

From: Michael Payne, Cabinet Member for Highways and Transport
Simon Jones – Director of Highways, Transportation and Waste

To: Cabinet – 27 January 2020

Subject: 20/00015 - Highways Term Services Commissioning Programme

Classification: Part Unrestricted – Appendix B is exempt

Past Pathway of Paper: Environment and Transport Cabinet Committee – 29 November 2019

Future Pathway of Paper: For Cabinet Member decision

Electoral Division: Countywide

Summary:

This report provides the Cabinet with:

- The background to the current Highway Term Maintenance Contract
- The outcome of the CSKL delivery option
- An outline of an alternative delivery option
- Details of key timescales and resourcing requirements going forward.

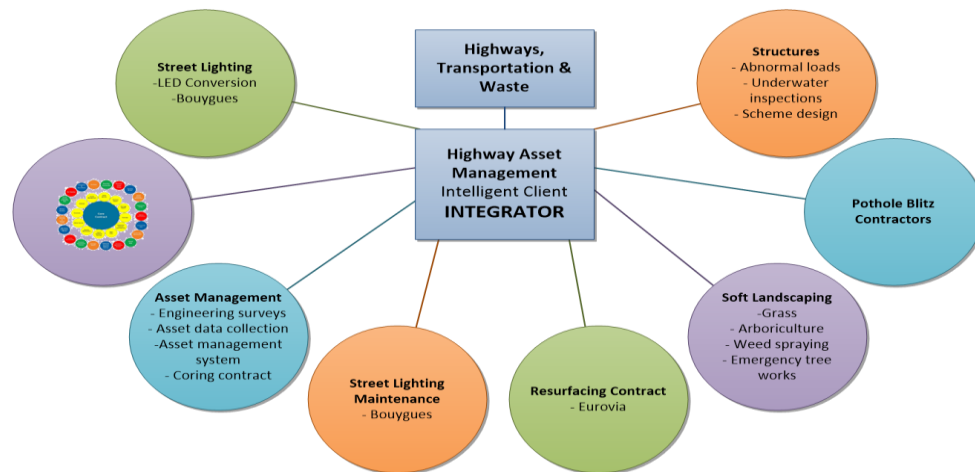
Recommendation:

The Cabinet is asked to consider and endorse, or make recommendations to the Cabinet Member for Highways and Transport on the proposed decision as attached at Appendix A to:

- provide the Corporate Director for Growth, Environment and Transport delegated authority to procure and enter into appropriate contractual arrangements for the provision of highway term services in accordance with the expectations set out in the report.
- provide the Corporate Director for Growth, Environment and Transport delegated authority to procure and enter into appropriate contractual arrangements for the provision of capital drainage works including any potential extension periods in accordance with the expectations set out in the report.
- in consultation with the Cabinet Member for Highways and Transport, delegate authority to the Corporate Director for Growth, Environment and Transport to award contract extensions of the contracts in accordance with appropriate extension clauses within the contract.

1. Introduction

- 1.1 The Highway Term Maintenance Contract (HTMC) is currently delivered by Amey and expires on the 31st August 2020.
- 1.2 As an intelligent client within Highway, Transportation and Waste (HTW), Highway Asset Management (HAM) is responsible for managing a range of different contracts to deliver an effective Highway Services for the public. The HTMC is part of the current delivery model as shown below:



- 1.3 The range of services included with the HTMC but not limited to are:

- Routine Maintenance (carriageway & footway repairs)
- Highways Improvement Schemes <£100,000
- Structures Maintenance
- High Speed Road Maintenance - including Traffic Management
- Emergency and Out of Hours Response
- Winter Service
- Drainage Improvements and Repairs
- Patching and Small Resurfacing
- Signs Maintenance and Improvements (non-illuminated only)
- Lining Maintenance and Improvements
- Gully and soakaways and catch pit emptying
- Barrier repairs and maintenance

- 1.4 The current arrangement is due to expire on 31st August 2020 and service delivery continuity is required to preserve the Authority's statutory obligation of maintaining the county's highway network, in particular winter and emergency in/out of hours services.

- 1.5 Members have given strong direction that any new delivery model should:

- Take back control
- Change the current provider
- Maximise 'pounds in the ground'
- Use local SMEs

1.6 Operationally it is also important to:

- Maintain current services levels and customer response times
- Better manage current market price pressures
- Secure statutory services - Emergency Response and Winter
- Improve performance (productivity)
- Enhance intelligent client with efficiencies across whole service
- Continue to access and exploit technology and innovation (R & D)

2. Delivery models

2.1 To date four options for the future provision of these services have been considered, as set out below.

- Option 1 – Extend the contract with Amey for a further year (until August 2021).
- Option 2 – Re-procure on a like-for-like basis.
- Option 3 – Disaggregate the contract and procure smaller contract packages, with the Council taking on the management and integration role.
- Option 4 – A partnering (Highway Alliance) model developed jointly between the Council and Commercial Services Kent Limited (CSKL) under the Holdco umbrella.

2.2 HTW were asked to further explore Option 4 which resulted in KCC and CSKL working together to develop the strategy and produce a Business Case. In addition, a Project Board was set up to provide direction and monitor progress. Membership included:

- HTW HAM
- CSKL
- Corporate Finance
- Human Resources & Organisational Development, and
- Internal Audit

3. CSKL Proposal

3.1 The proposal by CSKL was a Highways Alliance to be established through a Teckal organisation within the Commercial Services Group.

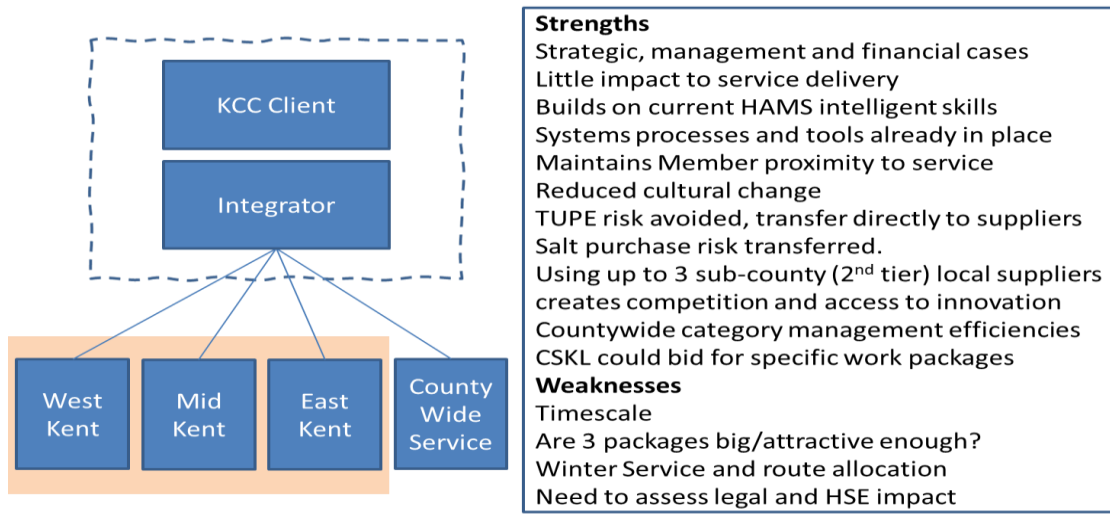
3.2 The delivery model would manage the 'core services' listed at paragraph 1.3 which would be transferred on the commencement of the new arrangement from 1 September 2020.

3.3 The new Alliance would include the incumbent contractor's staff and operatives (currently 220), the respective CSKL staff (approximately 10) and the respective KCC HAM team (currently 117 – 46% of total team). All staff would transfer under TUPE into the Teckal organisation on commencement of the new arrangement.

- 3.4 A business case was developed and submitted to KCC on 5 November 2019.
- 3.5 In the absence of a formal competitive dialogue, Corporate Finance sought external validation of the business case as a means of due diligence of this key and significant contract. PriceWaterhouseCoopers LLP (PWC) were commissioned to undertake an independent appraisal of the proposal to test the business case against the following criteria:
- Financial viability
 - Appropriateness of CSKL as a delivery model
 - Timing
- 3.6 The full Assessment Report has been included in Appendix B (Green Paper) which is commercially sensitive. A summary of the recommendations are below:
- A formal market engagement process should be undertaken by KCC that encompasses both the external providers which include the local supply chain and SMEs.
 - Further consideration should be given to the longer-term transformation plan and the associated impacts.
 - Explore the possibility of a staged transition and an extension agreement that see the services move across to the Alliance on an incremental basis.
- 3.7 Taking into consideration of all of the risks and the PWC report into account, HTW were asked to consider an alternative to the CSKL Alliance model which would in effect minimise risk delivery whilst still achieving the priorities identified earlier at paragraphs 1.7 and 1.8. maintaining the service
- 3.8 In summary, this model brings forward Option 3 to be considered and taken forward with HAM building on its proven track record as the integrator, directly commissioning services as evidenced in paragraph 1.2. HAM will strengthen their intelligent client function and take back control of the highway term services contracts.

4. Option Three

- 4.1 The preferred delivery model would involve HAM undertaking a number of procurements for specific services such as capital drainage works, pothole blitz and drainage cleansing before September 2020. Furthermore, HAM would also consider how core services could best be delivered on a more localised basis, possibly on a west, mid and east Kent basis with specialist services being delivered county wide as shown below



- 4.2 However, taking account of restricted timelines and staff risks, it would be recommended that the core services including work following statutory inspections, winter and emergency services would be retained by Amey for the period of October 2020 and April 2021, although the procurement of a new providers will have commenced in the summer of 2020.
- 4.3 A full commissioning cycle identifying the most advantageous model will be undertaken and this will inform the full business case.
- 4.4 As detailed in the Cabinet Members Decision 17/00124, that following consultation with the Leader and Cabinet Member for Planning, Highways, Transportation and Waste, the Corporate Director for Growth, Environment and Transport has delegated authority to award the final available year extension with Amey up to 31 August 2021. This includes a part extension of those services identified in 6.4 in order for Option 3 to be delivered.
- 4.5 During the previous commissioning project completed in 2017, a significant amount of work was completed to define future specifications, outline service improvements and engage with the market. This invaluable work will reduce the preparation time required before procurement commences.

- 4.6 Further market engagement would take place in early 2020 to identify which services could be separated from the core contract and how the scope of services could be delivered in the future. After finalising negotiations with Amey, KCC would commence procurement of descoped services prior to September 2020. To preserve winter, day to day and emergency response service delivery, which are more complex to procure and mobilise, Amey would continue delivering these aspects until June 2021. This will allow for a smooth demobilisation of the contract.
- 4.7 In the immediate future, it is proposed that KCC seeks an alternative Drainage Capital Works delivery model ready for April 2020. As the delivery is low risk due to the minimal TUPE obligations, KCC will procure a multi supplier framework to deliver these works. This coincides with the increased capital funding allocated for the next three financial years.

5. Benefits and Risks of Preferred Option

5.1 The benefits of the direct delivery model include:

- KCC has a proven track record of discrete service commissioning and integration. This alternative arrangement avoids breaking up a proven client team. Examples include the Pothole Blitz (10 SME contractors), Street Lighting Term Services (Bouygues) and Road Asset Renewal (Eurovia) contracts.
- Furthermore, the revised timescales reduce the service failure risk of emergency responses and winter service compared to option 4. The opportunity to deliver a managed handover from Amey can be achieved, especially with the management of a potential TUPE transfer of 220 employees throughout a phased mobilisation period.
- This approach will maintain access to innovation within the industry while also strengthening KCC's asset management capability with DfT which directly impacts funding received annually.
- This option also partly mitigates financial pressures in the 2020/21 financial year and reduces the setup/mobilisation costs that would be required through a Teckal arrangement (Option 4). With the breaking up of the services into individual contracts, KCC can realise its objective to reduce fee-on-fee costs by working directly with contractors, rather than through a third party.

5.2 Multiple core service suppliers will provide competition in procurement and also operational, financial and productivity comparators. However, there are risks and these include:

- There may not be sufficient market capacity to deliver this proposal. The size of the contract may not generate sufficient appetite within the contract and will need to be explored throughout market engagement.

- The allocation of depot resources between multiple contracts could be problematic due to the different level of facilities between main and satellite depots. This will need to be reviewed for the different contracts.

6. Financial Implications

- 6.1 To mobilise this new service could cost up to £575k. These resources would be required up to June 2021.
- 6.2 It is expected that any new procurement and delivery model will present a price increase of up to £2.5m. This uplift has been recorded in the draft Medium-Term Financial Plan with the budget to be considered and approved at County Council on 14th February 2020. This uplift is an assessment of how the market prices have changed since the contract was let in 2011 and HAM will work with the contractors to confirm the specification, outcomes and performance indicators under the new model.
- 6.3 Dependent on when new arrangements are procured, there could be an in-year pressure as services are descoped from Amey to other contractors.

7. Policy Framework

- 7.1 The commission accords with the County Council's Strategic Statement "Increasing Opportunities – Improving Outcomes" that communities benefit from economic growth by being in work, healthy and enjoying a good quality of life.

8. Legal Implications

- 8.1 Under the Highways Act 1980, as the local Highway Authority, KCC has a legal duty to maintain its respective sections of the highway network under section 41. This includes responsibility for maintaining, managing and, where necessary, improving their section of the network. The current services identified in paragraph 1.5 are delivered within the HTMC and to ensure KCC meets its statutory obligations, service continuity is required.

9. Equality and Data Protection Implications

- 9.1 An Equalities Impact Assessment has been carried out and no implications have been identified at this early stage. This will be continually reviewed as the programme continues and has been attached in Appendix C.
- 9.2 The initial screening identified that a Data Projection Impact Assessment will not be necessary as no personal data is collected for this commission.

10. Commissioning Advisory Board (CAB) and ETCC

- 10.1 Option 3 was presented to CAB and ETCC on the 20 and 29 November 2019 respectively.

- 10.2 Both CAB and ETCC were largely supportive but identified the following concerns:
- Ensure that sufficient contract management is in place
 - The need to deliver new contractual arrangements by June 2021
 - The need to test the financial aspects and deliverability of Option 3 and monitor programme progress
 - Implement appropriate performance metrics to measure success
 - Evaluate the capacity of the market before implementing the strategy
- 10.3 A new programme board has been instated to govern the Highway Term Services Commissioning Programme (HTSCP). This will include Corporate Finance and Internal Audit in order to ensure that risks and costs are properly identified and taken into account.
- 10.4 Market engagement to test the capacity will be conducted in early 2020. This will ensure KCC fully understands the supply chain to recommend an appropriate way forward prior to undertaking competitive procurement. This will include reviewing the individual service areas to identify the most appropriate commissioning route.
- 10.5 It is proposed that regular progress reports are provided to both ETCC and this Cabinet throughout 2020 and 2021.

11. Next Steps

- 11.1 A programme to deliver Option 3 has been provided in Appendix D. Key milestones are as follows:

December 2019 – April 2020

- 11.2 Negotiations with Amey to be finalised to identify those services to remain in the core contract. Identified services will need to be procured prior to September 2020.
- 11.3 Market engagement to inform and seek approval of the future delivery model post 2020. Considerations of risks including TUPE, market capacity and appetite of options will need to be identified.
- 11.4 As detailed in paragraph 4.4, the specification and contractual document review will not be as onerous as the work completed in 2017. This work can be updated in accordance with industry best practice prior to the strategy approval. This will minimise the timelines required compared to starting the project from scratch.
- 11.5 Finalise and seek approval of the procurement strategy to deliver the preferred model of delivery.
- 11.6 Procure the Drainage Capital Works solution for April 2020.

May – November 2020

11.7 Commence direct delivery of the transferred services identified in 4.1. Start the procurement of the core services contracts. Mobilise and instruct Amey for the delivery of the winter service period for the last time.

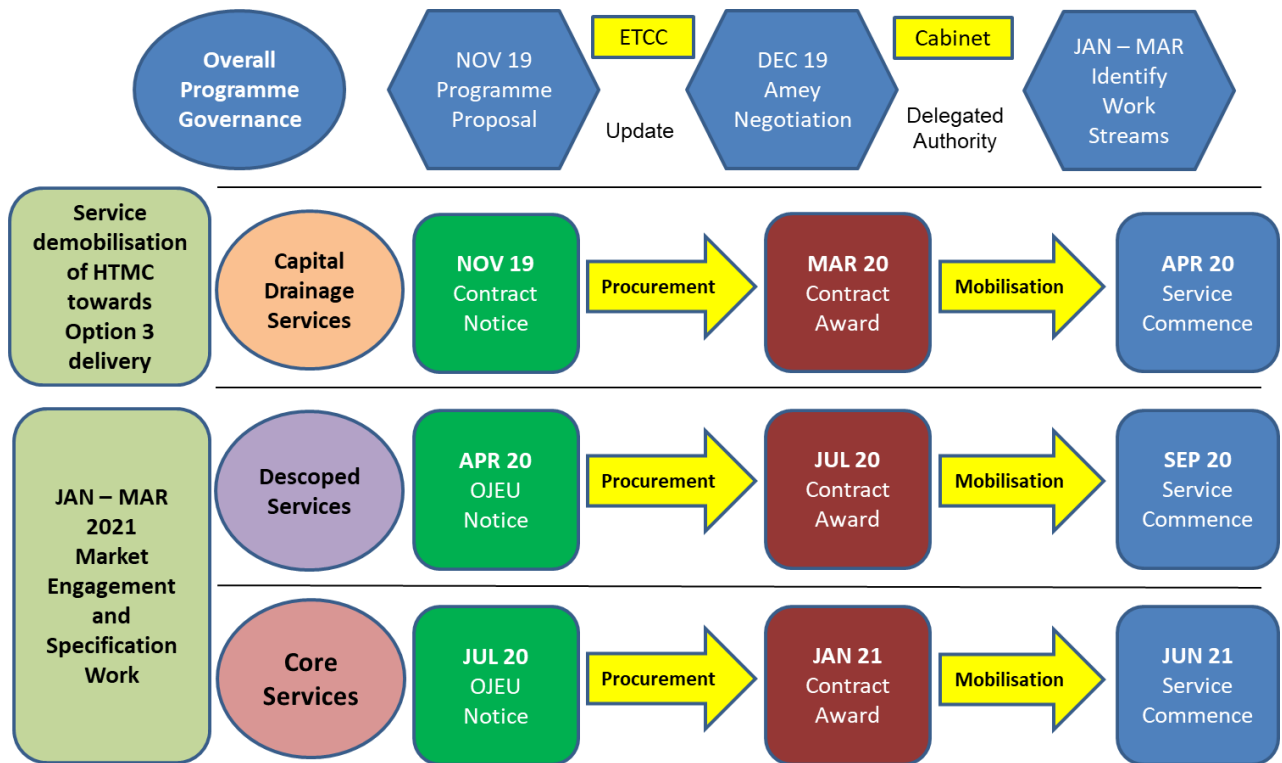
December 2020 – May/June 2021

11.8 Award and mobilise the new arrangements for the winter and emergency contracts. Continue to work with Amey to demobilise their contract.

11.9 Finalise Amey’s exit from the Highways contracts and implement the full-service commencement of new arrangement.

11.10 Throughout process there will be regular reviews by Corporate Finance, Human Resources & Organisational Development, and Internal Audit to provide appropriate diligence against the delivery of Option 3.

11.11 An illustration of our short-term programme delivery has been provided below.



12. Recommendation

12.1 The Cabinet is asked to consider and endorse, or make recommendations to the Cabinet Member for Highways and Transport on the proposed decision as attached at Appendix A to:

- provide the Corporate Director for Growth, Environment and Transport delegated authority to procure and enter into appropriate contractual arrangements for the provision of highway term services in accordance with the expectations set out in the report.
- provide the Corporate Director for Growth, Environment and Transport delegated authority to procure and enter into appropriate contractual arrangements for the provision of capital drainage works including any potential extension periods in accordance with the expectations set out in the report.
- in consultation with the Cabinet Member for Highways and Transport, delegate authority to the Corporate Director for Growth, Environment and Transport to award contract extensions of the contracts in accordance with appropriate extension clauses within the contract.