

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

To: Environment & Transport Cabinet Committee Meeting – 8th September 2021.

Subject: Procurement and award of contract/s for Highway Rural Swathe, Visibility and Hedge Maintenance contract

Key decision: 21/00072

Classification: Unrestricted

Past Pathway of Paper: N/A

Future Pathway of Paper: Cabinet Member Decision

Electoral Division: All Districts.

Summary:

The Highway Rural Swathe, Visibility and Hedge Maintenance contract is currently delivered by two contractors. These contracts expire on 31st March 2022. There are no further extension options and a new contract is therefore required to be in place for 1st April 2022.

There is an opportunity to revise the frequencies and work types of the current specifications to allow for an increase in biodiversity but this will add significant cost to the contract. The tender process will include several options for specifications including the existing specification and a paper on this will be taken to this Cabinet Committee in January 2022 to obtain a decision on whether a policy change to the existing specification is required and affordable.

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 provide the Corporate Director for Growth, Environment and Transport with delegated authority to procure and enter into appropriate contractual arrangements for the provision of Rural Swathe, Visibility and Hedge Maintenance including any potential extension periods in accordance with the expectations set out in the report as shown at Appendix A.

1. Introduction

1.1 Three swathe contracts expire in March 2022 and as a statutory requirement they require a re-tendering exercise to continue service provision. Current provision is split between three lots which are delivered by Ray Butler (covering Mid Kent) and Sage Enviro (covering West and East). In order to ensure a seamless transition to new service arrangements, new contracts will need to be in place from 1st April 2022.

- 1.2 The Council has a legal duty to keep roads and pavements clear of vegetation for safe passage of highway users. The main service areas comprise; rural grass cutting (swathe); visibility cutting at road junctions; maintenance of rural hedges owned by KCC and the managed maintenance of Conservation verges. Due to the specialised nature of the works a standalone specialist contract is required.
- 1.3 It is anticipated that the service will be provided across eleven districts in Kent, with Folkestone and Hythe District providing the service on behalf of KCC through third party contracts. Dover District Council, who also currently undertake this service have indicated that they would not like to continue beyond the end of this contract term.
- 1.4 The Council has implemented Plan Bee as part of its environmental strategy to improve the biodiversity across its assets. There is an opportunity to enhance the specifications to address this strategy and improve the biodiversity of these assets.
- 1.5 Any enhancement in the current specifications will increase the overall costs of the contract so will not be possible until funding is known.
- 1.6 The service will primarily serve Kent County Council Highways & Transport owned assets. There may also be the need to carry out works on privately owned assets in order to ensure highway safety. This type of work has the potential to be re-charged through existing Council processes.

2. Procurement Strategy

- 2.1 Market engagement was conducted in May 2021 and identified a number of risks to be considered:
 - Contract structure
 - Productivity
 - Performance management
 - Supply chain
- 2.2 There are three models to deliver this service:
 - Split the contract into three lots (West, Mid and East) This is the current provision.
 - Split the contract into two lots (West and East)
 - Countywide delivery
- 2.3 This arrangement has been in place since 2017 with both contractors performing well over the contract period. The provision of rural grass and hedge cutting maintenance requires specialised tractor-mounted equipment and trained staff that are not utilised in other soft landscape contracts.
- 2.4 Model 3 has been discounted due to the high-risk nature of this model. Due to the distances involved in servicing the whole of Kent and timeframes involved

in delivery the model does not fit with the capacity of the local market. As detailed within the market analysis, the size of organisations is smaller and so the number of bidders for a countywide may not provide sufficient competition or deliver best value. Furthermore, this option would not offer resilience if a contractor started to fall behind on programme or workloads increased.

- 2.5 Two lots (model 2) would reduce contract management requirements and provide resilience, but the market analysis has indicated that many of the SMEs would not bid for this size lot, limiting competition. In this situation, there is no guarantee that both lots would receive tenders, particularly in the East of the County where fewer potential suppliers are based.
- 2.6 Splitting the contract into three (model 1) by no means guarantees three contractors but allowing one tenderer to win up to two lots would give the flexibility needed to provide the market with the required appetite and receive good competition from a range of SMEs. This is the current arrangement and has worked well over the life of the previous contract.
- 2.7 The proposed contract term is 5 years with the option to extend for a further 3 years. Any decision to extend the contract will be linked to performance and contract compliance.
- 2.8 The following lots are being sought:
 - Lot 1 – Dartford, Gravesham, Sevenoaks, Tonbridge & Malling, and Tunbridge Wells
 - Lot 2 – Maidstone and Ashford
 - Lot 3 – Swale, Canterbury, Thanet, and Dover
- 2.9 Due to the proposed contract length, the appointed contractors have the opportunity to invest in their workforce and equipment. It is therefore recommended to implement a three-lot delivery model with the option to award a maximum of two lots to any one contractor, thereby potentially reducing KCC's contract management requirements.
- 2.10 The Selection Questionnaire stage has been published and those companies that have passed the minimum threshold following evaluation will be sent the invitation to tender (ITT). The procurement timetable is as follows:
 - SQ Out – 23rd August 2021
 - SQ Return – 21st Sept 2021
 - ITT Out – w/c 15th October 2021
 - ITT Return – w/c 15th November 2021
 - ITT Negotiation – Est w/c 29th Nov 2021
 - Final ITT Evaluation and Governance – Est w/c 17th Jan 2022
 - Contract Award – Est w/c 1st Feb 22
 - Mobilisation Period – 1st Feb - 1st May 2022
 - Service Commencement Date – 1st April 2022

3. Current Specification

3.1 The contract includes one 900mm swathe cut per annum. three visibility cuts per annum, one rural hedge cut per annum and one conservation cut per annum.

3.2 A timeline for all of the rural cutting types is below:

	Jan	Feb	Mar	Apr	May	June	Jul	Aug	Sep	Oct	Nov	Dec
Option 1- Current swathe programmes 2019 - 2021 Emphasis on highway safety												
Visibility splays(Safety Cut)												
Swathe (Safety Cut)												
Swathe (Conservation Assets)												
Rural hedges												

3.3 Swathe makes up the significant volume of work and the cut is carried out during the summer months. The contract previously provided for two swathe cuts during May and again in September. The budget was reduced in 2009/10, a decision supported by members, to only perform one swathe cut per annum in order to contribute savings to help deliver a balanced budget for KCC as part of the Medium-Term Financial Plan (MTFP).

3.4 The current programmed cutting times for one swathe cut is the 30th of May to the 10th of July.

3.5 An extract from the contract specification for the standard of cut is as follows:

16.3.3 Swathe cutting is defined as a cut strip 900mm in width, or the width of the verge whichever is less. The swathe shall be cut from the edge of the carriageway or from the back edge of the footway if the footway is adjacent to the carriageway.....

3.6 The optimum time to carry out a one swathe cut programme for safety is the middle of the year. This ensures grass does not reach a height that causes problems.

3.7 Where higher value biodiverse verges are identified these are currently added into the late Conservation cut following review. This approach is not sustainable under the current funding levels.

3.8 To achieve biodiversity gains and to allow wildflowers greater time to flower and set seed, cutting higher value verges during their flowering period would need to be reviewed.

3.9 There is then a trade-off between increasing biodiversity gain, safety and maintenance costs that needs to be balanced.

4. Biodiversity Gains

4.1 A flower-rich grass sward provides great benefit to pollinating insects and wildlife generally. The annual life cycle of pollinators varies but generally there needs to be a constant and diverse range of pollen and nectar sources available, from early spring to late autumn, as well as food plants for

caterpillars, to be able to support the widest range of insects. Ideally there also need to be areas of longer, undisturbed grasses and shelter, for nesting and overwintering invertebrates.

- 4.2 A biodiverse grass road verge is one where a range of naturally occurring flowering plant species are able to flourish. It is vital that wildflowers are able to complete their full life cycle – i.e., grow, flower, and set seed; this replenishes the seed bank and allows populations to be maintained cost-free and indefinitely. Cutting at the wrong time or too frequently swiftly eliminates many species and creates greater nutrient build-up through the accumulation of more grass cuttings, which reduces the biodiversity value of the road verge. Cutting after flowers have set seed in late summer allows not only a rich source of pollen and nectar for pollinators but also a visually striking display of wildflowers for pollinators and Kent's residents and visitors alike.
- 4.3 Taking steps to enhance our road network to deliver biodiverse grass verges is entirely in line with the purposes of Kent's Plan Bee, the County Council's Pollinator Action Plan; that being to:
- make the County Council a community leader in action for pollinators, showing the way in its own operations
 - ensure that pollinators' needs are always considered throughout our work and services
 - put the conservation of pollinators and their habitats at the heart of the council's land management
 - make a significant contribution to the recovery of pollinator populations

5. Specification Options

- 5.1 The primary aim of swathe cutting is for highway safety, improving visibility, allowing pedestrians and equestrians the ability to pass and repass on the highway verge and providing a refuge where necessary.
- 5.2 Roadside Nature reserves, as recommended by the Kent Wildlife Trust are cut twice a year, once during April for safety and again during October. Natural England also provide assents for KCC to cut all of its rural verges adjacent to Sites of Special Scientific Interest (SSSI) twice a year with similar timings.
- 5.3 Market engagement involving conservation groups found that the following were key for higher value verges:
- Early cutting in March before major bee food sources have flowered (white dead nettle)
 - Late cutting in October to allow wildflowers to set seed for coming year.
 - Cut and Collect cuttings to reduce fertility of the soil and reduce competition from grass sward.
- 5.4 Market engagement made it clear that a model containing two swathe cutting periods presented more flexibility to manage a greater number of verges for biodiversity whilst still maintaining safety.

5.8.2 Option 3 provides a tiered approach to swathe cutting dependent on biodiversity value and safety requirement and allows a greater degree of flexibility.

5.8.3 The swathe cut is divided into three timings as follows:

Swathe Cut	Focus
Swathe (Conservation Assets) - Higher Value two cuts	Higher value Bio-diverse SSSI RNR Cut & collect Bee Roads (specific sites - value higher than bee lines) Not all high value sites will need this cut
Swathe (Conservation Assets) - Lower Value two cuts	Lower Value Bio-diverse Bee Lines Early cutting Apr on lower value roads, then continue into standard safety swathe
Swathe - Highway Safety - two cuts	Highway Safety Cut for highway safety priority over Bio-diverse value

5.8.4 Higher value verges such as Bee Roads will be assessed through the contract period and added to a March cut providing there is no impact on highway safety.

5.8.5 Lower biodiversity value verges where there is still a safety risk will be added throughout the contract to the April cut and receive a second cut during Late September.

5.8.6 An additional cut is added to the Highway Safety cut which removes the main cut in the middle of the year and replaces this with a May and September cut. This reduces the cutting of flowering verges in the middle of the year but still allows for safety to be maintained.

5.8.7 Dividing the swathe into different timings also allows flexibility to review specific verges throughout the contract period, adding them to earlier cuts if appropriate thereby increasing our conservation asset.

6. Financial Implications

6.1 A new procurement may present a price increase which reflects changes in market prices since the contract was let in 2017. Contracts have been linked to the GM87 indices over the course of the contract so this will be minimised. A competitive procurement process will appoint the best value contractor from the tenders submitted. The current Contract value is circa £450k per annum.

6.2 However, the addition of either options 2 or 3 to the specification will increase costs due to the additional complexity of the contract and these are currently unfunded. An estimate of the respective cost increases are as follows:

- Option 1 – Existing Specification - **£ possible market rate increase**
- Option 2 – Single Swathe with two Conservation cuts - **£50K - £100K**
- Option 3 - Two Swathe with tiered Conservation cuts - **£250k - £300K**

These costs are dependent on the tender rates received.

6.3 The revenue budget for this work is contained within Highways Asset Management. A Medium-Term Financial Plan (MTFP) pressure of £300k has been identified for a possible change in specifications for 2022. The MTFP cycle will mean that funding will not be confirmed until December. Any additional funding will be dependent on the pressure of any prevailing budget gaps in the Council's finances and the MTFP being agreed.

6.4 Due to the timing of the MTFP cycle a decision on whether to enhance the specification for the new contract cannot be reviewed until January 2022. At this point firm costs for all options will be known.

7. Legal implications

7.1 The Council has a legal duty to keep roads and pavements clear of vegetation for safe passage of highway users. The award of any contracts will be in full compliance with all relevant procurement regulation.

8. Equalities implications

8.1 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 B.

8.2 The initial screening identified that a Data Projection Impact Assessment will not be necessary as no personal data is collected for this commission.

9. Policy Framework

9.1 This commission is detailed within the following plans:

- Highways and Transportation Divisional Operating Plan 21/22

10. Other corporate implications

10.1 The adoption of either of the options 2 or 3 will add to Kent's Plan Bee, the County Council's Pollinator Action Plan.

10.2 The decision to award contracts for Highway Rural Swathe, Visibility and Hedge Maintenance has no other significant impacts on other areas of the Council's work.

11. Conclusions

- 11.1 This service forms part of the Council’s statutory duty to maintain the highway in a safe condition. The existing specification meets these responsibilities and will need to be procured as a minimum to meet this duty.
- 11.2 The Council has implemented Plan Bee as part of its environmental strategy to improve the biodiversity across its assets. There is an opportunity to add significant weight to this strategy through a revised specification, but it will require additional funding.
- 11.3 A decision on whether the existing specification can be enhanced will not be possible until January 2022 when more detail on funding will be known and firm costs have been received. Any enhanced specification will need to be affordable and within agreed budgets.

12. Recommendation:

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 provide the Corporate Director for Growth, Environment and Transport with delegated authority to procure and enter into appropriate contractual arrangements for the provision of Rural Swathe, Visibility and Hedge Maintenance including any potential extension periods in accordance with the expectations set out in the report as shown at Appendix A.

13. Background Documentation

Appendix A – Proposed Record of Decision

Appendix B – Equalities Impact Assessment:

<https://democracy.kent.gov.uk/documents/s105573/AppendixBEqIASC21008RuralSwatheLots123V1.pdf>

14. Contact details

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