



# Havering

L O N D O N   B O R O U G H

## OVERVIEW & SCRUTINY BOARD AGENDA

<b>7.30 pm</b>	<b>Thursday 13 May 2021</b>	<b>Havering Town Hall, Main Road, Romford</b>
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Members 16: Quorum 6

### COUNCILLORS:

#### **Conservative Group (8)**

Ray Best  
Philippa Crowder  
Judith Holt  
Sally Miller  
Nisha Patel  
Christine Smith  
Maggie Themistocli  
Michael White (Vice-Chair)

#### **Residents' Group (2)**

Ray Morgon  
Barry Mugglestone

#### **Upminster & Cranham Residents' Group (2)**

Linda Hawthorn  
Christopher Wilkins

#### **Independent Residents' Group (2)**

Natasha Summers  
Graham Williamson

#### **Labour Group (1)**

Keith Darvill

#### **North Havering Residents Group (1)**

Darren Wise (Chairman)

**For information about the meeting please contact:**

**Taiwo Adeoye 01708 433079  
taiwo.adeoye@oneSource.co.uk**

## **OVERVIEW AND SCRUTINY BOARD**

Under the Localism Act 2011 (s. 9F) each local authority is required by law to establish an overview and scrutiny function to support and scrutinise the Council's executive arrangements.

The Overview and Scrutiny Board acts as a vehicle by which the effectiveness of scrutiny is monitored and where work undertaken by themed sub-committees can be coordinated to avoid duplication and to ensure that areas of priority are being reviewed. The Board also scrutinises general management matters relating to the Council and further details are given in the terms of reference below. The Overview and Scrutiny Board has oversight of performance information submitted to the Council's executive and also leads on scrutiny of the Council budget and associated information. All requisitions or 'call-ins' of executive decisions are dealt with by the Board.

The Board is politically balanced and includes among its membership the Chairmen of the six themed Overview and Scrutiny Sub-Committees.

### **Terms of Reference:**

The areas scrutinised by the Board are:

- Strategy and commissioning
- Partnerships with Business
- Customer access
- E-government and ICT
- Finance (although each committee is responsible for budget processes that affect its area of oversight)
- Human resources
- Asset Management
- Property resources
- Facilities Management
- Communications
- Democratic Services
- Social inclusion
- Councillor Call for Action
-



## **AGENDA ITEMS**

### **1 CHAIRMAN'S ANNOUNCEMENTS**

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

### **2 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS**

(if any) - receive.

### **3 DISCLOSURE OF INTERESTS**

Members are invited to disclose any interest in any of the items on the agenda at this point of the meeting.

*Members may still disclose any interest in an item at any time prior to the consideration of the matter.*

### **4 APPROVAL TO EXTEND THE REACTIVE & PLANNED MAINTENANCE AND CONSTRUCTION IMPROVEMENT SCHEMES CONTRACT (Pages 1 - 36)**

Report attached including requisition grounds and response from officers.

**Andrew Beesley**  
**Head of Democratic Services**

# Overview & Scrutiny Board

13 May 2021

## REPORT

**Subject Heading:**

Call-in of an Executive Decision – Approval to Extend the Reactive & Planned Maintenance Construction Improvement Schemes Contract.

**SLT Lead:**

Abdus Choudhury – Deputy Director of Legal & Governance

**Report Author and contact details:**

Anthony Clements Principal Democratic Services Officer  
anthony.clements@onesource.co.uk

**Policy context:**

The report deals with a statutory process.

**Financial summary:**

There is no significant financial impact from the statutory processes as these are being met by existing budgets.

**The subject matter of this report deals with the following Council Objectives**

Communities making Havering	[X]
Places making Havering	[X]
Opportunities making Havering	[X]
Connections making Havering	[ ]

**SUMMARY**

In accordance with paragraph 17 of the Overview & Scrutiny Committee Rules, a requisition signed by six Members representing more than one Group (Councillors Gillian Ford, Ray Morgon, Linda Hawthorn, John Tyler, Graham Williamson and Linda Van den Hende) have called-in the Key Executive Decision dated 22 April 2021.

## RECOMMENDATION

**That the Board considers the requisition of the Key Executive Decision and determines whether to uphold it.**

## REPORT DETAIL

As per Appendices

- Grounds for requisition and response by Council officers
- Notice of key Executive decision

**Requisitioning of Newly published decision: Approval to Extend the Reactive & Planned Maintenance and Construction Improvement Schemes Contract**

Councillor John Tyler, Councillor Ray Morgon, Councillor Linda Hawthorn, Councillor Graham Williamson, Councillor Gillian Ford and Councillor Linda Van den Hende, are requisitioning the KEY Executive Decision by the Director of Neighbourhoods, made on 22 April 2021, for the 'Approval to extend the Reactive & Planned Highway Maintenance and Construction of Improvement Schemes contract' with Marlborough Surfacing Limited (MSL), on the following grounds:

1) In the Executive Decision's (ED) 'Statement of the reasons for the decision' it states that *'The contract performance has been monitored through KPI's and contract meetings, and the Contractor has met the expected standards as set out in the contract. During the last 12 months there have been no issues raised with regard to the a service delivery or performance.....'*

This statement is clearly incorrect. In Upminster and Cranham wards alone, there have been a number of performance failings since the contract started, including -

- a) Pike Lane, Upminster - Roadway broke up in numerous places soon after resurfacing, leading to significant remedial works.
- b) St. Mary's Lane, Upminster (within last 12 months) - Following resurfacing and installation of replacement speed humps, it was found that the speed humps were of the wrong shape, causing vibration and noise to local residents. Remedial work was subsequently undertaken to re-shape these.
- c) Winchester Avenue/Litchfield Terrace, Upminster (within last 12 months) - Following highway repairs and resurfacing, the replacement yellow lines were of such poor quality in places that they broke up within days and had to be replaced.

Could we have clarification as to why it is believed this statement is correct, contrary to the evidence?

- 2) What are the Key Performance Indicators (KPI's) for this contract and why has past performance not been shown as evidence in the ED?
- 3) What are the standards expected within the contract and what data/evidence is collected to demonstrate that standards have been met? As detailed above, members are aware of various defects outstanding as far back as 2020.
- 4) Absence of information and/or failing in the recording of incidents of remedial work that have actually been required. What are the true number of incidents where remedial work has been required across Havering since the contract started?
- 5) What contract monitoring measures are in place?

- 6) There are no details on the timescales set for delivery of schemes. Are these being met?
- 7) The contract includes carriageway repair (patching). A recent set of dangerous pothole repairs in Hall Lane, Cranham, declared as urgent by officers, took three weeks from the urgent notice being sent, to completion of work. Is this acceptable as part of the contract criteria and, if so, why? If not, would this be recorded as an 'issue' under the 'service delivery'?
- 8) What is the ratio of reactive repairs work carried out (split between the contractor and the council's directly employed operations service (DSO)) and why have so many DSO staff left Havering Council?
- 9) There are no details on how the contractor was able to carry out reactive repairs work, when the Council was unable to do so last year.
- 10) There are no details or evidence provided about the work the contractor has undertaken within the Regeneration Schemes.
- 11) Is the criteria of 70% price, 30% quality, used as part of the evaluation in the procurement process, still applicable? Due to the number of problems identified, is the contractor actually providing the service that is required under the contract?
- 12) What are the Schedule of Rates for each category of road and pavements defects, together with any additional add-on charges that may be levied?
- 13) There are no benchmarking details on how competitive the Schedule of Rates are compared to other contractors.
- 14) Should the contract with MSL not be extended past 31 March 2022 and a new tendering process take place for 'Reactive & Planned Highway Maintenance and Construction of Improvement Schemes', from that date forwards?
- 15) Are the stated reasons for not undertaking a new tender process, i.e. Brexit and COVID-19, applicable for a contract that would not start until 2022?
- 16) Bearing in mind that *'The Contract requires the Council to notify the Contractor of any extension at least 12 months in advance of the end of the initial term'*, and the contract is due to expire on 31 March 2022, why has the ED for an extension to the contract not been published well in advance of the cut-off date, which presumably expired on 31 March this year?
- 17) With reference to point 16), has the contract extension already been signed and, if so, when?



**Requisitioning of Newly published decision: Approval to Extend the Reactive & Planned Maintenance and Construction Improvement Schemes Contract**

Councillor John Tyler, Councillor Ray Morgon, Councillor Linda Hawthorn, Councillor Graham Williamson, Councillor Gillian Ford and Councillor Linda Van den Hende, are requisitioning the KEY Executive Decision by the Director of Neighbourhoods, made on 22 April 2021, for the 'Approval to extend the Reactive & Planned Highway Maintenance and Construction of Improvement Schemes contract' with Marlborough Surfacing Limited (MSL), on the following grounds:

- 1) In the Executive Decision's (ED) 'Statement of the reasons for the decision' it states that *'The contract performance has been monitored through KPI's and contract meetings, and the Contractor has met the expected standards as set out in the contract. During the last 12 months there have been no issues raised with regard to the a service delivery or performance .....*

This statement is clearly incorrect. In Upminster and Cranham wards alone, there have been a number of performance failings since the contract started, including -

- a) Pike Lane, Upminster - Roadway broke up in numerous places soon after resurfacing, leading to significant remedial works.

**Response:** The work undertaken at Pike Lane consisted of an in-situ recycled road base as an innovative alternative to a traditional full depth concrete reconstruction. This involved the recycling of the existing surface for use as a new road base instead of the introduction of new virgin aggregate material. This process significantly reduced both the Authority's expenditure and the environmental impact of disposing of the existing surface and replacing it with traditional materials.

Core testing was carried out both prior to the work taking place and after completion. Following the completion of the work it was identified via a series of core testing that the subbase below the recycled layer was subject to movement. This movement, below the design of the works undertaken by Marlborough, resulted in reflective cracking to the new surface course that was laid as part of the scheme.

The road was therefore monitored for a period of six months until such time that the subbase had fully settled and repairs were then carried out to ensure integrity of the finished surface.

No costs were borne by Havering in respect of any remedial actions arising from the subbase movement below the new construction. All works carried out were done so in accordance with the specification set out by the Council.

- b) St. Mary's Lane, Upminster (within last 12 months) - Following resurfacing and installation of replacement speed humps, it was found that the speed humps were of the wrong shape, causing vibration and noise to local residents. Remedial work was subsequently undertaken to re-shape these.

**Response:** Traffic calming speed cushions were constructed in St Mary's Lane as part of a resurfacing and improvement scheme. The newly constructed cushions replaced those that existed prior to resurfacing and these were constructed matching the 1.7m x 3.0m dimensions of those that were replaced in accordance with the contract specification and the Design Manual for Roads and Bridges.

Marlborough were made aware that a number of complaints were received, complaining that the traffic calming measures were causing vibration to vehicles. The site was inspected jointly with Marlborough and Council staff and the design subsequently amended. An instruction to reduce the size of the cushions to 1.6m x 3.0m was made by the Council as a means to mitigate the vibration issues.

These works were carried out under the Highway Investment Programme, and were design changes and not remedial work. This was not an issue regarding the quality of work delivered by Marlborough.

- c) Winchester Avenue/Litchfield Terrace, Upminster (within last 12 months) - Following highway repairs and resurfacing, the replacement yellow lines were of such poor quality in places that they broke up within days and had to be replaced.

**Response:** Resurfacing was undertaken in Lichfield Terrace which included the reinstatement of thermoplastic road markings. The yellow parking restriction lines extending from newly resurfaced Lichfield Terrace into the junction with Winchester Avenue also required reinstating to ensure regulatory compliance given their poor condition.

The lines to Winchester Avenue were renewed during the resurfacing procedure on 5th February 2021 however given the poor condition of the existing surface these markings deteriorated. The old surface was therefore swept and lines were re-installed again on 3rd March. Road marking to the new surface in Litchfield Terrace have remained in good condition, the deterioration on Winchester Avenue being attributed to an old and worn asphalt surface. Although resurfacing to Winchester Avenue was not part of the programme Marlborough sought to reinstate these lines as they were in such poor condition.

Marlborough received feedback from a resident in respect of this programme stating *"We would just like to say thank you to all your team who have recently re-surfaced our road, Lichfield Terrace, the team all worked hard and were very tidy when finished"*

Could we have clarification as to why it is believed this statement is correct, contrary to the evidence?

**Response:** This is an NEC 3 Term Service Contract and in accordance with the terms the defect date for each discrete task is 52 weeks after task completion, which means that the supplier must address any defect within this period before it can be contractually considered a service failure.

Marlborough have addressed all issues arising within the defect period specified.

- 2) What are the Key Performance Indicators (KPI's) for this contract and why has past performance not been shown as evidence in the ED?

**Response:** The Key Performance Indicators are separated into the following categories:

- Operational
- Commercial
- Health & safety
- Environmental

The Operational indicators are as follows:

KPI	Type	Description	Measure	
KPI OPS 001	Timely Delivery	Footway Scheme works completed to programme	% calculated by dividing total number of Footway Scheme Works Orders where start date, any key dates and completion dates are achieved in accordance with programme by the total number of Scheme Works Orders	Demonstrate accordance with programme in excess of 90%
KPI OPS 001	Timely Delivery	Carriageway Surfacing works completed to programme	% calculated by dividing total number of Carriageway Surfacing Works Orders where start date, any key dates and completion dates are achieved in accordance with programme by the total number of Surfacing Works Orders	Demonstrate accordance with programme in excess of 90%
KPI OPS 001	Timely Delivery	Engineering works completed to programme	% calculated by dividing total number of Engineering Works Orders where start date, any key dates and completion dates are achieved in accordance with programme by the total number of Engineering Works Orders	Demonstrate accordance with programme in excess of 90%
KPI OPS 002	Timely Delivery	TMA and permitting requirements	% calculated by dividing total number of Works Orders completed fully in accordance with permitting and TMA requirements by the total number of Works Orders	Demonstrate accordance with requirements of 90%
KPI OPS 003	Quality Delivery	Right first time Carriageway Surfacing works	% calculated by dividing total number of Carriageway Surfacing based Works Orders requiring no snagging or repeat visits by the total number of Carriageway Surfacing based Works Orders	Demonstrate 80% compliance
KPI OPS 003	Quality Delivery	Right first time Footway Schemes	% calculated by dividing total number of Scheme based Works Orders requiring no snagging or repeat visits by the total number of Scheme based Works Orders	Demonstrate 95% compliance
KPI OPS 003	Quality Delivery	Right first time Engineering works	% calculated by dividing total number of Engineering based Works Orders requiring no snagging or repeat visits by the total number of Engineering based Works Orders	Demonstrate 95% compliance
KPI SVL 002	Quality Delivery	The satisfaction of the residents and businesses of the London Borough of Havering, with the way in which Works are carried out.	Percentage (%) of customer satisfaction survey returns indicating overall satisfaction. (The Council will deliver surveys, to those affected by works so as to gauge their levels of satisfaction with the standard of the works and the way in which they were carried out. The survey is structured to enable the Engineer to easily identify overall satisfaction of those surveyed.)	

The Commercial indicators are as follows:

KPI	Type	Description	Measure
KPI COM 001	Economic Delivery	Application Accuracy	Contract % calculated by dividing total number of works orders where the final value exceeds the agreed final application on final measure by more than 10% by the total number of works orders
KPI COM 002	Economic Delivery	Final Applications Submitted on time	% calculated by dividing total number of final applications on final measure submitted within 30 days of completion of a scheme by the total number of schemes.
KPI COM 003	Economic Delivery	Final Accounts Agreed	% calculated by dividing total number of works orders where the work is complete and the where the final account has been agreed.

The Health & Safety indicators are as follows;

KPI	Type	Description	Measure	
KPI HST 001	Health & Safety	Reduce Injuries	This Performance Indicator will measure both the Accident Incidents This Performance Indicator will measure both the Accident Incidence Rate (AIR) and the Accident Frequency Rate (AFR) for injuries to Contractors (and Road Users) that take place at sites at which the Contractor is providing the service.	Demonstrate continuous improvement against baseline agreed during mobilisation period
KPI HST 002	Health & Safety	Record of Near misses or incidents recorded.	Contractor & Client are encouraged to demonstrate willingness to record incidents and demonstrate subsequent action	Positive number of Near misses and actions
KPI HST 005	Health & Safety	Record of Site Inspections	Number of site inspections completed against number of live sites in the period	1:4 Sites inspected (25%)

The Environmental indicator is as follows;

KPI	Type	Description	Measure
KPI ENV 001	Environmental	To monitor the reduction in the contractors' vehicle and plant emissions.	The contractor in the first year is to provide total emissions from all vehicles and plant as a base figure. Yearly reductions are required from this base figure.
KPI ENV 002	Environmental	Construction waste reused or recycled	% calculated by dividing total volume of construction waste reused or recycled by the total volume of construction waste

Whilst, reference was made to the Key Performance Indicators in the Executive Decision they were not set out separately due to the size of the files.

As part of the extension further measures are being discussed to ensure the focus will be on continually improving performance and continuing to deliver best value to the Council.

- 3) What are the standards expected within the contract and what data/evidence is collected to demonstrate that standards have been met? As detailed above, members are aware of various defects outstanding as far back as 2020.

**Response:** The standards for key performance Indicators are set out below:

KPI	Standard Required
OPS 001 & OPS 002	90%
OPS 003 (Carriageway)	80%
OPS 003 (Footway & Engineering)	95%
SVL 002	Not set
COM 001	Not set
COM 002	Not set
COM 003	Not set
HST 001	Not set
HST 002	Not set
HST 003	Greater or equal to 25% of all live sites
ENV 002	Not set

Staff carry out monitoring on live sites and sign off on practical completion. The snagging works are then carried out which are checked by the Council. Once these are satisfactorily completed the site is signed off as a completed site and handed over to the Council. An example of this is attached.

As stated in the response to question 1 all defects must be completed within 52 weeks.

The contract has been monitored based on what is currently in place however, discussions are taking place to consider more robust targets to enable the contract to perform even more efficiently delivering best value to the Council. This will take into consideration the ongoing Highways Investment Programme and delivery of these works.

- 4) Absence of information and/or failing in the recording of incidents of remedial work that have actually been required. What are the true number of incidents where remedial work has been required across Havering since the contract started?

**Response:** The work that Marlborough carry out is quality assessed and where an issue is identified the Council will instruct Marlborough to carry out remedial works at no cost to the council and within the defect liability period.

In the last 12 months there has been one occasions where the Council have instructed Marlborough to address these issues.

- 5) What contract monitoring measures are in place?

**Response:** Weekly, monthly and quarterly meeting are in place.

Monthly Contract and Quarterly Strategic meetings for the next 12 months are detailed below:

DATE	TYPE OF MEETING
29 April 2021	Monthly contract
27 May 2021	Monthly contract
24 June 2021	Quarterly contract
22 July 2021	Monthly contract

26 August 2021	Monthly contract
23 September 2021	Quarterly contract
28 October 2021	Monthly contract
25 November 2021	Monthly contract
23 December 2021	Quarterly contract
27 January 2022	Monthly contract
24 February 2022	Monthly contract
24 March 2022	Quarterly contract

The monthly service report provided by Marlborough will be discussed in the meeting. Items for discussion at each meeting include:

- Actions from previous meeting
- Review of key Performance Indicators
- Health & safety
- Current Actions and issues
- Continuous Improvement and Innovation
- Financial Matters
- Communications

This structure of meetings provides and escalation process for issues in the event it is required.

6) There are no details on the timescales set for delivery of schemes. Are these being met?

**Response:** Every scheme is specified separately in accordance with the design of that particular scheme. A number of factors and interdependencies will determine the delivery schedule for each scheme. These are monitored by the officer responsible for that scheme and form part of the Highways Traffic and Parking Programme.

The Highways, Traffic and Parking Programme is updated weekly and rated by a RAG status to determine the situation of each individual site. Weekly management meetings take place in to monitor the progress of all work and schemes and to address any issues that may risk service delivery.

The Council and Marlborough jointly determine the timescales required for each individual project factoring in resource requirements, materials, and prioritisation etc. Each project is delivered against the agreed parameters. This methodology ensures that projects are delivered to timescale.

The programme has been coordinated based on areas, therefore, once the coordination is complete and all surveys carried out for drainage, iron works etc., we will then identify which areas we are doing and when. The programme is live and will change based on different factors such as utility works / scheme works etc. so we will be constantly reviewing which roads go when, but the 3 years list remains and all roads on it will be completed within the 3 years.

During the last 12 months Covid 19 has impacted on the priorities to programmed work. The Executive Decisions dated 23/04/20, 20/05/20 and, 22/10/20 provide details of the changes made as a result of this. The links to these decisions are:

- 7) The contract includes carriageway repair (patching). A recent set of dangerous pothole repairs in Hall Lane, Cranham, declared as urgent by officers, took three weeks from the urgent notice being sent, to completion of work. Is this acceptable as part of the contract criteria and, if so, why? If not, would this be recorded as an 'issue' under the 'service delivery'?

**Response:** The pothole repairs in Hall Lane were sent to DSO initially, a combination of reduced resource and increasing defect reports at that time of year created a backlog, the majority of the pothole reports in Hall Lane were repaired by the DSO.

However, in order to address the backlog Marlborough were asked to pick up the outstanding jobs in Hall Lane, they attended and carried out a permanent repair within 48 hours of receiving the job.

A number of jobs have been received for Hall Lane the most recent, 3 urgent jobs on 31 March 2021 which had a 7 day target. These were completed on 22 April by the DSO outside of the target timescales.

- 8) What is the ratio of reactive repairs work carried out (split between the contractor and the council's directly employed operations service (DSO)) and why have so many DSO staff left Havering Council?

**Response:** Marlborough are currently carrying out around 75% of the reactive repairs, this has increased from around 25% prior to the Covid emergency.

DSO staff have left for many reasons, including the restructure, better offers of employment and general employment churn.

- 9) There are no details on how the contractor was able to carry out reactive repairs work, when the Council was unable to do so last year.

**Response:** Marlborough have a number of contracts in this region which enables them to respond to clients' needs with a dynamic workforce working flexibly to deliver a high standard of service.

- 10) There are no details or evidence provided about the work the contractor has undertaken within the Regeneration Schemes.

**Response:** Any regeneration schemes sit outside of this contract.

- 11) Is the criteria of 70% price, 30% quality, used as part of the evaluation in the procurement process, still applicable? Due to the number of problems identified, is the contractor actually providing the service that is required under the contract?

**Response:** This is not a re procurement but an extension of an existing contract. Marlborough are providing the service in accordance with the contractual requirements.

Any future procurement will consider the market conditions at the relevant time and ensure that the procurement applies the relevant evaluation criteria.

- 12) What are the Schedule of Rates for each category of road and pavements defects, together with any additional add-on charges that may be levied?

**Response:** The Schedule of Rates is commercially sensitive so cannot be published as part of a public report. However, the Schedule of Rates agreed in the original contract will continue to be applied during the extension period.

- 13) There are no benchmarking details on how competitive the Schedule of Rates are compared to other contractors.

**Response:** Benchmarking took place as part of the initial procurement in 2017. The evaluation model took a number of regular items for comparative purposes. The same items were compared across all suppliers and Marlborough were found to offer the best pricing.

However in 2019 (24 months into the contract) officers met with Marlborough to review the rates and as a result of this secured additional savings on both the 700 and 1100 series (carriageway resurfacing and footway renewals) achieving greater value.

In addition to this officers secured a contribution of £30k for joint marketing and communications. Furthermore, Marlborough fund an officer that deals with all permitting matters and utility searches and also provides support as required to ensure that works proceed as scheduled.

Additionally, another officer is provided by Marlborough to carry out all the surveys and associated works for vehicle crossovers. This area of work provides a revenue stream to the Council.

- 14) Should the contract with MSL not be extended past 31 March 2022 and a new tendering process take place for 'Reactive & Planned Highway Maintenance and Construction of Improvement Schemes', from that date forwards?

**Response:** This would not be the officer's recommendation. Based on the work that has been carried out we believe that this contract provides value for money.

- 15) Are the stated reasons for not undertaking a new tender process, i.e. Brexit and COVID-19, applicable for a contract that would not start until 2022?

**Response:** Brexit and Covid are relevant as there are uncertainties in the market about the supply of materials in respect of bidders that would rely on supplies from abroad.

In terms of Covid a number of impacts remain unknown including the possible spike of infection rates which may lead to further restrictions impacting on resources

- 16) Bearing in mind that *'The Contract requires the Council to notify the Contractor of any extension at least 12 months in advance of the end of the initial term'*, and the contract is due to expire on 31 March 2022, why has the ED for an extension to the contract not been published well in advance of the cut-off date, which presumably expired on 31 March this year?

**Response:** Initial work with regard this matter commenced in 2020 however the service suffered resource issues and conflicting priorities over the year. The staff member leading on this project no longer works for the Council and did not progress the work as reported.

Once we recognised this we worked as effectively as possible to get this Executive Decision to Members.

17) With reference to point 16), has the contract extension already been signed and,if so, when?

**Response:** No extension has been signed



# Substantial Completion Certificate

## SITE INFORMATION

Road name:

COLNE DRIVE

Location:

GOOSHAYS WAY

Engineer:

[REDACTED]

## PRACTICAL COMPLETION

We agree that all works at the above address have been practicably completed, with the below as a list of snagging required for completion.

DATE:

01/10/2020.

Agreed by:

Marlborough Rep:

(Print)

[REDACTED]

Client Rep:

(Print)

[REDACTED]

## SNAGGING (List of all work requiring snagging) :

## COMPLETION OF WORKS (List of all works to complete) :

SMALL PATCH (VEHICLE PARKING OBSTRUCTION)

## ADDITIONAL WORKS (List of all additional works) :

Agreed by:

Marlborough Representative:

[REDACTED]

Client Representative:

Malcolm Hubbard:

## COMPLETION

We agree that all initial works, all snagging and any additional works required have been completed and the site is to be handed over to the Client as a completed scheme.

DATE:

16.11.2020.

Agreed by:

Marlborough Rep:

(Print)

[REDACTED]

Client Rep:

(Print)

[REDACTED]

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# Substantial Completion Certificate

## SITE INFORMATION

Road name:

WENNINGTON ROAD

Location:

RAINFHAM / WENNINGTON WARD

Engineer:

## PRACTICAL COMPLETION

We agree that all works at the above address have been practicably completed, with the below as a list of snagging required for completion.

DATE:

05.06.2020

Agreed by:

Marlborough Rep:

(Print)

Client Rep:

(Print)

## SNAGGING (List of all work requiring snagging) :

## COMPLETION OF WORKS (List of all works to complete) :

## ADDITIONAL WORKS (List of all additional works) :

Agreed by:

Marlborough Representative:

Client Representative:

Malcolm Hubbard

## COMPLETION

We agree that all initial works, all snagging and any additional works required have been completed and the site is to be handed over to the Client as a completed scheme.

DATE:

09.06

Agreed by:

Marlborough Rep:

(Print)

Client Rep:

(Print)

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## Notice of KEY Executive Decision

<b>Subject Heading:</b>	Approval to extend the Reactive & Planned Highway Maintenance and Construction of Improvement Schemes contract.
<b>Cabinet Member:</b>	Councillor Osman Dervish, Cabinet Member for Environment
<b>SLT Lead:</b>	Barry Francis, Director of Neighbourhoods
<b>Report Author and contact details:</b>	Nicolina Cooper Interim Head of Highways, Traffic & Parking <a href="mailto:Nicolina.cooper@havering.gov.uk">Nicolina.cooper@havering.gov.uk</a>
<b>Policy context:</b>	Connections: Improving roads and pavements
<b>Financial summary:</b>	The extension will be funded from both revenue and capital. The revenue budget code is A27002 - 651780  It is estimated that the 2-year contract extension value will be £25m

### Key Executive Decision

<b>Reason decision is Key</b>	<b>(i) Expenditure in excess of £500,000; and (ii) Likely to have a significant effect on two or more wards</b>
<b>Date notice given of intended decision:</b>	<b>19 March 2021</b>
<b>Relevant OSC:</b>	<b>Environment</b>
<b>Is it an urgent decision?</b>	<b>No</b>
<b>Is this decision exempt from being called-in?</b>	<b>No</b>

### **The subject matter of this report deals with the following Council Objectives**

Communities making Havering	<input type="checkbox"/>
Places making Havering	<input type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input checked="" type="checkbox"/>

## **Part A – Report seeking decision**

### **DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION**

Maintaining and improving the borough's roads and footways is a key administration priority directly linked to providing a clean safe borough. The Corporate Plan includes specific commitments to maintain our roads, pavements and town centres. The Council has a duty to maintain the highway in accordance with section 41 of the Highways Act 1980.

The Director of Neighbourhoods is asked to approve:

- The extension of the Reactive & Planned Highway Maintenance and Construction of Improvement Schemes Contract for a period of 2 years starting from 1 April 2022.

### **AUTHORITY UNDER WHICH DECISION IS MADE**

Havering Council's Constitution:

Part 3 [Responsibility of Functions]  
2.1 General Functions of Cabinet

(p) To award all contracts above a total contract value of £10,000,000.

Part 3: Article 2 – Executive Functions

The Leader of the Council may by way of written notice to the Proper Officer delegate of executive functions to staff.

Part 2: [Articles of the Constitution] Article 1.03(d) – Definitions

The Director of Neighbourhoods is a Senior Leadership Team Director, for the purposes of the Constitution.

Part 4: Contract Procedure Rules (CPR) 19.4:

*An extension to a contract may be made by a chief officer under the Scheme of Delegation provided that it was contemplated at the time the contract was awarded. For an award following an OJEU-compliant procurement, an extension may be approved if:*

- *the published notice permitted the contract to continue past the defined period,*
- *the extension period does not exceed 50% of the awarded contract value, it will not mean that EU Threshold limits are exceeded by more than 50%; and*
- *performance by the contractor has been satisfactory.*

At the Cabinet meeting on 18 January 2017, Cabinet delegated to the Director of Neighbourhoods authority to exercise the option to extend the Reactive & Planned Highway Maintenance and Construction of Improvement Schemes Contract for a further two years as permitted under contract beyond March 2022.

### **STATEMENT OF THE REASONS FOR THE DECISION**

Marlborough Surfacing Limited (MSL) were awarded the contract for a 5-year term from 1 April 2017. The full details of the award are set out in the Cabinet report of 18th January 2017 (Appendix 1). The contract is due to expire on 31 March 2022. There is an option to extend for

## **Key Executive Decision**

a maximum period of two years, at the Council's discretion. The Contract requires the Council to notify the Contractor of any extension at least 12 months in advance of the end of the initial term.

The contract performance has been monitored through KPI's and contract meetings, and the Contractor has met the expected standards as set out in the contract. During the last 12 months there have been no issues raised with regard to service delivery or performance. The contractor has delivered schemes within set timescales and budget provision.

Since the start of the Highways Improvement Plan, the contractor has delivered 19 miles of highway and 14 miles of footway.

The Contractor continues to successfully deliver an ongoing programme of regeneration schemes. Some examples of more recent schemes are:

- Romford Town Centre
- Gidea park
- Hornchurch Town Centre
- Harold Wood

Over the past year, during the difficult Covid 19 period, the Contractor has proactively worked with the Council deploying resources to carry out reactive maintenance works when the Council could not resource it. In addition to this, the Contractor assisted with social distancing markings, which helped residents use parks and town centres in a safe manner and manufactured additional social distancing signage for retail areas, test and trace and vaccination centres. The Contractor also prepared traffic management plans for the safe re-opening of the Gerpins Lane Waste and Recycling Centre during this period to ensure essential services could access the site safely.

Early discussions with the Contractor took place to ensure that all issues affecting the UK's exit from the European Union were mitigated ensuring ongoing delivery of the contract. The Council are confident that any constraints will have little or no impact upon the Contractor continuing to deliver this contract efficiently and do not expect any disruption to service delivery.

During the extension period, discussions will take place to negotiate savings and identify opportunities for innovation and improvement, defining a Transformation and Improvement Plan, driving efficiencies throughout the service for the term of the extension. Ongoing discussions continue to take place regarding the use of alternative materials to achieve improved value.

In accordance with the contract and to support local communities the Contractor has delivered the following social value aspects during the contract to date:

- Engaged 3 new apprentices
- Employed 5 individuals in office roles who were previously unemployed
- Supported employees of non-violent crimes to get back to work
- Arranged a specialist speaker to engage with the whole workforce promoting positive attitudes on mental health
- Procured materials in line with London's Responsible Procurement Code
- Have a policy of reduce, reuse & recycle to reduce waste and deliver sustainable options
- Since 2015 achieved a CO2 reduction of 37% across fleet



## **Key Executive Decision**

The Contractor has considered the ongoing social value aspects of the contract and have confirmed that the following provision will continue to be included as part of the contract extension:

- Engage with HaveringWorks and other local employers to assist disadvantaged groups into employment
- Advertise opportunities through local organisations e.g. HaveringWorks
- Support individuals leaving the criminal justice system through our links with The Shaw Trust
- Provide a 2 week work academy to 4 unemployed local residents
- Engage a minimum of 1 full time apprentice annually
- Engage with 1 school annually to provide learning opportunities
- Provide at least 10 volunteering days annually, identifying Havering based initiatives
- Support local sponsorship opportunities e.g. Havering Summer Festival Community Stage

Council officers have established and maintained a positive working relationship with the Contractor and the contract is considered to be working successfully.

During the term of the contract, a schedule of rates has been applied which will continue to be applied during the extension. In accordance with the contract, a CPI increase will be applied.

The actual expenditure is dependent on works incurred during the extension period. The value of the extension has been calculated using an estimate for reactive works of £5m and the investment of £10m per annum in respect of the Highways Investment Programme as part of the Havering Plan.

Costs in respect of reactive maintenance will fall into revenue spend and Highways Improvement Programme works and projects into capital spend.

Extending the highways contract for two years will provide the Council time to carry out a full evaluation of all procurement options, and to consider the changes in the market as a result of the Covid pandemic and potential changes resulting from the exit from the European Union.

A neighbouring borough has approached Havering to explore the option to carry out a joint procurement exercise. An extension would provide the Council with an opportunity to explore this option potentially providing long-term savings and benefits.

A two year extension will provide sufficient time to carry out market testing and review and develop the service specification including relevant KPIs and monitoring mechanisms.

## **OTHER OPTIONS CONSIDERED AND REJECTED**

### **Retender the Highways Reactive & Planned Maintenance Contract**

Whilst there are the timescales to retender the contract it would prove challenging in the current climate for the following reasons:

- Brexit – Whilst an agreement was reached, it is early days and the UK may yet feel further impact from leaving the European Union. It is unclear at present of the total impact on this service or on future relationships. This presents the Council with a requirement to mitigate risk in respect of providing this service. Given the work that

### **Key Executive Decision**

has taken place with the current Contractor, we are confident that the risk to this service has been mitigated.

- Covid 19 – Councils along with suppliers are managing their way through this changeable situation. Due to the changes that are, still taking place, resources are susceptible to the virus causing possible loss of resource and redeployment of some resource to address Covid 19 issues arising.

#### **In Source**

This is not an option due to timescales, resourcing and additional costs including fleet and material costs. The current depot does not have the space for the requirements of a service at this level. There would be insufficient time to mobilise this option.

#### **Do nothing**

This would mean the current contract would expire on 31 March 2022 with no contractor to carry out the works after this date. This is not an option as the Council has a statutory duty to maintain the public highway.

### **PRE-DECISION CONSULTATION**

MSL, Highways Team, Cllr Dervish, Lead Member for Environment

### **NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER**

Name: Nicolina Cooper

Designation: Interim Head of Highways, Traffic & Parking

Signature:



Date: 24 March 2021

## **Part B - Assessment of implications and risks**

### **LEGAL IMPLICATIONS AND RISKS**

1. Section 41 of the Highways Act 1980 places a duty on the highway authority to maintain the highway at public expense. S1(3) of the Highways Act defines a highway authority as 'The council of a London borough ...are the highway authority for all highways in the borough'.
2. This report seeks approval to extend the contract with Marlborough Surfacing Limited for a period of two years commencing on 1 April 2022. The extension is subject to the Public Contract Regulations 2015 (PCR). Section 72 (1) (a) of the PCR permits variations of a contract where the contract sets out the scope and nature of the variation. The two year extension is permitted by the terms of the contract.
3. The extension must comply with the Council's Contract Procedure Rules (CPR). Under CPR 19.4 an extension is permitted where certain conditions are fulfilled which are the extension was contemplated at the time the contract was awarded, the award followed an OJEU-compliant procurement and the published contract notice permitted the contract to continue past the defined period. CPR 19.4 also requires the extension does not exceed 50% of the awarded contract value. The body of the report confirms that the proposed extension falls within CPR 19.4.
4. Under CPR 19.5 the extension document will be completed in the same manner as the original contract. Given the value of the extension, the extension will be signed as a deed.
5. The Council's legal services team will assist with drafting the extension. Any notice to extend the contract from the Council must be at least 12 months before the expiry of the current contract and accepted by the Contractor in writing

### **FINANCIAL IMPLICATIONS AND RISKS**

The cost of the extension is estimated to be c£25m and will be funded from both revenue and capital. The revenue spend will be funded from A27002.651780 estimated to be c£0.5m per annum the capital spend in respect of the Highway Improvement Programme from C30000 £10m per annum for two years. Additional carriageway works will be funded from C28210 £1m and footway works from C28560 £1m both per annum for two years.

	2021/22	2022/23	Total
	£m	£m	£m
<u>Capital</u>			
C30000	10.000	10.000	<b>20.000</b>
C28210	1.000	1.000	<b>2.000</b>
C28560	1.000	1.000	<b>2.000</b>
<u>Revenue</u>			
A27002.651780	0.500	0.500	<b>1.000</b>
<b>Grand Total £m</b>			<b>25.000</b>

## **Key Executive Decision**

Reactive maintenance and repair will be met from and kept within the existing revenue budget (A27002,651780). All new projects and Highways Improvement Programme works, in accordance with the Havering Plan will be funded from capital funding to be advised on individual project documentation as part of pre works quotes.

The budgets will be monitored regularly, spend will be contained within the stated budget envelope.

### **HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

The recommendations in this report do not give rise to any identifiable HR risks or implications that would affect the Council or its workforce.

### **EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

### **HEALTH AND WELLBEING IMPLICATIONS AND RISKS**

There are no health and wellbeing implications or risks arising from this extension.

### **BACKGROUND PAPERS**

None

**Key Executive Decision**

**Part C – Record of decision**

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

**Decision**

Proposal agreed

**Details of decision maker**

Signed

A handwritten signature in black ink, appearing to be 'B. Francis', enclosed within a faint, hand-drawn oval border.

Name: Barry Francis

CMT Member title: Director of Neighbourhoods

Date: 22<sup>nd</sup> April 2021

**Lodging this notice**

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Committee Officer in Democratic Services, in the Town Hall.

**For use by Committee Administration**

This notice was lodged with me on \_\_\_\_\_

Signed \_\_\_\_\_

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## CABINET

**Subject Heading:**

Award of the Reactive & Planned Highway Maintenance and Construction of Improvement Schemes Contract and the Maintenance, Repair and Replacement of Street Lighting, Other Illuminated Signs and Associated Electrical Equipment Contract

**Cabinet Member:**

Councillor Osman Dervish  
Environment, Regulatory Services & Community Safety

**CMT Lead:**

Steve Moore  
Director of Neighbourhoods

**Report Author and contact details:**

Lorraine Delahunty  
Interim Group Manager  
Street Management  
[lorraine.delahunty@havering.gov.uk](mailto:lorraine.delahunty@havering.gov.uk)  
01708 432618

**Policy context:**

Maintaining the Boroughs Highway Assets are key Administration priorities. The London Borough of Havering, in its capacity as the Highway Authority, has a statutory duty to maintain the public highway (Highways Act 1980 s41)

**Financial summary:**

Awarding the contracts in line with the recommendations below represents the most economically advantageous option to the authority in ensuring best value. The Reactive and Planned Highway Maintenance and Construction of Improvement Schemes Contract have an estimated value of up to £83,000,000.00 for both London Borough of Havering and London Borough of Barking and Dagenham Council. The contract value for Havering is up to £43,000,000.00. The Maintenance, Repair and Replacement of Street Lighting, Other Illuminated Signs and Associated Equipment Contract have an estimated value of £14,000,000.00 for both London Borough of Havering and London Borough of Barking and Dagenham Councils. The contract value for Havering is up to £7,000,000.00. The actual expenditure is dependent on works incurred during the term of the Contract and values have been based on expenditure in previous years.

**Is this a Key Decision?**

Yes

(a) Expenditure of £500,000 or more

(c) Significant effect on two or more Wards

**When should this matter be reviewed?**

**Reviewing OSC:**

Environment

**The subject matter of this report deals with the following Council Objectives**

Havering will be clean and its environment will be cared for	[X]
People will be safe, in their homes and in the community	[X]
Residents will be proud to live in Havering	[X]



## **SUMMARY**

Maintaining and improving the borough's roads, footways and street lighting is a key Administration priority directly linked to providing a clean and safe borough. The Corporate Plan includes specific commitments to maintain and clean our roads, pavements and town centres and also improve street lighting to reduce the fear of crime. This report sets out the outcomes of the recent joint tendering exercise completed with London Borough of Barking & Dagenham for a term contract of five years with the option to extend for a further two years for the Reactive & Planned Highway Maintenance and Construction of Improvement Schemes Contract and the Maintenance Contract and the Repair and Replacement of Street Lighting, Other Illuminated Signs and Associated Electrical Equipment Contract.

## **RECOMMENDATIONS**

Following a joint procurement exercise with London Borough of Barking and Dagenham, Cabinet members are asked to:

1. Approve the award of the Reactive & Planned Highway Maintenance and Construction of Improvement Schemes Contract to the successful bidder, Marlborough Surfacing Ltd (company registration number 02765630) for the period 1<sup>st</sup> April 2017 to 31<sup>st</sup> March 2022.
2. Approve the delegation of authority to the Director of Neighbourhoods to exercise the option to extend the Reactive & Planned Highway Maintenance and Construction of Improvement Schemes Contract for a further two years as permitted under contract beyond March 2022, subject to satisfactory performance.
3. Approve the award of the Repair and Replacement of Street Lighting, Other Illuminated Signs and Associated Electrical Equipment Contract to Volker Highways Ltd (company registration number 638559) for the period 1<sup>st</sup> April 2017 to 31<sup>st</sup> March 2022.
4. Approve the delegation of authority to the Director of Neighbourhoods to exercise the option to extend the Repair and Replacement of Street Lighting, Other Illuminated Signs and Associated Electrical Equipment Contract for a further two years as permitted under the contract beyond March 2022, subject to satisfactory performance.

**REPORT DETAIL**

Background and Strategy

The Council's current Highway and Street Lighting maintenance contracts are due to expire on 31<sup>st</sup> March 2017. Approval was sought to start the tendering process for these two contracts by way of notice of a non-key executive decision dated 21<sup>st</sup> January 2016.

Following this decision, officers have sought to engage in greater collaborative working with Havering's existing partner, the London Borough of Barking and Dagenham. A joint operational working group was set up for Highways and Street Lighting with representatives of both boroughs to explore procurement options.

The operational working group was supported by OneSource's procurement team with regular support from OneSource Legal, HR, Finance and other support services. Independent Consultants with relevant experience and knowledge of Highways Maintenance and Street Lighting contracts were engaged by London Borough of Havering and London Borough of Barking and Dagenham in order to deliver a suitable combined specification for both the Highways and Street Lighting works.

Procurement Process

The procurement process has been undertaken with due regard for longer term value for money being delivered and to ensure costs are contained during these times of austerity, resulting in an evaluation of 70% price and 30% quality.

The tender exercise was carried out in accordance with European and UK procurement law and the Council's Contract Procedures Rules. Adverts of contract notice were placed in the Official Journal of the European Union (OJEU) on 31<sup>st</sup> October 2016 requesting expressions of interest from prospective suppliers.

Following the Initial Expression of interest some twenty Highways contractors sought an interest in the Highways Maintenance contract, along with twenty Street Lighting contractors seeking an interest in the Street Lighting contract.

The evaluation panel consisted of Officers from the London Borough of Havering and the London Borough of Barking and Dagenham.

Contract documentation and detailed specifications were made available to all contractors along with a financial evaluation model via capitalEourcing and the closing date for all submission of tenders was set at the 28th November 2016.

The “Highways” evaluation pricing model consisted of the following:

**Highways Pricing Evaluation Model**

Carriageway Grip fibre

Carriageway Patching A - HRA

Carriageway Patching B - AC

Road Marking

Footway Works

Carriageway Resurfacing

Footway Slurry

Traffic Improvement Schemes

Traffic Management for Resurfacing Works

Tenders were received back from three bidders.

The table below shows the results for Highways, as submitted:

Evaluation of schedule Highways Term Contract	Evaluation Model
Company	Amount
Contractor 1	£ 4,794,616.87
Contractor 2	£ 6,652,682.13
Contractor 3	£ 6,987,695.00

**Highways Contract Specification**

Contained within the Highways schedule of rates pricing document are a number of regular items / works that have been undertaken over the last financial year which resulted in a greater weighted value when finalising the returned tenders. Such works range from Footways renewals, slurry seal, carriageway patching, carriageway resurfacing, specialist surfacing (including anti-skid and coloured surfacing) surface dressing, road markings, street furniture (including bollards), traffic calming and road safety schemes.

The evaluation model is used for comparison of costs to undertake works and shows which contractor is the cheapest based an estimate of annual works that may be undertaken by both Boroughs. The total values shown are not the annual financial cost of the contract, but merely show a comparison of how much it would cost for each contractor to carry out exactly the same works on site.

The actual value of any works carried out within LBH is completely dependent upon existing budgets.

### Street Lighting Contract Specification

Contained within the Street Lighting schedule of rates pricing document are a number of regular items / works that have been undertaken over the last financial year which resulted in greater weighted value when finalising the returned tenders. In addition, officers considered that the best form of delivery was to ensure that the contractor provided a fixed sum for an acceptable performance level of maintaining the borough's lighting stock "in light", ensuring that the fear of crime is contained to a minimum.

Officers sought tendered rates on the total inclusive "in Light" performance of 99%, 98% and 97% respectively.

The "In light" schedule includes all labour, plant and materials. It also includes such works as bulk clean and change, structural testing and electrical testing. There is a further price list / schedule of rates for works that are not included in the "In light" schedule.

The Street Lighting evaluation pricing model consisted of the following:

#### Lighting Pricing Model

General Maintenance Street Lighting And Signs

Traffic Signs & Bollards

Road Lighting Columns & Brackets

Electrical work for Road Lighting and Traffic Signs ( based on 7 day response )

Maintaining Painting of Steel Work

The pricing was weighted so that the more popular products carried a higher weighting, the purpose of this was to ensure that a balance was achieved between the weighted values of the most and least popular items being purchased.

Completed tenders were received from three companies,

The verification of Price List and Evaluation Pricing Model was undertaken by officers from the London Borough of Havering and London Borough of Barking & Dagenham.

The table below shows the results for Street lighting, as submitted:

Evaluation of schedule Highways Term Contract	Evaluation Model
Company	Amount
Contractor 1	£ 1,807,015.75
Contractor 2	£ 1,925,140.39
Contractor 3	£ 2,236,595.90

The evaluation model is used for comparison of costs to undertake works and shows which contractor is the cheapest based on an estimate of annual works that may be undertaken by both Boroughs. The total values shown are not the annual financial cost of the contract, but merely show a comparison of how much it would cost for each contractor to carry out exactly the same works on site.

The actual value of any works carried out within LBH is completely dependent upon existing budgets.

## **REASONS AND OPTIONS**

The London Borough of Havering, in its capacity as the Highway Authority, has a statutory duty to maintain the public highway (Highways Act 1980 s41) ensuring that it is in a safe and passable condition and is maintained to an acceptable standard.

Both the Highways and Street Lighting contracts will provide the support and maintenance needs for both London Borough of Havering and London Borough of Barking & Dagenham in both Highways and Street Lighting related works following extensive collaborative working to ensure that the best fit specification delivers against both borough's key Administration requirements.

### **Reasons for the decision:**

The Highways and Street lighting contracts have been extended and the extension periods are nearing their end dates of 31<sup>st</sup> March 2017.

This tendering process secures new contracts that will deliver value for money for the next five years with the option to extend for a further two years if required.

### **Other options considered:**

Tendering both the Highways and Street Lighting contracts separately was considered, however the purchasing power of 2 large scale contracts through collaboration with the London Borough of Barking & Dagenham was considered to represent better value for money, especially during times of austerity.

Utilising a Framework agreement was also considered but this only provided a contract over a period of 4 years. A contract with a longer term would be the preferred option to incorporate leasing agreements and capital investments being spread over a longer period to keep tendered prices down.

## **IMPLICATIONS AND RISKS**

Having followed the full European Procurement route and communicating in a fair and transparent manner to all contractors throughout this process, any risk associated with this procurement have been mitigated.

Financial checks have been undertaken of each contractor to ensure suitability and financial stability for the duration of these contracts.

Both the current Highways and Street Lighting contracts are already externalised with contract management arrangements in place. Continuation of these arrangements will ensure that future contract risks are contained whilst building upon the current levels of experience. Failure to appoint the successful contractors for these contracts would leave the London Borough of Havering “Out of Contract” from 1st April 2017. This would increase the risk of both higher charges being applied and delays in progressing works related to Highway and Street Lighting maintenance works, ultimately resulting in the risk of increased claims against the Council arising from accidents.

### **Financial implications and risks:**

The tender evaluation was based upon a sample of items from the schedule of rates for a joint London Borough of Havering and London Borough of Barking and Dagenham procurement exercise. Comparing the evaluation model total sum from the winning tenderer's rates and the rates from the current highways maintenance contractor shows a 32% reduction. This percentage reduction is only true for the evaluation model. However the rates used in the model are reflective of the majority of works carried out over the previous contractual term. If the demands for Highways works remains the same for the new term contract then savings will be achievable. At this stage there is no indication that the profiling of works activity will fundamentally change. The actual spend on Reactive and Planned maintenance through the Highways contract within London Borough of Havering is approximately £5million per annum (inclusive of externally funded Capital schemes, i.e. LIP schemes)

The tender evaluation for the Street Lighting element has also been based upon a sample of items taken from the schedule of rates for this joint London Borough tender. The winning tender rates used in the tender evaluation model were compared against the current Street Lighting contractors which show a reduction based upon previous contract rates. The actual spend on the Street Lighting contract on average within London Borough of Havering is £2.6million per annum.

An annual increase of the schedule of rates will be applied to both contracts on the 1<sup>st</sup> April from 2018 onwards for the duration of the contract. The annual increase is calculated using Index figures (Construction Indices) compiled by the Officer of the Deputy Prime Minister and the Regions and published by The Stationery Office in the “Bulletin of Construction Indices.

### **Legal implications and risks:**

The term of the contract is for 5 years with the option to extend for a further two years, contracts are to commence 1<sup>st</sup> April 2017. The estimated value of the Contracts for both London Borough of Havering and London Borough of Barking and Dagenham Councils are as follows:

1. For the Reactive and Planned Highway Maintenance and Construction of Improvement Schemes Contract the estimated value is up to £83,000,000.00.
2. For the Maintenance, Repair and Replacement of Street Lighting, Other Illuminated Signs and Associated Equipment Contract the estimated value is up to £14,000,000.00.

Estimated costs for London Borough of Havering are:

1. Up to £43,000,000.00 for the Reactive and Planned Highway Maintenance and Construction of Improvement Schemes Contract.
  2. Up to £7,000,000.00 for the Maintenance, Repair and Replacement of Street Lighting, Other Illuminated Signs and Associated Equipment Contract.
- As such values exceed the EU threshold for supply/services of £164,176.00 an Open Procedure for the procurement of these contracts has been followed by both Councils. An OJEU contract notice was placed on the 31<sup>st</sup> October 2016.

Bids have been received and successful bidders have been identified by way of evaluation based on the evaluation criterion as set by the Council's Contract Procedures 18.4, "Tenders will be evaluated against pre-determined best price-quality ratio of 70% cost and 30% quality weighting".

The Council are under a statutory duty to maintain the Highway at public expense, section 41 Highways Act 1980. Where the Council has provided Street Lighting as permitted under section 97 of the same Highways Act 1980 the Council is required to keep such lights in safe condition. The Council may be exposed to the possibility of actions for breach of statutory duty if it fails to maintain the Highway.

The Procurement of these Contracts has complied with both the Council's Contract Procedure Rules and the EU competitive legislation, The Public Contract Regulations 2015.

The Contract Data has been put together with the engagement of independent consultants; one for the London Borough of Havering and another for the London Borough of Barking and Dagenham with expertise in the said areas covered by the contracts and Legal Services.

The Contract value exceeds £150,000 therefore, in accordance with Contract Procedure Rule 17.1 the Contracts will need to be submitted to Legal Services for review.

#### **Human Resources implications and risks:**

There are no HR implications or risks arising directly as a result of this report.

**Equalities implications and risks:**

The Council recognises that there can be no fair society if some groups remain disadvantaged because of their protected characteristics. This also applies to how we provide our services either directly or when we procure them from elsewhere. We expect suppliers who provide goods and services on our behalf to adhere to the same principles. Compliance with the Public Sector Equality Duty helps the Council to ensure that the goods and services we procure are fit for purpose and meet the needs of our users

Incorporating equality outcomes, where relevant and in a proportionate way is integral to the way in which the Council procures services. It is important that they are considered prior to any procurement process This will help identify the specific needs of different potential users allow them to be appropriately reflected in the process so as to buy better outcomes for services and the council.

**BACKGROUND PAPERS**

N/A