

<b>Report to:</b>	<b>Cabinet</b>
<b>Date of meeting:</b>	<b>13 July 2021</b>
<b>By:</b>	<b>Director of Communities, Economy and Transport</b>
<b>Title:</b>	<b>Highway Services Re-procurement Project (HSRP)</b>
<b>Purpose:</b>	<b>To inform Cabinet of the outcomes and recommendations from the Detailed Business Case for the Highway Services Re-procurement Project</b>

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**RECOMMENDATION: Cabinet is recommended to:**

- 1) Note the findings of the Detailed Business Case;**
  - 2) Agree Option 2, Integrated Contractor & Designer Contract as the preferred Service Delivery Model because it presents the best opportunity and the least risk to the Council to successfully deliver its statutory responsibilities for highways maintenance as well as the delivery of improvements to the County's transport networks in the most efficient, effective and economic manner;**
  - 3) Agree the contract duration option of an initial term of 6 years 11 months + 7 years optional extension; and**
  - 4) Agree that a contract is developed and prepared for tendering based on NEC4 form of contract that reflects the Council's requirements and clearly defines the service requirements and the Service Provider's responsibilities.**
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## **1. Introduction**

- 1.1 This report presents an overview of the main work and outcomes from the Detailed Business Case (DBC) for the re-procurement of the new Highway Infrastructure Services contract. The DBC has been developed using the Council's Strategic Commissioning approach and the HM Treasury Five Case Model. The DBC has developed the recommendations from the Outline Business Case (OBC) and the two options approved by Cabinet in January 2021. These were to develop further:
- Option 1: Separate Works (Contractor) Contract & Separate Designer Contract, and
  - Option 2: Integrated Single Provider Works & Design (current Service Delivery Model).
- 1.2 The DBC is essentially a detailed options appraisal of possible ways (service delivery models) that the Council can deliver its future highways services. A full copy of the DBC is attached to this report as Appendix 1, there are seven separate appendices that support the DBC, these have been compiled together as one Appendix 2.

## **2. Context & Existing Arrangements**

- 2.1 East Sussex County Council (the Council) is a designated Highways Authority under the Highways Act 1980 and has duty to maintain highways maintainable at public expense. These legal duties are the principle reasons why we have a Highways Service Provider in place. These legal duties are set out in more detail within Appendix 2 (see section 005 legal framework review).

- 2.2 In December 2015 Cabinet awarded a contract for delivery of highway maintenance and infrastructure services to Costain Ltd. Costain Ltd established an unincorporated Joint Venture (JV) with Jacobs (formerly CH2M) to deliver the services. The current Highway Infrastructure Services (HIS) Contract commenced on the 1<sup>st</sup> May 2016 and is due to end on 30 April 2023. The contract is for a fixed seven-year term with no extensions included by design.
- 2.3 The Council's Highway Asset Management Policy and strategic approach fundamentally underpins maintenance activity across our infrastructure to meet our legislative duties.
- 2.4 The service is committed to Asset Management as a means to deliver a more efficient and effective approach to management of highway infrastructure assets through longer term planning and ensuring that levels of service are defined and achievable for available budgets. It supports making the case for funding, for better communication with stakeholders, and facilitates a greater understanding of the contribution highway infrastructure assets make to economic growth and social well-being of local communities.
- 2.5 In 2016 the Council established the Contracts Management Group (CMG) as a specialist function to manage the contract. The CMG is critical to the successful day-to-day delivery of the commercial contract and ensuring overall contract compliance, governance, and administration of the contract. CMG fulfils a number of the contractual Project Manager duties which include approving payments, management reporting, claims, dispute resolution and programme management / acceptance.

### **3. Previous Arrangements**

- 3.1 The Council's journey of Highway Services contracts has evolved since 2000, when our first two contracts for highways maintenance and design services were agreed. Both contracts were for 5 years with no extensions.
- 3.2 In 2005 – 2016 we then procured and awarded a highways maintenance contract for an initial term of 7 years which was extended for a further four years.
- 3.3 Alongside the main highways term maintenance contract, there were a number of other contracts including, the Fleet Maintenance and Special Structures contract, the Public and Amenity Lighting contract, and the traffic signals maintenance contract. All of these contracts expired in 2016.
- 3.4 The alignment of expiry dates in 2016 of these separate contracts enabled the current HIS Contract to be procured as single provider Service Delivery Model because the market had fully developed to provide the range of these services. In addition, a number of internal Council functions such as safety inspections, network management, design services, highway claims management and the contact centre were also included in the model.
- 3.5 In summary the scale, scope and contract durations of highways services have been increasing since 2000 in a planned strategy to ensure legal compliance with the Highways Act 1980, delivery of the Council Plan and Strategic Priorities and delivery of Value for Money (VfM) and continuous improvement.
- 3.6 In particular, for the customer (our residents and businesses) this integrated service delivery means that a single body engages with their enquiry, inspects it, schedules it, fixes it, inspects quality, and reports back to customer.

#### 4. Scope of Services

4.1 This increased scope delivered and managed by a single provider is the unique selling point of the current HIS Contract that is in place with Costain. The HIS Contract with Costain is an end-to-end service for highway maintenance and includes the management of the following services;

<b>Core Activities</b> (lump sums/fixed prices)	<ul style="list-style-type: none"> <li>Control of vegetation</li> </ul>
<ul style="list-style-type: none"> <li>Stakeholder Management</li> </ul>	<ul style="list-style-type: none"> <li>Street Lighting &amp; Traffic Signals</li> </ul>
<ul style="list-style-type: none"> <li>Network Management</li> </ul>	<ul style="list-style-type: none"> <li>Winter Service</li> </ul>
<ul style="list-style-type: none"> <li>Third Party Claims</li> </ul>	<ul style="list-style-type: none"> <li>Road Markings</li> </ul>
<ul style="list-style-type: none"> <li>Drainage Maintenance</li> </ul>	<ul style="list-style-type: none"> <li>Reactive &amp; Emergency Response</li> </ul>
<ul style="list-style-type: none"> <li>Service Management</li> <li>Highway Asset Inspections</li> </ul>	<ul style="list-style-type: none"> <li>Structures Routine &amp; General Maintenance</li> </ul>
<b>Work Activities</b> (a range of payment options, lump sum, target cost, cost reimbursable)	
<ul style="list-style-type: none"> <li>Delivery of Capital Structural maintenance and improvement Programmes, including local transport improvement schemes</li> </ul>	
<ul style="list-style-type: none"> <li>Professional Services (Design)</li> </ul>	

4.2 Through detailed analysis of the current service delivery model and further market insight, the scope of services to be procured through the future outsourced model remain the same as those currently provided by Costain.

#### 5. Project Approach & Governance

5.1 The HCRP project commenced in January 2020 to re-procure a new contract for highway maintenance services.

5.2 A Project Board, Sponsor and Team have been established to develop and deliver the re-procurement strategy and new contractual arrangements.

5.3 A Scrutiny Member Reference Group (SMRG) has been established to ensure effective member engagement into the project.

5.4 A project plan has been developed by the project team and is the responsibility of the project manager to report progress of the plan to the Project Board. The plan covers all four stages of the project:

Stage	Stage Name	Main Activities	Programme Dates
<b>Stage 1</b>	Outline Business Case (OBC)	The analysis & planning stage (small options appraisal - long list to shortlist)	Cabinet Approval Completed Jan 2021
<b>Stage 2</b>	Detailed Business Case (DBC)	Detailed options appraisal of shortlist	Cabinet decision due 13 <sup>th</sup> July 2021

<b>Stage 3</b>	Delivery of Procurement Strategy	Issue e-Notice to FTS	November 2021
		Procurement Period including possible Negotiation with Bidders	Nov 2021 – March 2022
		Evaluation of compliant tenders submitted Period	June 2022 – Sept 2022
		Contract Award and Notification of evaluation results to Bidders - Stand-still period	Cabinet decision due Oct/Nov 2022
<b>Stage 4</b>	Prepare and engage	Mobilisation and Training	Nov 2022 – April 2023
		Contract Start	1 <sup>st</sup> May 2023

5.5 The conclusion of the DBC triggers the start of the next stage 3, namely, the Delivery of the Procurement Strategy which represents the Procurement ‘Do’ stage of the Strategic Commissioning process (see section 2.5.2 of Appendix 1).

## 6. Scrutiny Member Reference Group

6.1 The Place Scrutiny Committee formed a Member Reference Group to work alongside officers on the development of the new contract in keeping with the previous involvement the Committee has had in this area of work. The work of the Reference Group to date covers stages 1 to 2 of the Project.

6.2 The scope and terms of reference for the Reference Group’s work are contained in their report (see section 004, of Appendix 2) to the DBC. It should be noted that scope of the work on the HSRP is to determine the shape of the contracting arrangements for the implementation of the Council’s policies for highways. Matters of policy or funding are considered through the Council’s Reconciling Policy Performance and Resources (RPPR) process.

6.3 The work of the Reference Group has also included investigating the scope for improvements in the contract, these focussed on the areas of:

- The Performance Framework – which includes the Key Performance Indicators (KPIs) and the Service Performance Indicators (SPIs) for the new contract,
- Highway Asset Inspections – which are part of the core services of the contract to keep the road network safe and serviceable for use, which includes the provision Highway Stewards,
- Quality Assurance – How the quality of the work the contractor, and others who undertake work on the highway, is checked and maintained to ensure value for money and a right first-time approach, and
- Stakeholder Engagement – to ensure that members of the public and other Stakeholders such as councillors, Parish Councils and other highway users can report issues, make enquires and access information in relation to the road network and are informed and effectively consulted on activities that relate to the road network in a timely, efficient and

accurate manner. The relationship between the contact centre customer team and our own corporate communications function will also be strengthened.

- 6.4 The Reference Group has commented extensively on these areas, drawing on their wider Member experience and ward case work. The DBC contains measures to improve the quality assurance, performance management and stakeholder engagement of the contract in response to the Reference Group's comments and recommendations.
- 6.5 It should be noted that the previous reference group wish their view and report be presented to Cabinet alongside any further comments that the new Place Scrutiny Committee may wish to say. In addition, the new Place Scrutiny Committee have recently resolved to establish a new reference group to support and advise the project going forward.

## **7. Performance Management & Monitoring**

- 7.1 A robust performance management, incentivisation and governance arrangement is required to ensure the right level of service will be delivered by the future contractor. This is to ensure continuous improvement through innovation and efficiency in service delivery.
- 7.2 An outline performance framework has been developed, based on a review of the current framework, that will incentivise the contractor to deliver year on year efficiencies but penalise the contractor for poor performance. (see section 2.22 & 2.23 Appendix 1).
- 7.3 The new performance framework will have extra focus on measuring aspects of the service and ensure works are completed right first time, in order to achieve one of the key contract outcomes of quality assurance. This will be managed by the CMG, which will use their experience so far to provide a greater focus on performance monitoring and business improvement in order to drive continuous improvement throughout the contract duration. (see table 028 section 6.4.8 of Appendix 1).

## **8. Financial (Revenue & Capital) Implications**

- 8.1 The Council currently spends approximately £40million per annum through the existing highway maintenance HIS contract with Costain which is expected to total £280million by the end of the Contract in April 2023. This comprises approximately £12m per annum for the Council's revenue budget and £28m per annum on average from the capital budget.
- 8.2 Currently there are no highways related savings targets against either of the revenue or capital budgets in the Council's 2021/22 Medium Term Financial Plan (MTFP). However, one of the Council's key priorities is to make the best use of resources. This is driven by the Local Government Act general duty which sets out that a best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having due regard to a combination of economy, efficiency and effectiveness.
- 8.3 The HSRP analysis completed to date seeks to ensure the Council's priority to make the best use of resources continues to be actively pursued. This will be achieved through the specifics of the contract design, such as risk allocation, payment options and incentivisation models.
- 8.4 There is a risk that when the Council goes to the market with the tender, market rates could be higher than the current contract rates due to an increase in inflation, potential increase in the contractors fee and change in tenderers commercial strategy. In short this could see core activity prices increase and is detailed in section 5.5 of the DBC. If this situation arises it will be managed through the RPPR process.

8.5 A full affordability assessment regarding the impact on future budget and/or service requirements can only be completed once the tender evaluation has been completed in October/November 2022. In addition, Cabinet agreement will be sought prior to the award of the contract.

## **9. DBC Conclusions & Recommendations**

9.1 In order to determine how the Council best delivers its legal duties of the Highways Act 1980, as the local Highway Authority, a range of different Service Delivery Models (SDMs) have been appraised through the completion of both the OBC and DBC.

9.2 The evidence gathered shows that funding continues to be a challenge in improving the condition of the highway's asset, against a backdrop of increasing network usage and high stakeholder expectations of the service.

9.3 Quality control, effectiveness of communications and overall service efficiencies were three of the main areas for improvement identified by Members with potential solutions for improvement to be further investigated, designed and integrated into the development of the contract documentation at the next stage of the project.

9.4 The options appraisal summary (page 50 of Appendix 1), states that Option 2-Integrated Single Provider (Works & Design) represents the best opportunity for value for money for the future delivery of highways services in East Sussex.

9.5 Having completed the detailed options appraisal of 15 different SDMs across three stages, Option 2 has consistently scored the highest across all three stages of the options appraisal.

9.6 The Council has a good level of existing capability and capacity to move to an enhanced Option 2 without needing additional resources and provides us with the opportunity to consider a leaner, more efficient client structure.

9.7 The following are recommended for development in the next stage of the HSRP (Stage 3 – Delivery of the Procurement Strategy):

- 1 The Council selects Option 2, Integrated Contractor & Designer Contract (current SDM) as the preferred SDM because it presents the best opportunity and the least risk to the Council to successfully deliver its statutory responsibilities for highways maintenance as well as the delivery of improvements to the County's transport networks in the most efficient, effective and economic manner;
- 2 Select the contract duration option of an initial term of 6 years 11 months + 7 years optional extension;
- 3 Agree that a contract is developed and prepared for tendering based on NEC4 form of contract that reflects the Councils requirements and clearly defines the service requirements and the Service Provider's responsibilities.

## **10. Next Steps**

10.1 The next steps are to start the preparations to launch the formal procurement process under PCR2015; this would involve, among others, developing all the necessary procurement documents for the process. A Contract Notice will be published on the Government's portal (FTS) in October/November 2021 that will commence the formal process of our engagement

with the market leading to the submission of tenders and a potential negotiation with the selected Bidders over their initial tenders and the evaluation of their final tenders to select and award the contract to the successful contractor.

10.2 At the same time as preparing the procurement documents at stage 3, we will continue to develop the performance criteria for inclusion in the NEC4 form of contract, refine the contract mechanisms, determine the service levels required, develop the organisational change plan and develop the asset management plan.

10.3 The following is a summary of the key activities and tasks to be completed in the delivery of the procurement strategy (stage 3):

- Prepare the procurement documents including the structure of a negotiation stage (in case it is needed) and the (a) evaluation criteria for the selection of Bidders and (b) award criteria for the evaluation of compliant tenders the Bidders will submit
- Test the performance management regime,
- Complete the evaluation of initial tenders received and decide if there is need to negotiate tenders submitted with Bidders.

## **11. Recommendation**

11.1 Cabinet is asked to note the findings from the Detailed Business Case and to agree the proposals for the next stage of the project including the contract and tender documents based on the model set out in the DBC ready for tender in the October/November 2021.

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### LOCAL MEMBERS

All

### BACKGROUND DOCUMENTS

None