

From: David Brazier, Cabinet Member, Highways and Transport
Simon Jones, Corporate Director, Growth, Environment and Transport

To: Environment and Transport Cabinet Committee – 23 May 2023

Subject: Capital Drainage Framework

Key decision: 23/00054

Past pathway of paper: N/A

Future pathway of paper: For Cabinet Member Decision

Electoral Division: All Divisions

Summary: The Capital Drainage Framework expired at the end of December 2022. Commissioned contracts through this framework are nearing their end. Due to the capital budget allocation for drainage works, there is still a requirement to procure a replacement framework to deliver this programme.

This framework will commence in the summer of 2023 and will continue for a maximum of four years. There is no workload guarantee in the framework agreement. A Key Decision is required to award the contract/s for this service as the value exceeds £1m.

Recommendation(s):

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

- a) agree the Capital Drainage Framework for a maximum of four years; and
- b) provide the Corporate Director of Growth, Environment and Transport delegated authority to procure and enter into appropriate contractual arrangements for the provision of capital drainage works or other legal agreements, as necessary to implement the decision.

1. Introduction

1.1 Commencing in the financial year of 2020/21, KCC Highways drainage team were allocated additional capital funding to start to address the prevailing backlog of drainage schemes. To ensure the programme was delivered, KCC procured a multi-contractor framework to supplement its Highway Term Maintenance Contract during this period.

1.2 This framework expired in December 2022 with the outstanding call off contracts,

which were commissioned before this date, soon due to expire. The future works programme requires a replacement framework.

1.3 The works undertaken under this framework are deemed to be low risk and include but are not limited to the following activities:

- Scheme works which may include new surface water drainage systems, including drains, pipe work, culverts, pumping stations, and/or new SUDS retro fit features, manholes/Catchpits, soakaways, gullies, improvement works to ponds and lagoons, etc.
- Routine maintenance, such as ironworks, ditching and siding, etc.
- Replace or repair damaged assets which may include broken pipes, deep bore of existing soakaways, broken covers, manholes, gullies, brickwork including headwalls, damaged culverts, etc.
- General Reinstatement works including carriageway repairs.

1.4 The new framework is required to be operational by the summer of 2023 to meet the planned schedule of forthcoming drainage work.

2. Delivery Models

2.1 Four options have been considered:

Option 1 – Do Nothing

Allow for the outstanding contracts to lapse. The Authority would not be able to deliver the planned programme of work. This presents unacceptable operational, financial, and reputational risk. **Discounted.**

Option 2 – Extension of current framework

There are no available contract extensions permissible in accordance with the Public Contracts Regulations 2015. **Discounted.**

Option 3 – Procure a replacement framework appointing three suppliers.

Set up a new framework following a PCR 2015-compliant tender exercise and recognising the anticipated volume and scale of drainage improvements. **Preferred Option.**

Option 4 – Deliver in house.

The Authority does not have the internal resources (people, plant, and facilities) to deliver this type of work in-house. The implementation cost and schedule would not be economically advantageous to meet the planned programme of work. **Discounted.**

3. Procurement Strategy (Preferred Option)

3.1 Initial market engagement was undertaken in early 2023.

3.2 This exercise identified areas of commercial and operational risk as far as:

- The framework structure.

- Supplier productivity.
- Performance management.
- Supply chain capacity and availability.

- 3.3 The construction market in Kent is facing continued inflation pressures and challenges due to the prevailing local and national economic climate.
- 3.4 The previous Schedule of Rates (SOR) was fixed for the initial period (18 months) of the framework.
- 3.5 When the previous framework was extended beyond the initial period the SOR was subject to an inflation adjustment which ranged from 6-8% depending on the timing of the relevant work.
- 3.6 Under the new framework, routine maintenance works below £25k will be awarded directly to the appointed framework suppliers on a rotation basis. This work will be commissioned using the SOR secured during procurement.
- 3.7 Work will be planned and allocated to framework suppliers such that it can be delivered as efficiently and effectively as possible. Suppliers, however, will not be formally allocated a geographical area with the rates secured based upon the contractors working in any location in Kent.
- 3.8 Schemes or packages of schemes over £25k will undergo a mini competition procedure. Contractors will be asked to utilise the published rates but will be asked to submit a consolidated package price for each scheme. It is anticipated that discounts for economies of scale and other operational efficiencies will be achieved for the larger schemes/packages.
- 3.9 Based on an indicative 24-month budget pipeline of £3m per annum this framework will appoint three suppliers. This will ensure sufficient continuity for the suppliers involved and will promote sustainable competition and forward delivery.
- 3.10 Regular supplier performance monitoring and reviews of package delivery and quality will be undertaken during the duration of the framework.
- 3.11 The framework value will be capped at £15m.
- 3.12 The Selection Questionnaire stage has been completed and all the companies that passed the minimum threshold have been invited to tender.
- 3.13 The tenders will be evaluated in June 2023.
- 3.14 The framework is planned to commence in summer 2023 and will continue for a period of 24 months. Extension periods totaling no more than 24 months may be offered to successful suppliers.

4. Financial Implications

- 4.1 There is no workload guarantee in the framework agreement. All work awarded to contractors will incorporate a discrete contract (from the NEC 4 suite) and will be commissioned in accordance with the appropriate governance routes.
- 4.2 The current budget for Capital Drainage works is £4.5m for this financial year (23/24). This will be split between the Highway Term Maintenance Contract and this Framework.
- 4.3 The Highway Asset Management budget which includes drainage is part funded by the Department for Transport and Kent County Council through borrowing. The budget for these works will vary each financial year due to the asset management and risk approach across the highway network. This will determine the amount of works that will be commissioned through this framework. Other services will be able to utilise this framework should the scope meet their needs.
- 4.4 It is expected that the replacement procurement will incur a price increase. This is due to the inflationary increases incurred over the last 15 months with the last increase set in early 2022.
- 4.5 A competitive procurement process will appoint the three best value suppliers from the SOR submitted which will demonstrate value for money. While the SOR will increase in line with inflation, the allocated funding is not uplifted annually, therefore it is imperative to find a solution that maximises cost efficiency and continuity.

5. Legal implications

- 5.1 Under section 41 of the Highways Act 1980, as the local Highway Authority, the Council has a legal duty to maintain its respective sections of the highway network.
- 5.2 This duty includes responsibility for maintaining, managing and, where necessary, improving sections of the network. These services need to be commissioned to ensure the Council meets its statutory obligations and that service continuity is ensured.
- 5.3 The award of any contracts will be in full compliance with all relevant procurement and governance regulations. Legal advice in consultation with the Office of General Counsel has been commissioned to review the framework procedures and the terms and conditions that will govern future schemes.

6. Equalities and Data Protection Implications

- 6.1 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.
- 6.2 The initial screening identified that a Data Projection Impact Assessment will not

be necessary as no personal data is collected for this commission.

7. Policy Framework

- 7.1 This commission supports Framing Kent's Future 2022-2026 under Priority 2 (Infrastructure for Communities). This framework will support the delivery of maintaining, repairing, and installing drainage assets on the Kent highway network to a safe standard which supports Kent residents' accessibility to employment, education, health provision and leisure opportunities.

8. Other corporate implications

- 8.1 The decision to award contracts for these services has no significant impact on other areas of the Council's work.

9. Conclusions

- 9.1 The Capital Drainage Framework expired at the end of December 2022 and needs to be renewed.
- 9.2 A replacement framework appointing three suppliers will be awarded in the summer of 2023.

10. Recommendation(s):

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

- a) agree the Capital Drainage Framework for a maximum of four years; and
- b) provide the Corporate Director of Growth, Environment and Transport delegated authority to procure and enter into appropriate contractual arrangements for the provision of capital drainage works or other legal agreements, as necessary to implement the decision.

11. Background Documents

Appendix A – Proposed Record of Decision

EqIA:

<https://democracy.kent.gov.uk/documents/s118180/EqIACapitalDrainageFramework.docx.pdf>

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