensure that any decisions take account of data security and GDPR requirements. These assessments are reviewed and updated as required.

## **10.0 Consultation and communication**

**10.1** 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 and their feedback is being used to assist in shaping the scope and content of the contracts.

**10.2** Officers continue to be in contact with other highways authorities from across the country and have regular meetings with neighbouring councils to glean and share information.

**10.3** Previously a Member Reference Group comprising five elected members, including the Cabinet Member for Transport, was established and monthly meetings were held where their input and comments were sought on the various subjects. This Member Reference Group has now been replaced with a new Member Task and Finish Group, chaired by the Cabinet member for Transportation.

**10.4** There is also a Project Board comprising senior officers from Finance, Legal, Procurement, HR, IT and Communications where their views and comments are sought on the various matters.

## **11.0 Next steps and review**

**11.1** A Task and Finish Member Group will be set up on the Highways Service Contract and as part of the procurement a further report will be submitted to Cabinet next summer prior to any appointments being made.

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

**12.1** 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)

