



## Environment Committee

18 January 2021

**Title**  
**Supplement to the Report -  
Procurement of Highways Term  
Maintenance Contractor  
Supplementary Report**

**Report of** Chairman of the Environment Committee

**Wards** All

**Status** Public with exempt Appendix 1 – options assessment Exempt enclosure - Not for publication by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972 as amended (Information relating to the financial or business affairs of any particular person)

**Urgent** No

**Key** Yes

**Enclosures** Exempt Appendix 1 - options assessment Exempt enclosure

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### Summary

This report acts as a “Supplementary Report” to the report received by the Environment Committee at their meeting of 18 January 2021 entitled Procurement of Highways Term Maintenance Contractor, the “Main Report” as published 8 January 2021.

Members are requested to note, consider, and resolve the recommendations as set out in the main report entitled Procurement of Highways Term Maintenance Contractor dated 18 January 2021.

As set out in the Main Report to the Environment Committee meeting of 18 January 2021 Officers have been assessing two options for the delivery of the Council's Highways Term Maintenance Contract services; both options enable a commencement date of 1 April 2021 with a contract duration of 2 years and 6 months. These options are the potential to extend with the current term maintenance contractor or to access the recently awarded Transport for London (TfL) London Highway Maintenance and Projects Framework (HMPF) through a Call Off Contract arrangement.

Officers have now concluded their evaluation of the two options and are seeking Environment Committee authorisation to award a contract for the replacement Highways Term Maintenance Contract through the TfL HMPF Framework with the TfL North Area contractor subject to completion of the Call Off Contract arrangements as defined in the TfL HMPF Framework contract documentation. As a result of the requested authorisation the TfL HMPF Framework North Area contractor, Tarmac Kier, be notified of the council's intention to call off the contract under the TfL HMPF Framework Agreement.

The settlement of the final contractual terms being delegated to the Executive Director for Environment to enable an effective go live date of 1 April 2021.

## **Officers' Recommendations**

- 1. That the Environment Committee are requested to note, consider, and resolve the recommendations as set out in the main report entitled Procurement of Highways Term Maintenance Contractor dated 18 January 2021 as published 8 January 2021.**
- 2. That the Environment Committee notes the outcome of the evaluation and agrees to authorise the award of a contract for the replacement Highways Term Maintenance Contract through the TfL HMPF Framework with the TfL North Area contractor subject to completion of the Call Off Contract arrangements as defined in the TfL HMPF Framework contract documentation.**
- 3. That the Environment Committee authorises officers to notify the TfL HMPF Framework North Area Contractor, Tarmac Kier, of the council's intention to call off the contract under the TfL HMPF Framework Agreement.**
- 4. That the Environment Committee delegates authority to the Executive Director for Environment to settle the final contractual terms with the TfL HMPF Framework North Area Contractor, Tarmac Kier to enable an effective go live date of 1 April 2021.**

## **1. WHY THIS REPORT IS NEEDED**

- 1.1 As set out in the published Main Report to the Environment Committee meeting of 18 January 2021.
- 1.2 The purpose of this report is to provide appropriate Council authorisation to procure and proceed with the award of the contract for the Highways Term Maintenance Contract for an initial period of two years and six months through the recently awarded Transport for London (TfL) London Highway Maintenance and Projects Framework (HMPF) by way of a Call Off Contract arrangement.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 As set out in the published Main Report to the Environment Committee meeting of 18 January 2021.
- 2.2 The decision is required to establish a Highway Term Maintenance contract to enable the effective delivery of the scope of works as set out in the Main Report to the Environment Committee meeting of 18 January 2021 in Section 3.4 and other optional activities i.e:
  - Reactive maintenance response
  - Local Improvement Plan
  - Area Committee Scheme Implementation
  - Network Recovery Plan, including:
    - Carriageway reconstruction
    - Footway reconstruction
    - Patching Programme
  - Drainage and Gully Cleansing
  - Crossover Installation
  - Lines, Signs and Barriers
  - Structure and Bridge Maintenance

## **3. RECOMMENDED OPTION**

- 3.1 The recommended option as a result of evaluation process is to award a contract for the replacement Highways Term Maintenance Contract through the TfL HMPF Framework with the TfL North Area contractor subject to completion of the Call Off Contract arrangements as defined in the TfL HMPF Framework contract documentation. As a result of the requested authorisation the TfL HMPF Framework North Area contractor, Tarmac Kier, be notified of the council's intention to call off the contract under the TfL HMPF Framework Agreement. For Elected Members information the TfL HMPF has replaced the previously referenced Lohac2 contract framework.
- 3.2 The benefits of the recommended option allow the Council to deliver against its defined objectives, with the production of a set of clear deliverables in relation to maximising the strategic and commercial opportunities from a longer-term procurement and overall service design. In addition, it naturally aligns with the end of the current Re contract on 30 September 2023, enabling wider strategic and commercial options to be considered by the Council going forward.

## **4. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 4.1 As set out in the published Main Report to the Environment Committee meeting of 18 January 2021.

## **5. POST DECISION IMPLEMENTATION**

- 5.1 If Environment Committee approves the recommendations in this report, HB Law will be instructed to conclude the contract award through the TfL HMPF Framework Call Off Contract arrangements with the successful North Area Contractor Tarmac Kier.
- 5.2 The Council will follow the guidance set out in the TfL HMPF Framework contract Call Off Contract arrangements with the awarded North Area Contractor.
- 5.3 After the approved option has been ratified Officers will undertake the final commercial and legal processes, to enable a seamless go to live on 1 April 2021.

## **6. IMPLICATIONS OF DECISION**

### **6.1 Corporate Priorities and Performance**

- 6.1.1 As set out in the published Main Report to the Environment Committee meeting of 18 January 2021.

### **6.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

#### **6.2.1 Finance & Value for Money**

- 6.2.1.1 The annual spend for the current contract is £11.026m based upon the 2019/20 contractual budget outturn. For Elected Members information the commercial agreement will be within the approved annual revenue and capital highways budgets.

- 6.2.1.2 The underlying financial principles will ensure that the Council's interests are protected in relation to the continued delivery of a value for money solution, specifically in relation to:

- Performance
- Payment Mechanisms
- Delivery Volumes

- 6.2.1.3 Under Article 7 of the Constitution, the Environment Committee has responsibility for all borough-wide or cross-constituency matters relating to the street scene including, parking, road safety, lighting, street cleaning, and can receive reports on relevant performance information and risk on the services under the remit of the Committee. This decision will result in additional budget requirement and so cannot be taken by the Environment Committee. Article 7 states that "No decisions which result in amendments to the agreed budget may be made by the Committee unless and until the amendment has been agreed by Policy and Resources Committee." If there is an identified additional budget requirement, this matter would need to be determined by the Policy & Resources Committee which

has responsibility for amendments to the revenue budget (Financial Regulations Section 2.4.3) and additions to the capital budget (Financial Regulations Section 2.4.5).

## 6.2.2 Procurement

6.2.2.1 The procurement of highways services, including related supplies and works, must be done in compliance with public procurement rules, including the Public Contracts Regulations 2015 (PCR).

6.2.2.2 The use of the TfL HMPF Framework is a recognised route to market for the provision of Highways Term Maintenance Contract services. The approach is PCR compliant and in accordance with the Council's Contract Procedure Rule 5.4.

6.2.2.3 The evaluation is set out in Appendix 1 to this Supplementary Report.

## 6.2.3 Staffing

Through the TfL HMPF Framework and subsequent legally binding agreement it is understood that TUPE will apply. There are no direct staffing implications for the council.

## 6.2.4 IT

The requirement to maintain the existing IT systems and connectivity with Exor (and its successor system Confirm) will be formally confirmed, in order to deliver the contracted reporting and data sharing requirements during the contracted period

## 6.2.5 Property

The TfL HMPF North Area contractor have confirmed the provision of depot facilities to service this contract. Through the formal contractual arrangement, the provision of a depot will be formally confirmed to maintain integrity of service during the period of extension / contract period.

## 6.2.6 Sustainability

As set out in the published Main Report to the Environment Committee meeting of 18 January 2021.

## 6.3 **Social Value**

6.3.1 As set out in the published Main Report to the Environment Committee meeting of 18 January 2021.

## 6.4 **Legal and Constitutional References**

6.4.1 As a highway authority Barnet has a duty under section 41(1) of the Highways Act 1980 to maintain the public highway.

6.4.2 In addition, Section 30 of the Greater London Authority Act 1999 confirms that the highways authority has the general power to, amongst other things, promote the

improvement of the environment, and economic and social development.

6.4.3 The current contract commenced 1 January 2014 by way of a Call-off contract under the LoHAC Framework which commenced 1 April 2013. The current arrangement is due to continue until 31 March 2021.

6.4.4 The TfL HMPF has been lawfully procured under the PCR and the Council can lawfully call off a contract from the North Area contractor appointed under the HMPF Framework. The HMPF Framework must cover the Council's highways requirements, and the call-off contract term and value must be in scope under the HMPF Framework. The Council must follow the rules of the HMPF Framework when calling off a contract.

## 6.5 Risk Management

6.5.1 As set out in the published Main Report to the Environment Committee meeting of 18 January 2021.

6.5.2 The entering into a Call-off Contract with the TfL HMPF Framework North Area contractor will be the subject of a legally binding contract between the Council and Tarmac Kier. This contract will be in line with the TfL HMPF Framework Call-off contractual procedure and subject to the contractual and governance terms set out in the TfL contractual documentation.

6.5.3 TfL have awarded the contract for the North Area to Tarmac Kier, a Joint Venture partner, TfL have advised that the signing of the contract with Tarmac Kier is imminent.

## 6.6 Equalities and Diversity

6.6.1 As set out in the published Main Report to the Environment Committee meeting of 18 January 2021.

## 6.7 Corporate Parenting

6.7.1 As set out in the published Main Report to the Environment Committee meeting of 18 January 2021.

## 6.8 Consultation and Engagement

6.8.1 This section does not apply to this report.

## 6.9 Insight

6.9.1 This section does not apply to this report.

## **7. BACKGROUND PAPERS**

### 7.1 Environment Committee Meeting 30 June 2020

<https://barnet.moderngov.co.uk/documents/s59143/Procurement%20of%20Highways%20Term%20Maintenance%20Contractor%20-%20Public.pdf>

### 7.2 Environment Committee Meeting 11 September 2020

<https://barnet.moderngov.co.uk/documents/s55126/Procurement%20of%20Highways%20Term%20Maintenance%20Contractor.pdf>

### 7.3 Environment Committee Meeting 18 January 2021

<https://barnet.moderngov.co.uk/documents/g10158/Public%20reports%20pack%2018th-Jan-2021%2018.00%20Environment%20Committee.pdf?T=10>