

Subject:	Highway Works Framework Agreement		
Date of Meeting:	11th July 2013		
Report of:	Executive Director for Environment, Development and Housing		
Contact Officer:	Name:	David Parker	Tel: 292474
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report seeks approval for the tendering of a highway works framework agreement to provide for the structural maintenance of the highway and to provide the civil engineering element of environmental enhancement projects, road safety projects, traffic management works and traffic signal alterations.

2. RECOMMENDATIONS:

That Policy and Resources Committee:

- 2.1 Approves the procurement of a framework agreement for highway works with a term of four years from 1 January 2015 to 31 December 2018 and an option to extend for a further two years to 31 December 2020;
- 2.2 Grants delegated authority to the Executive Director Environment, Development and Housing –
- (i) to carry out the procurement of the framework agreement referred to in 2.1 above including the award and letting of the framework agreement; and
 - (ii) to grant an extension to the framework agreement referred to in 2.1 above of two years should he/she consider it appropriate at the relevant time.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

Statutory duties

- 3.1 Local authorities have a duty under the Highways Act 1980 to maintain the highway, and any contract let under the proposed framework agreement would assist the Council to fulfil this duty. The Council also has a duty under the Flood and Water Management Act 2010 to manage local flood risk, and this will be assisted by the proposed framework agreement.

Previous framework agreement

- 3.2 Currently there is a Minor Highway Works Framework Agreement (No 790) in place until 31 December 2014.

Intention of Environment, Development and Housing to develop new framework

- 3.3 The proposed new framework will provide the civil engineering element of Urban Realm Projects, Road Safety Projects, Traffic Management Works and traffic signal alterations, and also the maintenance of flood risk assets and participation in the Council's emergency flood plan thus enabling the Council to fulfil its duty as Lead Local Flood Authority.

The Highway Works

- 3.4 Under a framework agreement, there is no guarantee of work and therefore no contract value in its own right. However it is anticipated that works enabled through the proposed framework agreement will be in the region of £4.5 million per year over its duration. This value is totally dependent on separately identified and approved funding streams and as such there could be significant positive or negative variation in annual throughput.
- 3.5 There could be a wide variation in the value of works enabled through a contract let under the framework. Typical individual works orders would fall into a range of £10,000 to £75,000 (however, works to the value of £350,000 are regularly enabled and on occasion projects in excess of £1m will be enabled subject to the necessary approval). The location of the work can be anywhere in Brighton and Hove and the contract can be utilised by all Council directorates.
- 3.6 The projected value of works issued through the 4 year framework is therefore anticipated to be in the region of £18 million,

Programmed Maintenance	£	1.2 M
Transport Planning	£	<u>3.3 M</u>
Total	£	4.5 M per year

- 3.7 The Council has achieved substantial recent success in bidding for external funding for projects. Should this continue, there may be, where appropriate, additional externally funded projects issued under this framework.
- 3.8 Three contractors will be selected to form the framework agreement. Works will be carried out under "call-off" arrangements. Payment for these works will be from a call-off Schedule of Rates, with each project being evaluated against the three contractors' Schedule of Rates. The Contractor offering the Council the most economically advantageous outcome will then be offered the project. The framework offers no guarantee of work for any appointed contractor.

General Benefits of the Framework

- 3.9 Using a framework agreement has a number of benefits as the Council has the ability to “call-off” contracts at short notice without the need to undertake a time-consuming comprehensive contract award process, which therefore reduces administrative effort and costs. It also allows the Council the flexibility to determine specific requirements at the “call off” stage.
- 3.10 As part of the tendering process, the section criteria used to assess prospective providers will be consistent with the council’s procurement strategy and seek to ensure high quality providers at a competitive market price. Prospective bidders will need to demonstrate they are willing to work in collaboration with the council to explore innovative ways of working that will potentially reduce the costs of highways scheme delivery and maintenance where possible.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

- 4.1 Not Applicable as this framework only enables individual works and projects to be undertaken, each of which will undergo its own engagement and consultation process as required.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 All works undertaken in relation to the framework are independently approved through separate funding streams such as the Local Transport Plan, Highways Maintenance revenue budgets and external funding. The award of the framework itself therefore has no financial value; however has an expected annual throughput of approximately £4.5m, which may be greater depending on additional externally funded projects being issued under the framework.

Finance Officer Consulted: Steven Bedford Date: 13 July 2013

Legal Implications:

- 5.2 Under the Highways Act 1980, the Council has a duty to maintain the public highway and a general power to undertake improvements to the highway.
- 5.3 Under the Flood and Water Management Act 2010, the Council has a duty to manage flood risk from local sources of flood risk, in particular surface run-off, groundwater and ordinary watercourses.
- 5.4 The Policy & Resources Committee is the appropriate decision-making body in respect of the recommendations at paragraph 2 above, given that the value of the contract which is the subject of the proposed tendering exercise is likely to have corporate financial implications.
- 5.5 Further, the Council’s Contract Standing Orders require that authority to enter into a contract valued at £500,000 or more be obtained from the relevant

committee, which in this instance is the Policy and Resources Committee due to the value involved

- 5.6 The value of the proposed framework means that the UK Public Contracts Regulations will apply in full to the procurement of the Framework Agreement. The tender will need to be advertised in OJEU. The tender will be scored on the criteria of quality and price as part of the evaluation process.

Lawyer Consulted

Johann Wyllly

Date 10 June 2013

Equalities Implications:

- 5.7 The Council's Code of Practice on Equalities and Workforce Matters is enforced in all procurement and is incorporated within the framework.

Sustainability Implications:

- 5.8 Sustainability is promoted in all highway engineering contract procurement. Specifications allow for recycling and development of sustainable processes. Contractors are required to have current ISO14001 certification or a recognised equivalent.
- 5.9 Living Wage has been considered for this future contract but is not applicable in this case due to the national statistics giving road maintenance workers a higher mean average hourly rate than the Living Wage figure. Current contracts have also been considered in reaching this conclusion that Living Wage is not applicable.

Crime & Disorder Implications:

- 5.10 There are no Crime & Disorder implications arising directly as a result of this report.

Risk and Opportunity Management Implications:

- 5.11 There are risks involved in failing to fulfil the Council's statutory duty as Highway Authority to maintain the public highway in accordance with the Council's approved Highway Maintenance Plan. Failure to maintain will adversely affect the highway asset leading to increasing rates of structural deterioration and associated risk of increasing claims in relation to health and safety, and other types of damage, such as damage to vehicles, which will mean increased insurance claims.
- 5.12 Failure to adequately manage flood risk will lead to property damage, service disruption, risk to life and potential insurance claims against the Council.

Public Health Implications:

- 5.13 None

Corporate / Citywide Implications:

- 5.14 Approval to procure this Framework Agreement will enable major highway maintenance works, transport projects and general civil engineering works to be undertaken throughout the city without the need to undertake further individual tendering procedures. The current framework is utilised by officers in the Highway Engineering, Transport Planning, City Clean, Traffic Signal, Parks and Open Spaces and Seafront Teams.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 Various procurement options have been discussed with Strategic Finance and Procurement and this form of framework, procured through the EU process is considered most suitable. The use of a framework agreement with “Call-off” arrangements and a Schedule of Rates, allows market tested competitive rates to be utilised for any Civil Engineering projects within the scope of the documentation.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 In approving the procurement and award of this framework agreement, the Council will enable the means not only to fulfil its statutory duties but also help deliver corporate priorities.

SUPPORTING DOCUMENTATION

None

