

From: Neil Baker, Cabinet Member – Highways and Transport
Simon Jones, Corporate Director – Growth, Environment and Transport

To: Environment and Transport Cabinet Committee – 21 May 2024

Subject: Road Asset Renewal Contract 2025 Award

Decision No: 24/00043

Classification: **Unrestricted**

Past Pathway of report: None

Future Pathway of report: for Cabinet Member Key Decision

Electoral Division: Affects all divisions

Summary: This report provides the Environment and Transport Cabinet Committee with a summary of the work undertaken to date to commission the new Road Asset Renewal Contract (RARC).

Recommendation(s):

The Environment and Transport Cabinet Committee is asked to consider and endorse or make recommendations to the Cabinet Member for Highways and Transport on the proposed decision to:

(i) APPROVE the procurement and contract award of a zero value Road Asset Renewal contract;

(ii) DELEGATE authority to the Director of Highways and Transportation, to take relevant actions to facilitate the required procurement activity;

(iii) DELEGATE authority to the Director of Highways and Transportation, in consultation with the Cabinet Member for Highways and Transport, to take relevant actions, including but not limited to, awarding, finalising the terms of and entering into the relevant contracts or other legal agreements, as necessary, to implement the decision; and

(iv) DELEGATE authority to the Director of Highways and Transportation, in consultation with the Cabinet Member for Highways and Transport, to award extensions of the contract in accordance with the extension clauses within the contract (5 years + up to 5 years extension).

as shown at Appendix A.

1. Introduction

- 1.1 There are around 5,445 miles of local roads in Kent (616 miles of A roads, 279 of B roads, 1172 of C roads and 3378 of unclassified roads), one of the largest local authority networks in the country. It includes a high-speed road network of around 119 miles which has a bespoke annual maintenance programme.
- 1.2 Uniquely, our extensive road network comprises a high proportion of classified or urban roads, many undesigned 'evolved' roads, difficult and variable geology, a large fast-growing population, and high volumes of heavy goods vehicles and other traffic as a result of our proximity to London and our position as the gateway to Europe.
- 1.3 Our local highway network is the most valuable asset we own in Kent, with a replacement value of around £24 billion. Our road assets make up around £10.2 billion of that and play a vital part in delivering council objectives set out in *Framing Kent's Future* by enabling safe and reliable journeys around and through the county.
- 1.4 Our roads support social wellbeing and economic prosperity. They are essential for emergency services to execute their work: policing, healthcare, fire, and emergency response provision all require an effective highway network. These services are a key part of a functioning society which cannot exist without well-maintained and well-managed roads.
- 1.5 Our current approach to road maintenance is set out in our [Highways Asset Management Plan for 2021/22 to 2025/26](#) (HAMP) which was formally adopted and published in July 2021. The HAMP has ensured that we have been able to maximise the available Department for Transport (DfT) capital funding in recent years; make an evidenced-based case for additional KCC investment, and consistently enables KCC to demonstrate it is not negligent as a Highway Authority so that it can put forward a defence in any claim as required under the Highways Act. This approach has particularly benefited road maintenance given that it is the largest and most valuable asset group.
- 1.6 The majority of road spend is on planned data-driven maintenance to prevent potholes and surface defects occurring in the first place, a key principle of asset management. In 2024/25, our multi-pronged approach includes:
 - Planned road surface renewal and reconstruction - £25m
 - Planned road surface preservation - £11m
 - Pothole Blitz - £8.6m
 - Routine maintenance/safety inspections/customer enquiries – circa £7.2m
- 1.7 Of the above, planned road surface renewal and reconstruction works are currently delivered by GW Highways under our Road Asset Renewal contract. This contract was awarded in late 2020 and, with extensions, runs to the end of 2024. It cannot be extended beyond that point.
- 1.8 The delivery of the existing Road Asset Renewal contract has been very successful. GW Highways has a proven track record of providing an excellent service with an average service performance measures client score of 9.95/10.

Under the contract GW Highways has delivered an enhanced level of services that have included both planned and reactive resurfacing works, concrete bay replacements and full depth reconstruction schemes.

- 1.9 In 2023, GW Highways also became Carbon Neutral under PAS 2060:2014 by removing the equivalent amount of CO₂ to what is emitted through activities across its supply chain, by investing in emission reduction projects that absorb CO₂.

2. Discussion

- 2.1 Prior to 2022, the highway maintenance sector has, like the wider economy, generally experienced very low levels of price inflation, typically around 2% per annum. In 2022, an average inflation rate of around 6% was applied to our highway maintenance contracts. The position in 2023 was much more severe with prices being affected by hyper-inflation of 20-30%.
- 2.2 Given its heavy use of bituminous products, quarried aggregates and reliance on fuel use, road maintenance work has been particularly affected by high rates of inflation in 2023, affected by worldwide pressures. The price of planned road resurfacing in 2023 has increased by 30% compared to 2022. Neither DfT capital grants nor KCC capital funding are increased each year to reflect annual inflation, and so the work carried out year on year, compared to the previous year decreases (though when market inflation is low this is somewhat mitigated by innovation, efficiency and market competitiveness). However, given the significant and unprecedented inflation pressure in 2023, the volume of road resurfacing delivered in 2023 significantly reduced compared to that delivered in 2022. This coincided with very poor weather conditions in the winter of 2022/23.
- 2.3 The inflation uplift applied to 2024 rates under the current Road Asset Renewal contract was much lower at 1.21%. There nevertheless remains considerable uncertainty around pricing in the construction and highway maintenance sectors.
- 2.4 Given the above, and wider financial pressures the council is facing, our work on putting together a commissioning strategy to reprocur road asset renewal services from 2025 onwards has focussed heavily on maximising best value, whilst ensuring quality standards are maintained. It has also looked at how we can embed carbon reduction into any future commissioned service, mainly as a result of technical specification changes.
- 2.5 A Prior Information Notice was published in January 2024 inviting expressions of interest from relevant suppliers to participate in a market engagement exercise. KCC received a total of thirteen responses. Market engagement discussions were held with five organisations. These took place during 20-26 February 2024. This discussion focussed on how to drive prices down without compromising quality. Our key finds are set out below.

Market Overview and Interest

- There are a number of national and local contractors with access to nearby batching plants for the processing of asphalt, the key material required for the service.
- Contractors are expected to be very interested due to the high value of this contract. Although there is no specific guarantee of yearly expenditure, it is anticipated to range between £20-25 million annually, resulting in an expected total spend of £200-250 million throughout the contract's duration, including all possible extensions.
- Contractors might not be interested due to the large geographical spread of works; smaller contractors may prefer to work on only half of the county, but this contributes to inefficiencies and reduced best value due to the comparative inaccessibility of the east of the county.

Operational

- Elements such as traffic management, lining and ironworks are commonly subcontracted, though some contractors carry the necessary resources for these services in house.
- Ordering works from a schedule of rates is well-established within the market, as are the form of contract (NEC4) and the Highway Maintenance Efficiency Programme (HMEP) standard on which the schedule of rates is based.
- Cost drivers include labour rates (especially for nights and weekends), and the price of asphalt.

Procurement and Bidding

- Previous procurements of this service received an average of six bids.
- The market is small but mature, with primarily tier 1 contractors expected to tender.
- Potential opportunity for tier 2 contractors if they successfully pass the Selection Questionnaire stage.
- Dialogue is encouraged throughout the procurement process.

Contracting Models and Risk Management

- Fixing rates prompts the market to incorporate this risk into their price submissions; however, annual inflationary uplifts serve as a countermeasure.
- Extended contract terms of 5+ years enable investment, innovation, and environmental improvements in the service, offering a sufficient duration for the depreciation of capital assets. A term of this length will incentivise and focus the contractor.
- Longer contract terms (5 years and beyond) provide the contractor with increased buying power within their supply chain, enabling them to pass on the resulting benefits to the Council. This, in turn, enhances best value and facilitates the achievement of innovation and environmental targets.
- Short contract lengths will increase prices and restrict environmental improvements and social value; the market is moving away from short terms.

- Linking extensions to performance helps incentivise innovation and eliminate stagnation.
- Completed works are paid for in arrears upon completion and approval, which lessens the financial risk to the Council.

3. Proposed Commissioning Approach

3.1 The current commercial model is a single operator contract. This has been a successful commission, and it is proposed that this commercial model will be carried forward to the new arrangement. The benefits of this model are:

- it provides a single point of contact for Council staff, consistency of service provision, and the efficiencies gained through the ability to programme a high volume of work on an annual basis.
- higher spend with an individual contractor is likely to enhance best value due to lower overheads, and
- it will encourage better and more long-term investment and collaboration into the service in the following areas:
 - Environmental
 - Social Value
 - Innovation
 - Early Contractor Involvement
 - Best value

3.2 A multi-contractor/lot option, as per the 2013 contract, and a Framework option were considered but discounted for the following reasons.

- By delivering the entire service through two or more providers, the per contractor spend will be lower resulting in a reduction of best value compared with using a single provider.
- The lower volumes of work reduce the ability of the individual providers to efficiently programme the works to deliver high service quality and best value.
- Multiple points of contact for KCC engineers complicate scheme planning.
- The advantages that this model can provide, such as resilience to one contractor's failure, are of limited use. We have seen consistently high contractor performance and much of the market is served by large well-established contractors at low risk of service failure.
- Multiple contractors will increase the contract management workload for KCC.
- Annual mini competitions via a Framework hinders programme management; long term programme visibility helps the market to plan; this effective planning reduces risk and keeps prices competitive. It also significantly hinders the investment that a contractor can put into the services which would have negatively affect environmental targets.

3.3 Delivering this service through an existing commission, or through a new commission encompassing a number of highway and construction related services was also considered. This was ruled out due to the following reasons:

- A contract which covers the delivery of multiple services often results in a lack of focus on specific services.

- A commission which includes reactive/urgent works will often divert resources from planned/programmed works to respond to these, reducing the quality of service.
 - Service failures in one area can impact contractor viability across all areas.
- 3.4 It is proposed that the initial contract period be for five years, to drive down costs and increase investment and innovation, with up to five years of extensions based on performance. Supplier performance will be regularly monitored using Service Performance Measures (SPMs). The contract will include break clauses to enable termination in the event of poor performance.
- 3.5 Tenderers will first be required to submit a Selection Questionnaire, answering a set of mandatory questions and submit case studies so that we can assess their previous experience and accreditations, and therefore test their suitability to proceed to the Invitation to Tender stage.
- 3.6 Contract award will be determined by the Lowest Notional Tender Value (NTV) above the Minimum Quality Threshold (MQT) evaluation methodology. Tenderers must achieve a minimum score for each tailored quality question before being evaluated based on the lowest price. This approach ensures that the successful bid meets a satisfactory quality standard, allowing the Council to benefit from the lowest price. We may then hold negotiation and clarification meetings with tenderers, to clarify any uncertainties and explore any opportunities for further driving down risk and therefore prices. If that process results in any changes, we will then issue an Invitation to Submit Final Tender.

4. Next steps

- 4.1 Following agreement, the formal procurement of the contract will begin, and this will comply with the requirements of Public Contract Regulations 2015.
- 4.2 Following a successful conclusion of the tendering process, a 'Recommendation to Award' report will be presented to the Director of Highways and Transportation to ratify the contractual arrangements with the chosen supplier.
- 4.3 The new contract will start from 1st April 2025.

5. Financial Implications

- 5.1 This paper is seeking to update committee members on our intended approach to commissioning the next Road Asset Renewal contract and is not seeking to make any specific policy decision. It therefore does not have direct financial implications.
- 5.2 We have spent around £20-25m per annum using the existing Road Asset Renewal contract over the last four years (though the quantity of planned road renewal works delivered each year has reduced given that neither DfT capital grants nor KCC capital funding has increased in line with annual inflation, as explained in paragraph 2.2). Whilst there is considerable uncertainty around

future government capital grants for maintenance, we would expect a similar level of annual spend going forward.

6. Legal implications

6.1 There are no specific legal implications. However, the delivery of road asset renewal works is a vital part of our carefully considered approach to highway maintenance, as set out in KCC's Highways Asset Management Plan for 2021/22-2025/26, which helps us to demonstrate that we are a competent highway authority and are fulfilling our duty under the Highways Act 1980 to maintain a safe network.

7. Equalities implications

7.1 There are no equalities implications.

8. Other corporate implications

8.1 N/A

9. Governance

9.1 N/A

10. Conclusions

10.1 The approach to commissioning road asset renewal services from 2025 outlined above will reduce risk so far as is reasonably possible in today's market, thereby achieving best value. A five-year initial period plus up to five years of extension will provide market certainty and buying power for the chosen contractor. It will also facilitate capital investment, including in respect of reducing their carbon footprint, and encourage innovation.

11. **Recommendation(s):**

11.1 The Environment and Transport Cabinet Committee is asked to consider and endorse or make recommendations to the Cabinet Member for Highways and Transport on the proposed decision to:

(i) APPROVE the procurement and contract award of a zero value Road Asset Renewal contract;

(ii) DELEGATE authority to the Director of Highways and Transportation, to take relevant actions to facilitate the required procurement activity;

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(iv) DELEGATE authority to the Director of Highways and Transportation, in consultation with the Cabinet Member for Highways and Transport, to award extensions of the contract in accordance with the extension clauses within the contract (5 years + up to 5 years extension),

as shown at Appendix A.

• **Appendices and Background Document**

- Appendix A Proposed Record of Decision
- Appendix B – Equality Impact Assessment
- Highways Asset Management Plan 2021/22 to 2025/26 - *A safer, more sustainable and more resilient highway network*

This document can be found via the following link - <https://www.kent.gov.uk/about-the-council/strategies-and-policies/transport-and-highways-policies/managing-highway-infrastructure>.

12. Contact details

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