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CABINET

Subject Heading:

Award of Highway Services Contract

Cabinet Member:

Cllr Mugglestone, Cabinet Member for Environment

ELT Lead:

Imran Kazalbash, Director of Environment,

Report Author and contact details:

Tony Galloway, Interim Assistant Director of Environment

Policy context:

This report supports the Corporate Theme "Place - A great place to live, work and enjoy"

Financial summary:

The value of this contract over the first 6 years could be up to be £87m and over 10 years £145m and will be funded from both revenue and capital budgets.

Is this a Key Decision?

This is a key decision as it concerns:

(a) Expenditure or saving (including anticipated income) of £500,000 or more

(c) Significant effect on two or more Wards

When should this matter be reviewed? N/A

Reviewing OSC: Place Overview & Scrutiny Sub
Committee

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

Place - A great place to live, work and enjoy

SUMMARY

This report is seeking approval from Cabinet for the Highways contract to be awarded to the preferred bidder following a competitive tendering exercise.

This report outlines the procurement procedure and presents details of the stages conducted during the process to identify the preferred bidder for the new Highways Contract due to commence in April 2025.

The contract is due to commence on 01 April 2025 for a term of 6 years with the option to extend for a further 4 years. The estimated value will vary and be determined by annual budget setting, capital allocations and external grant funding. Using the current and historical funding levels as a guide it is anticipated that the total contract expenditure will be no greater than £87m over the initial 6-year period and over the maximum 10-year term no greater than £145m. However, the expenditure under this contract varies according to annual funding and budget setting.

RECOMMENDATIONS

For the reasons stated in this report and its appendices Cabinet is recommended:

1. To approve the award and enter into the Highways Contract (the Contract) with Marlborough Highways Limited (Company number 02765630) (“preferred bidder”), subject to the statutory standstill period, for an initial term of six years with the option to extend for up to a further four years, by mutual agreement up to a total value of £145m over 10 years.

REPORT DETAIL

Background

A number of legal statutes require a local authority to manage and facilitate the maintenance and improvement of the highway adopted by the Authority. The Authority has a duty to maintain the highway in accordance with section 41 of the Highways Act 1980. Section 184 of the Highways Act (1980) requires the local authority to manage and facilitate the introduction of dropped crossings on the highway network. The Road Traffic Regulation Act (1984) provides a duty on the local authority to ensure that traffic is lawfully managed and restricted, in both a safety and operational sense. Each of these acts requires the local authority to discharge duties on the highway.

Havering currently fulfils these services through Marlborough Highways Limited (MHL) along with some elements delivered in house by the Direct Services Organisation (DSO). The current contract with MHL was entered into in 2017 for a period of 5 years, and then further extended in 2022 for a period of 2 years. There is no further opportunity to extend this contract, and the contract expires on 31 March 2025.

The project is shaped by the vision “The Havering you want to be part of” and will deliver on the following strategic objectives;

- Place – a great place to live, work and enjoy
- Resources – a well-run Council that delivers for people and place

A Prior Information Notice (PIN) was published in February 2023 following which market engagement was carried out to assist the Authority in determining the options and routes to market.

In July 2023 Cabinet approved the start of the procurement of this highways contract. The procurement strategy, scope of services and business case were agreed.

In December 2023 the Authority published a Contract Notice on Find a Tender advising of its intention to procure a contract for highways and street lighting services under notice reference 2023/S 000-036855. The street lighting services were procured alongside the highway's services, but the award of the street lighting services contract is the subject of a separate report. The Authority conducted this procurement using the Competitive Procedure with Negotiation pursuant to Regulation 29 of the Public Contracts Regulations 2015 (the “2015 Regulations”).

The services within the scope of this contract are:

- Planned and reactive highways maintenance;
- Gully cleansing and maintenance;
- Winter maintenance;
- Major and minor highway schemes such as road safety, traffic and parking improvements, amendments to junctions and road layouts and new roads construction;
- Sign and lining;
- Installation of equipment;
- Maintenance of Structures and bridges;
- Flood management;
- Emergency call outs;
- Provision to take advantage of competitive rates across other parts of the council’s portfolio including estates, parks and housing land; and
- Professional services.

The Procurement process

The Authority conducted this procurement under the Competitive Procedure with Negotiation. At the outset of the process, the Authority said it would comprise the following stages:

- Selection Questionnaire (SQ) stage
- Invitation to Submit Initial Tender (ISIT) stage
- Negotiation stage
- Invitation to Submit Final Tender (ISFT) stage

The procurement documents did however reserve the right to the Authority (as permitted in the 2015 Regulations) to award the contract based on the initial tenders without any negotiation stage.

The Authority received expressions of interest in the form of completed SQs from two suppliers. Following the evaluation of the SQs, the Authority invited both suppliers to submit detailed solutions by issuing an Invitation to Submit Initial Tender.

Overview of the ISIT stage

The evaluation of the initial submissions followed the methodology set out in the published procurement documents to ensure the conformity and the compliance of the submissions with the needs and the requirements of the Authority.

The review of the submissions therefore, followed the following stages:

- Checks to ensure the conformity and completeness of submissions
- Evaluation of method statements (the bids' quality submissions)
- Evaluation of price lists (the bids' financial submissions)

An evaluation panel was formally appointed to review, evaluate and score the quality and financial submissions. Members of the evaluation panel were appointed based on their expertise, experience, and competence and included officers from the highways service, environment, and finance teams. Members of the evaluation panel completed Conflict of Interest forms prior to the process which were submitted to procurement for review and approval. No conflicts of interest were identified.

Evaluation Criteria

The evaluation criteria were set out on a 60:40% split between price and quality.

Criteria	Weighting for Initial and Final Tender Evaluation
Quality	40%
Financial	60%
Total	100%

The quality submission and the financial submission were each evaluated by a different evaluation panel.

The table below sets out the evaluation criteria in respect of the quality submission.

Tier 1	Tier 2	Max Points Available
Quality Criterion	Management and Culture	20
	Social Value	10
	Operations	30
	Deliverability	20
	Health & safety	10
	Continuous Improvement and Innovation	10
Total		100

Panel members individually scored the bidders' submissions and submitted their completed scoring prior to the start of a moderation process. At the moderation meetings the evaluation panel discussed their scores and the reasons for those scores. They agreed a consensus score for each bidder's method statements.

The evaluation of the price element was determined based on the deviation from the lowest sum methodology. The tender sums were ranked lowest first with the lowest tender sum achieving the maximum percentage available and the other submissions receiving a percentage based on the deviation from the lowest tender sum.

The final evaluation scores for each bid are shown on the exempt Appendix A.

Regulation 29(15) of the 2015 Regulations permits contracting authorities to award contracts based on initial tenders without negotiation where they have so indicated in the contract notice. The Authority indicated this intention in its contract notice and confirmed the position in paragraph 11 of the Invitation to Participate in Negotiation (Volume 1 Instructions). However, the Authority reserved the right to include a negotiation stage as permitted in the Regulations. Following the evaluation of the ISIT stage, the evaluation panels considered that the Authority would benefit from implementing the negotiation stage.

Negotiation and Invitation to Submit Final Tender stage (ISFT)

The negotiations with all bidders took place on 16 and 17 October 2024. The Invitation to Submit Final Tenders (ISFT) was subsequently issued to bidders on 17 October 2024 with a final submission date of 31 October 2024.

The evaluation panels reconvened between 1 and 8 November 2024 to evaluate and moderate the final submissions. The methodology set out in the published procurement documents was followed to ensure the conformity and the compliance of the submissions with the needs and the requirements of the Authority

Following final submissions, the Authority was satisfied that the winning bid met the Authority's needs and represented value for money in the current market. Therefore, Cabinet approval is sought to award the contract to the preferred bidder.

Once the governance process has been completed, the Authority will issue standstill letters informing bidders of the result of the procurement, which is currently scheduled to happen at the end of December 2024. The service commencement date is currently set for 1 April 2025.

Key benefits

The inclusion of the range of services as outlined above will improve the way in which Havering looks and feels and will enhance the customer journey thereby improving residents' satisfaction as similar standards will apply to all services included in this contract.

Several services will be managed under this contract which means that common data sets, systems, processes and procedures will be developed and aligned, delivering greater efficiencies and driving up productivity levels.

This contract will provide the Authority with the opportunity to develop commercial strategies in partnership with the contractor which aligns with the Authority ambitions outlined in the Commercial Strategy 2024 – 2029.

Further benefits to this award include:

- Harmonisation of services;
- Commitment to environmental sustainability including improved operational emissions with year-on-year reduction and carbon offsetting initiatives;
- Innovation in service delivery incorporating new delivery methods;
- Greater impact on Social Value focusing on enhancing local employment, supporting regional businesses and contributing to the wellbeing of the community;
- Efficiencies in managing and monitoring operations, finances and KPIs under a single contract;
- Transference of some operational and financial risk;
- Greater purchasing powers from suppliers thereby delivering value for money; and
- Outsourcing of the DSO removes all Authority overheads, returning the Town Hall compound for alternative use and preventing the need to invest in a new highway depot, estimated to cost more than £10m.

Social Value

Several key offers were made by the preferred bidder to deliver positive social outcomes across the boroughs communities which are detailed in Appendix B.

Environment & Climate

Several offers were made by the preferred bidder to contribute to the borough's Climate Change Action Plan which are detailed in Appendix C.

Innovation

Several key offers were made by the preferred bidder to deliver continuous improvements and innovative efficient which are detailed in Appendix D.

Contract Award & Mobilisation

Once approval to award this contract is granted, and after the expiry of the call-in period, formal notice of intention to award the contract will be sent to the bidders and a mandatory ten-day minimum standstill period will then follow. Following the end of the standstill period, the Authority will work with the preferred bidder to complete the contract ready for execution. On completion the contract will be sealed by the Authority and a copy returned to the preferred bidder.

A full mobilisation plan was submitted by bidders as part of the ISFT submission outlining how the services will be delivered ready for the service commencement date including:

- Contract documentation finalisation and legal;
- Depots and premises;
- Staffing and HR;
- Communications; and
- Health & Safety.

The mobilisation team will continue to report into the Environment Programme Board throughout the mobilisation period. The first mobilisation meeting will take place within the first week after the standstill period has expired to review the plan and begin the process.

TUPE

The staff that currently provide services through the Direct Services Organisation (DSO) will be transferred to the new contractor. There are 16 full time operative posts and 1 Team Leader post all of which are subject to Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). However, of these the Team Leader post and 9.5 Operative posts are currently vacant. All posts and staff within those posts will be transferred under TUPE. The preferred bidder has provided a

comprehensive mobilisation plan to ensure that there is ongoing communication, and staff are supported throughout the process.

Contract Management

The contract will be managed through weekly Operational, Monthly Contract, and Quarterly Strategic meetings (one of which will act as the Annual Meeting). The content of these meetings has been specified within the contract. The meetings will be supported by a suite of reports addressing issues such as performance against Key Performance Indicators (KPI's), trends, Health & Safety, Social Value, Quality and Environment Management Plan and innovation.

A detailed suite of KPI's covering all aspects of the service is included which will ensure the delivery of the services to the highest standard comprising of general, commercial and service specific KPI's. The KPI's are designed to monitor the performance of the contract, reward good work and develop a culture of shared values and mutual trust.

REASONS AND OPTIONS

Reasons for the decision:

- That considering the process followed and the consensus reached during moderation, the preferred bidder's submission represents the most economically advantageous tender;
- The preferred bidder's submission can meet the Authority's needs and requirements from a qualitative approach
- That the preferred bidder's submission can meet the Authority's needs and requirements from a financial perspective; and
- That the preferred bidder's submission can meet the Authority's needs and requirements from a legal perspective.

Other options considered:

Five other options were considered which were set out in the Cabinet report of July 2023 which included:

- Do nothing;
- Extend current contracts;
- Shared service delivery model;
- Bringing services in house; and
- Setting up a Local Authority Company (LAC).

Following assessment of the options it was concluded that there was a strong preference for outsourcing the services and the decision was made to proceed with

the procurement. The benefits of outsourcing all services within the scope of the contract are a more streamlined service with a focus on achieving competitive rates for each service area delivering value for money

IMPLICATIONS AND RISKS

Financial implications and risks:

Due to the commercial sensitivity of this contract award, detailed financial implications and risk are contained within the exempt Appendix A. The service is a statutory service that is required to be delivered. There are identified capital and revenue budgets to meet the delivery of the service. Any pressures arising will be addressed in year through service management.

Legal implications and risks:

Section 41 of the Highways Act 1980 places a duty on the highway authority to maintain the highway at public expense. Section 1(3) of the Highways Act states that the council of a London borough is the highway authority for all highways in the borough.

This report asks Cabinet to approve the award of the highways contract to the preferred bidder for a period of 6 years with an option to extend for a further period of up to 4 years. The total value of the contract exceeds the threshold for works under the 2015 Regulations which is currently at £5.373m including VAT. Therefore the 2015 Regulations apply in full.

The procurement was conducted as a Competitive Procedure with Negotiation in accordance with Regulation 29 of the 2015 Regulations. Cabinet must be satisfied that the recommended award of the contract is to the bidder that submitted the most economically advantageous tender based on the award criteria set out in the tender documents. This will secure compliance with the 2015 Regulations.

A contract award notice must be published on the UK Find a Tender Service within 30 days of award of the contract and Contracts Finder 24 hours thereafter.

The Authority's external lawyers will assist with the preparation of the formal contract. The ISFT was issued with a draft contract, and the contract will be entered into on these terms, subject to confirmation and finalisation of the contract with the preferred bidder in accordance with the 2015 Regulations.

Human Resources implications and risks:

Some of the services that have been included in the tender and procurement process as part of the new highways contract are currently provided by Havering Council employees. TUPE will apply, and the employees would be required to transfer to the employment of the new service provider. Employees in scope of the TUPE transfer

have been regularly updated throughout the tender process and once the award is made to the successful bidder, the statutory TUPE information and consultation process will commence and be followed by a period of mobilisation for which a plan is being produced.

The following risks have been identified; however, these have been mitigated through a detailed mobilisation plan and contractual obligations. The Authority will work closely with the preferred bidder and Trade Union representatives to mitigate any risks including:

- Staff have sufficient training and competencies to deliver the services in accordance with the proposal;
- Sufficient planning required for any TUPE and staff questions to be resolved;
- Staff leave and do not transfer; and
- Sufficient information for staff with regular communications.

Equalities implications and risks:

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

- the need to eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- the need to advance equality of opportunity between persons who share protected characteristics and persons who do not; and
- 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 Authority 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 Authority is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socioeconomics and health determinants.

The group of staff in scope is very small and therefore individuals may be identifiable. EQIA data is therefore not included in this report.

The Council seeks to ensure equality, inclusion, and dignity for all in all situations. There are not equalities and social inclusion implications and risks associated with this decision

Health and Wellbeing implications and Risks:

The Authority is committed to improving the health and wellbeing of its residents.

Provision of safe and well-maintained highway infrastructure is essential in protecting the health and safety of road users, and provision of a well-maintained road network may influence people's willingness or desire to utilise active travel methods, which brings its own health benefits.

There are no direct health and wellbeing implications associated with decision to award this contract. Based on the tender submission, there are thought to be positive health, and wellbeing impacts that will be realised through the implementation of the contract – these benefits are detailed in exempt Appendix A.

The Authority will work closely with the preferred bidder to continue to monitor and assess any possible risks to health and wellbeing that may arise during the course of contract mobilisation and delivery and seek to ensure that these are effectively mitigated against, via a detailed mobilisation plan and contractual obligations.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

The environmental benefits have been set out in the Environmental and Quality performance and Social Value Method Statements and include some key aspects that have been set out above in Environment & Climate and Social Value. Full details can be found in Exempt Appendices B and C.

These aspects will be measured and monitored throughout the contract through detailed reporting and robust contract management meetings and both quarterly and annual strategic meetings.

BACKGROUND PAPERS

- 1 Exempt Appendix A – Commercial information
- 2 Exempt Appendix B – Social Value
- 3 Exempt Appendix C – Environment & Climate
- 4 Exempt Appendix D – Continuous improvement and Innovation
- 5 Cabinet Report – Procurement of Highways and Street Lighting contracts July 2023 - [Decision - Procurement of Highways and Street Lighting Contract | London Borough of Havering](#)
- 6 Havering Commercial Strategy - [Havering Commercial Strategy 2024 - 2029](#)
- 7 Havering Climate Change Action Plan - [Climate Change Action Plan 2024-2027 \(havering.gov.uk\)](#)