

# North Somerset Council

## Report to the Executive

**Date of Meeting: 21 June 2023**

**Subject of Report: Contract award for cyclical and reactive maintenance term contract (highways)**

**Officer/Member Presenting: Executive Member for highways and transport – Cllr Hannah Young**

**Key Decision: YES**

### **Reason:**

The value of the contract award is over £500,000.

### **Recommendations**

To direct award the contract for the highway services cyclical and reactive maintenance to North Somerset Environment Company (NSEC) using the Public Contract Regulations 2015 (regulation 12) exemption for an initial term of 7 years, with an option to extend for a further 7 years.

## **1. Summary of Report**

- 1.1 The Council has a legal duty under the Highways Act 1980 to maintain its respective sections of the highway network under section 41. This includes responsibility for maintaining, managing and, where necessary, improving the network.
- 1.2 The council achieves this through a combination of reactive, cyclical, and planned works and delivers the plan with a combination of capital and revenue funding and through several different contractual arrangements.
- 1.3 At the Full Council meeting on 8 November 2022 members made the following resolution:
  - **To progress the highway reactive and cyclical maintenance work package via direct contract award under Public Contract Regulations 2015 (regulation 12) exemption to North Somerset Environment Company for an initial term of 7 years commencing 1 April 2024.**
  - Create two single provider frameworks for surfacing (the subject of this report) and for surface dressing.
  - Create a Dynamic Purchasing System (DPS) of 3 lots as follows:
    - Civils
    - Structures
    - Surface treatments
- 1.4 On receipt of a full business case and pricing submission from NSEC, officers undertook a detailed evaluation, alongside advice from industry experts. This evaluation determined that the detailed and credible business case and financial submission provided the council with the best value for money solution to deliver its cyclical and reactive maintenance services.
- 1.5 Awarding cyclical and reactive maintenance to NSEC offers the council the best strategic fit and provides the best opportunity to allow for changes in priorities during the life of the

contract and divert funding to areas of the programme to promote corporate objectives and service resilience.

- 1.6 The contract value of this decision is £16.3m (£2.335m per annum) for the initial 7-year term.
- 1.7 The final contract amount will be subject to application of an agreed inflationary mechanism which reflects the nature of the contract.
- 1.8 In order to allow sufficient contract mobilisation (purchase of vehicles, machinery, TUPE etc) it is essential this contract is awarded in June 2023.
- 1.9 This will be awarded using an NEC4 Term Service Contract.

## 2. Policy

2.1 Under the Highways Act 1980, as the local Highway Authority, North Somerset Council 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 the network.

2.2 This is supported by the council's corporate plan:

Aims	Priorities
A thriving and sustainable place	<ul style="list-style-type: none"><li>• To be a carbon neutral council and area by 2030</li><li>• A transport network that promotes active, accessible, and low carbon travel</li></ul>
A council which empowers and cares about people	<ul style="list-style-type: none"><li>• Partnerships which enhance skills, learning and employment opportunities</li></ul>
An open and enabling organisation	<ul style="list-style-type: none"><li>• Engage with and empower our communities.</li><li>• Manage our resources and invest them wisely.</li><li>• Embrace new and emerging technology and make the best use of our data and information.</li><li>• Provide professional, efficient, and effective services.</li><li>• Collaborate with partners to deliver the best outcomes</li></ul>

## 3. Details

- 3.1 A detailed commissioning plan was presented by the Executive Member for Highways and Transport to Full Council on 8 November 2022.
- 3.2 Documentation associated with this decision can be found at:  
<https://n-somerset.moderngov.co.uk/ieListDocuments.aspx?CIId=169&MIId=988>
- 3.3 The commissioning plan and detailed business plan underpins the value in the direct contract award of this work to NSEC and clearly demonstrates that delivering the reactive and cyclical maintenance service through NSEC delivers the best financial value, the most social value, the best alignment to the council's strategic priorities and helps to deliver the NSEC business plan. A full NSEC business case for expansion to include this service has also been produced and analysed in tandem with the options analysis work and has been approved by the company board and shareholder.
- 3.4 The business case showed an overall significant financial advantage to separating the contract out to cyclical and reactive maintenance (NSEC), surface works (single provider

framework), surface dressing (single provider framework and creation of dynamic purchasing system for the civils, in comparison to the current single provider option. Over the life of the contract this is estimated to be £5.6m. The key component for this is less reliance on North Somerset Council's own capital resources funded through borrowing, estimated at £900k per annum, which will generate revenue savings from cost of capital. This saving will be generated because the new contract arrangements will not require such a large capital overhead as a result of the support team who manage and oversee the current contract arrangements. A new approach will see lower levels of support absorbed and integrated within the current revenue budget.

#### 3.4 Assets included in cyclical and reactive maintenance:

Work undertaken	Pothole repairs and minor patching Gully emptying and drain cleaning including CCTV surveys. Signs and Road markings Minor highway drainage repairs Winter maintenance In-hours and out-of-hours emergency response
Funding	Revenue
Est. value of works	£2.335m

3.5 There are TUPE implications to this contract award. Estimates of these figures were taken to Full Council in November 2022. The current provider has agreed to share TUPE information at the end of May 2023, but it is worth noting that TUPE applies to the final 6-months of the contract, so final figures will be confirmed in September 2023. NSEC and NSC human resources teams are fully involved in this process and timeline.

## 4. Consultation

4.1 Stakeholder groups were mapped and reviewed throughout the project - from inception, commissioning plan, to the run up to the contract award. This included regular update briefings with Cllr Steve Hogg (then Executive Member of Highways and Transport) and the Place Scrutiny Panel. Both were fully supportive of the progression to contract award given the extensive work undertaken to support the decision.

4.2 Please see Appendix 2 for the Stakeholder List.

4.3 This project has followed the council's governance protocols with councillors from the Executive, Scrutiny, and group party leaders fully informed and consulted.

4.4 The following have also been taken into consideration:

- National Highways and Transport (NHT) survey results  
The NHT survey collects public perspectives on the highway and transport services in local authority areas. It enables local authorities to compare, comment and share, share knowledge and to improve efficiencies. The April 2021 results have been considered and will help to inform the further engagement with members and town and parish councils noted below.
- National Highway Asset Management Strategy survey (councillors)  
A sample of the questions were taken from the NHT survey and posed to members and Town and Parish councils. Data back was used to inform the Highway Asset Management Strategy update.
- Proving Services workshops

Three workshops in December 2022 and January 2023 were delivered to look at the value for money of the current contract and to benchmark its position. This was followed by two options analyser workshops which looked to identify the future optimum future delivery model for North Somerset's highways services.

## 5. Financial Implications

### Costs

5.1 Full lifecycle costings across the 7-year contract term were undertaken as part of the commissioning plan and are summarised in the table below.

5.2 The anticipated costs associated are shown in the table below:

	Average Annual Cost £'000	Anticipated Cost over 7-year contract period £'000
Revenue expenditure (direct highways costs)	£2,335	£16,345
Depot running costs	£55	£385
<b>Subtotal Revenue</b>	<b>£2,390</b>	<b>£16,730</b>

5.3 NSEC have demonstrated that they can deliver the revenue works service at costs which are competitive with the market, though an increase to the revenue budget of £176,980 per year is required to deliver a similar level of service from 2024/25. The submission from NSEC is competitive in comparison with the wider market and provides the most economically advantageous offer.

5.4 The estimated revenue costs are based on 2022/23 prices which will need to be reviewed and inflated in line with inflation. Highways inflation is factored into the Medium-Term Financial Plan (MTFP). The contract provides annual adjustment of prices in accordance with industry published indices. These will be the price Adjustment Formulae Indices for Highways Maintenance Series 4, prepared by BCIS online.

5.5 The base date for these indices will be 28 February 2024 and adjustment will take place on each anniversary of this date.

5.6 It is also important to note that in some areas contract costs are based on a schedule of rates. Precise costs cannot be determined at this stage and will fluctuate depending on the types and levels of work carried out. These will be managed within the agreed revenue budgets by the highway management and finance teams.

### Funding

5.7 With the exception of the additional revenue funding identified above, it is expected that the new contract will be delivered within existing revenue resources, and associated costs will continue to be monitored, and reported on in the usual way. As the increase in costs are comparable to those elsewhere in the market it is apparent that the council will need to reflect these as a pressure within its medium-term financial planning process. A refresh of the cost forecasts for the next four-year period has been planned for the summer which means that the shortfall will be fully integrated within the council's strategic financial plans.

5.8 Mobilisation costs for the NSEC submission have been spread across the term of contract (7 years) and included within the prelims. No additional funding is required to mobilise this contract.

## **6. Legal Powers and Implications**

- 6.1 Under the Highways Act 1980, as the local Highway Authority, North Somerset Council 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 the network. The purpose of this award is to ensure new service arrangements are ready to guarantee business continuity of Highways Maintenance Services from 1 April 2024 onwards.
- 6.2 This report recommends to direct award the provision of highway cyclical and reactive maintenance to North Somerset Environment Company in line with Public Contract Regulations 2015 (regulation 12).
- 6.3 The form of contract will be the NEC4 Term Service Contract (NECTSC)

## **7. Climate Change and Environmental Implications**

- 7.1 In February 2019 the Council declared a Climate Emergency and an Ecological Emergency in November 2020 and pledged to provide the leadership to enable North Somerset to become carbon neutral by 2030.
- 7.2 The largest part of the Council's carbon footprint is from what it procures. The highways contract is currently the Council's second largest contract by value and has a significant carbon footprint. Therefore, it is essential that the highways contract contributes to delivering the Council's carbon reduction target.
- 7.3 The Key objectives of this project and resulting contracts will be linked to the Council's procurement strategy.
- Spending decisions that consider and minimise whole life cycle CO<sub>2</sub>e emissions associated with the delivery of goods, works and services, recognising that in some cases this will need to be reflected in budgets.
  - Spending decisions that consider and improve the resilience of Council services and infrastructure, to the impacts of a changing climate.
  - Suppliers who embrace the aims of the Council's Environmental Policy, Climate Change Strategy and Climate Emergency declaration and by doing so promote higher environmental standards between businesses and other customers.

## **8. Risk Management**

- 8.1 A risk register for the programme is regularly reviewed and each status updated in conference with key partners from finance, procurement, legal, HR and service managers. At the time of this report no significant risks have been identified. A full programme Risk Register is available upon request.

## **9. Equality Implications**

- 9.1 Have you undertaken an Equality Impact Assessment? Yes
- Customer impact  
It is considered that this decision will be neutral in its impact on the public by allowing the Council to deliver its statutory responsibilities for highway maintenance and improvements to the transport networks in the most efficient, effective, and economic manner.
  - Staff impact

As part of this work an internal function will be created to support delivery of the capital works programme, this is estimated to be an additional 4 FTEs created and will be subject to a formal HR process.

## **10. Corporate Implications**

- 10.1 The provision of this NEC4 contract to deliver cyclical and reactive maintenance will provide improvements to the highways network and widely supports the Corporate Plan objectives and priorities, most specifically the priority of a thriving sustainable place.
- 10.2 The delivery of this programme will require input and support from a wide range of council teams, including procurement, legal, human resources, and finance.

## **11. Options Considered**

- 11.1 The only option considered is to direct contract award this work to NSEC following the Commissioning Plan to Full Council in November 2022. Options for alternate contract models were reviewed at this stage. Should the recommendation be accepted, then the necessary steps will be taken to award the Term Maintenance Contract and commence mobilisation.

### **Author(s):**

Gemma Dando  
Assistant Director for Neighbourhoods and Transport

Tash Hardy  
Project Manager, Business Development Unit

Deborah Booth  
Principal Accountant (Place)

### **Appendices:**

Appendix 1 – Stakeholder list

## Appendix 1 – Stakeholder list

<b>Internal</b>
<ul style="list-style-type: none"><li>• Highway Teams (ad-hoc/ monthly briefings and workshops)</li><li>• Highway Service managers (monthly updates)</li><li>• Highway steering group (bi-monthly briefings and workshops)</li><li>• Wider highways and transport teams (regular updates on progress)</li><li>• Project board (monthly meetings, this group includes key members from DLT/CLT)</li><li>• Directorate leadership team (ad-hoc at key milestones)</li><li>• Corporate leadership team (ad-hoc at key milestones)</li><li>• Place Scrutiny Panel (regular engagement at key milestones)</li><li>• Group Party Leaders (ad-hoc briefings at key milestones)</li><li>• Corporate services: HR, legal, procurement (ad-hoc, workshops)</li></ul>
<b>External</b>
<ul style="list-style-type: none"><li>• Milestone (Current Contractor)</li><li>• North Somerset Environment Company (Future Contractor)</li><li>• RedRay (consultants/ industry experts)</li><li>• DMSqd (consultants/ industry experts)</li><li>• Proving Services (consultants/ industry experts)</li></ul>