

North Somerset Council

Report to the Executive

Date of Meeting: 18 October 2023

Subject of Report: Contract award for Highway Surfacing

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 award the contract for highway surfacing to JOHN WAINWRIGHT AND CO LIMITED (company number 00073151) for a term of 4 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 Surface Dressing
 - Create a Dynamic Purchasing System (DPS) of 3 lots as follows:
 - Civils
 - Structures
 - Surface treatments
- 1.4 Details of previous supporting decisions:
 - [Commissioning Plan for the Future Highways Delivery Model](#) presented by the Executive Member for Highways and Transport at the Full Council meeting held on Tuesday 8 November 2022.

- DP545 Highways procurement plan – single provider framework for Surfacing works agreed by the Executive Member for Highways and Transport on 02 May 2023.

1.5 Following market engagement and an initial self-selection stage, bidding for the contract opened on 10 July 2023 and closed 8 August 2023. Out of the five submissions received, two suppliers retracted their tenders due to internal resourcing conflicts.

The remaining three were scored on the grounds of:

- Price 50%
- Quality assessment 40%
- Social value 10%

1.6 The evaluation panel concluded that the successful bidder offered the best in terms of value for money and service delivery alignment with the council's objectives.

1.7 The contract value of this decision is £14m (£3.5m per annum) for the 4-year term.

1.8 To maximise the mobilisation period the contract award for surfacing needs to be agreed on 18 October 2023.

1.9 The contract will be awarded using the NEC4 Engineering and Construction Short Contract (ECSC) and in line with the documents set out in the Invitation to Participate in Negotiations (ITPN).

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	To be a carbon neutral council and area by 2030 A transport network that promotes active, accessible, and low carbon travel
A council which empowers and cares about people	Partnerships which enhance skills, learning and employment opportunities
An open and enabling organisation	Engage with and empower our communities. Manage our resources and invest them wisely. Embrace new and emerging technology and make the best use of our data and information. Provide professional, efficient, and effective services. Collaborate with partners to deliver the best outcomes

3. Details

3.1 Quality

Tenderers were required to provide responses to 11 Quality Questions set out in the ITPN. These questions covered;

Section 1 – Mandatory

- TUPE
- Pensions
- Code of Practice on Workforce
- CDM Function

Section 2 – Strategic

- Vision and Overview
- Experience and Capability
- Organisational Structure and Contract Governance

Section 3 – Service Delivery

- Core Activities

Section 4 – Contract Management

- NEC4 Experience
- Contract Management and Cost Control
- Supply Chain Management

The evaluation panel assessed these responses in line with Appendix 4 of the ITPN.

The successful bidder scored highly across all sections of their Quality Submission. Their responses to each of the questions within the Quality Submission inspired confidence, fully met the specification and clearly demonstrated their ability as an organisation to deliver this contract.

3.2 Price

The 3 offers have been analysed in line with the evaluation criteria set out in Appendix 3 of the ITPN.

Out of the three completed tender submissions, Wainwrights scored the highest in terms of competitive contract pricing.

The weighting of 50% was applied to the Tenderer's score to give the Tenderer's Final Price Score.

3.3 Social value

In accordance with the council's social value policy, 10% of the overall weighting of the tender submission was for bidders to propose their tangible social value commitments.

Tenderers were required to submit their social value submission via the social value portal. Volume 8 of the tender pack provided guidance and support on how to complete this.

- Wainwrights provided a comprehensive offer within their social value submission. These included:
 - Promoting local skills and employment opportunities.

- Supporting growth of responsible regional business through helping Voluntary Community Social Enterprises achieve net zero targets
- Encourage healthier, safer and more resilient communities through supporting local community groups with initiative such as litter picks and community projects
- Commitment to reduce environmental impacts of operations and become net zero by 2040
- Promote social innovations to protect the environment though initiatives such as planting trees in North Somerset

Due to the commercially sensitive nature of the procurement process and evaluation, further information, including the documents referenced above are available from the Procurement Team on request.

3.4 Scoring overview

Overall Evaluation			
Evaluation	Tenderer 1	Tenderer 2	Wainwrights
Quality	11.10	31.60	36.30
Social Value	8.00	6.00	9.00
Price	36.80	39.30	39.70
Overall Evaluation	55.90	76.90	85.00
Rank	3	2	1

4. **Consultation**

External:

- RedRay (expert consultancy)
- Milestone (existing service provider)
- Bidders for the Surfacing contract

Internal:

- Executive Member
- CLT/ Informal Executive
- TCC Scrutiny Panel oversight for the Future Highway Service Delivery Programme
- Highway Services
- Procurement
- Legal
- Finance
- Climate Emergency

5. **Financial Implications**

Costs

It is anticipated that the single provider framework will cost £14m (£3.5m per annum) for the 4 year duration of the contract.

	£
Year 1	3.5m
Year 2	3.5m
Year 3	3.5m
Year 4	3.5m

There is no minimum spend which enables flexibility to deliver within our approved funding envelope up to this value.

An affordability assessment has been carried out which shows the costs under the new framework contract are c10% less than our current arrangement due to directly commissioning from a provider as opposed to commissioning through a tier one contractor. This aligns to the overall business case for the new highways service delivery model which aimed to reduce the amount of capital borrowing required to deliver highways maintenance.

Funding

The contract spend will be funded from the Transport and Infrastructure Capital Works programme. The works programme is approved via a separate decision.

This contract will contribute towards providing the mechanism to deliver against relevant schemes identified within this programme.

Funding comes from a range of sources including;

- Integrated Transport Block Funding (grant funding)
- The Pothole Fund (grant funding)
- Highway Maintenance Block – Needs and Incentive funding (grant funding)
- NSC Capital Funding (capital borrowing)

The anticipated expenditure through the contract is likely to vary from year to year depending on budgets and priorities. The capital budget is approved as part of the capital strategy report and is dependant on the amount of grant funding received.

Inflation

In submitting pricing schedules, tenderers were asked to price at July 2023 prices for all cost components. Wainwright's prices will be adjusted by inflation to adjust the prices to the starting date of the contract and further adjusted annually in accordance with the conditions of contract.

The base date for the indices was 1 July 2023

The inflation adjustment dates will be

- Service Year 1 – 28 February 2024
- Service Year 2 – 28 February 2025
- Service Year 3 – 28 February 2026
- Service Year 4 – 28 February 2027

The indices that will be used are the Price Adjustment Formulae Indices for Highways Maintenance Series 4, prepared by BCIS online.

It should be noted that as the contract price increases for inflation, the amount of works that can be delivered reduces if the overall capital grant funding does not increase. This will be considered when the works programme is produced.

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.
- 6.2 The Singler Provider Surfacing Framework Agreement will be procured in line with Public Contract Regulations 2015. The Contract we will use will be the NEC4 Engineering and Construction Short Contract (ECSC).
- 6.3 The procurement process will be compliant with the Public Services (Social Value Act) 2012 by ensuring it seeks additional social value during the tender process.

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 we procure. The highways contract is currently the Council's second largest contract by value and has a significant carbon footprint. Therefore, it's essential that the highways contract contributes to delivering the Council's carbon reduction target.
- 7.3 The Key objectives of this project and resulting contract can be linked to the Council's procurement strategy.
 - Spending decisions that consider and minimise whole life cycle CO₂e 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 full risk register has been produced. No significant (red) risks have been identified, only two amber:
 - Funding reductions
 - Mitigation: The anticipated expenditure through the contract is likely to vary from year to year depending on budgets and priorities. The programme of works will be adjusted to match this.
 - Commercial management of the contract
 - Mitigation: Appointment of an internal function created to support delivery of the Capital Works Programme and training in NEC4 Contract

Management for all staff. We are exploring using a contract management system to manage contract process.

Based on the information received from the existing service provider, the Council is of the opinion that TUPE does not apply to these frameworks. TUPE has been covered within the quality submission should this position change.

9. Equality Implications

Have you undertaken an Equalities Impact Assessment? Yes.

Staff equality impact summary

9.1 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 FTE's created and will be subject to a formal HR process.

10. Corporate Implications

10.1 The provision of this single provider framework to deliver surfacing 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 legal, human resources and finance.

11. Options Considered

No other options have been considered. This contract has been procured in line with the Commissioning Plan agreed at Full Council in November 2022 and Procurement plan agreed by the Executive Member of Highways and Transport on 02 May 2023.

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