

	<b>London Borough of Hammersmith &amp; Fulham</b>  <b>CABINET</b>  <b>5 JANUARY 2015</b>	
<b>FUTURE HIGHWAYS WORKS CONTRACTS</b>		
<b>Report of the Cabinet Member for Environment, Transport and Technical Services: Councillor Wesley Harcourt</b>		
<b>Open report</b>  A separate report on the exempt Cabinet agenda provides exempt information in relation to reviewing contract rates)		
<b>Classification - For Decision</b> <b>Key Decision: Yes</b>		
<b>Wards Affected: All</b>		
<b>Accountable Executive Director:</b>		
<b>Report Author:</b> Ian Hawthorn (Head of Highway Maintenance and Projects)	<b>Contact Details:</b> Tel: 020 87533058 E-mail: ian.hawthorn@lbhf.gov.uk	

## 1. EXECUTIVE SUMMARY

### 1.1 Approval is sought to carry out the following options:

- In Hammersmith & Fulham to call off from Westminster's highway frameworks contracts on (A) Highways Maintenance Management and Public Realm Projects, (C) Bridges & Structures Maintenance Management and Improvement & (D) Gully Cleaning Service (LBHF only); analysis of all of these show possible savings.
- Street lighting and Tree Maintenance Contracts will be subject to procurement outside the Westminster framework. Therefore approval is sought to extend the current arrangements for a further 12 months. Our review has shown that the framework would not realise any savings by using the Westminster contract for street lighting with a possible increased cost, and the Street Tree Maintenance Contract which is purely an LBHF contract is not included in the framework. There is an opportunity to use either a Bi-borough Contract option or aligning with other

Councils or to continue with a new single borough Tree Maintenance contract all of which will be subject to further reports.

## **2 RECOMMENDATIONS**

- 2.1 That Hammersmith & Fulham call off from the Westminster City Council framework contract which was awarded to F M Conway Ltd, commencing on 1 April 2015 for a period of 4 years and with a notional annual value of £9.4 million.
- 2.2 That approval be given to extend the arrangements for a 12 month period of both the Street Lighting and Tree Maintenance contracts to allow further tendering opportunities to be explored. (Both contractors have offered savings to extend the contracts).
- 2.3 To note that Westminster City Council will act as the Contracting Authority for the purposes of the Regulations and subsequently the employing borough for these Bi-borough contracts (subject to legal agreements between the boroughs for the management of the service).

## **3. REASON FOR DECISION**

- 3.1 The works term contracts in both boroughs were due to expire at various times, either last year or this year. However, last year we prepared Key Decision reports in both boroughs recommending the alignment of the end dates by extending five contracts so that they all terminate in April 2015 (all the existing contracts are shown in appendix A). This has allowed us to explore most attractive options. Uniquely, there are a number of options open to both boroughs: which include continues with single borough contracts, create Bi-Borough Contracts, and join the LoHAC\* Frame work contract, join the Westminster contract or create hybrid use of Westminster framework and Bi-borough contract.
- 3.2 Currently, the estimates of savings depending on the work area vary, but the minimum saving is expected to be around 11% on current contracts. In LBHF we would expect to be able to make a minimum of £180,000 in revenue savings with a further £200,000 from capital being reinvested in increased footway maintenance. With reference to RBKC it is expected that a similar saving could be achieved on the present work contracts if Contract A was used. Appendix B outlines the alignment of current contracts to the new Westminster contracts. Savings from a street lighting alternative option including a possible Bi-borough contract or joining other boroughs are unknown at present and are not included in the savings.
  - Lot A Highways Maintenance Management and Public Realm Projects
  - Lot C Bridges & Structures Maintenance Management and Improvement
  - Lot D Gully Service (LBHF only)
- 3.3 The LoHAC\* framework contract provides a wide range of highway services and is available for any London borough to sign up some or all of its services. The first framework contract is the London Highway Alliance Contract (LoHAC) that has been let by Transport for London. LoHAC provides a wide range of highway services including design office work and is available for all London boroughs to call off. However it is primarily intended for work on the Transport for London Road Network (TLRN). Work on the TLRN tends to be large-scale with a high priority

placed on minimising disruption to traffic and expediency. This is reflected in TfL's tender assessment for LoHAC which placed a 70% weighting factor on Price and 30% on Quality. Historically, highway contracts in Hammersmith & Fulham placed a weighting factor of 60% on Price and 40% on Quality.

Officers had a number of discussions with LoHAC Representatives to agree price sample of a number of work areas including projects, footway and carriageway maintenance and gully schemes. Officers compared these completed samples with our own rates and whilst the LoHAC rates were lower in many areas, it was clear that the specification for the work items was dissimilar. Work items in LoHAC did not fully specify the instructions and constraints that we place upon our contractors. For example, we require our contractor to notify residents of their work programme and contact numbers by way of a letter-drop. They must arrange any necessary work permits and parking suspensions but must also be mindful of the need to keep parking suspensions to an absolute minimum. The cost of meeting these constraints will have been included in our contractors' rates but if they are not accounted for in LoHAC, then the LoHAC contractor will submit a claim for additional costs thereby eroding any savings achieved through the contract rates. A number of other London local authorities reached a similar conclusion and subsequently renewed or retendered their own contracts rather than use LoHAC.

- 3.4 Westminster City Council (WCC) has awarded a framework contract for highways and transportation services which has been drafted to enable both RBKC and LBHF to join the works elements of it should we wish to do so. After carrying out a number of exercises to determine what savings could be achieved, it has been identified that both boroughs could realise a possible minimum 11% saving on current single borough contracts. This would mean a minimum saving of just under £390,000 per borough on current contracts if they used Westminster Contract A. Included with the report on the exempt Cabinet agenda is a document assessing this contract option (Appendix C for Highway Maintenance and Projects and Appendix D for street lighting).

#### 4. BACKGROUND

- 4.1 The framework contract Lots highlighted in the recommendation can be used up to the durations stated in the table below; however it is up to each council what length of time we want our call off to run.

<b>Contract</b>	<b>Duration</b>
<b>Lot A</b> - Highways Maintenance Management and Public Realm Projects	<b>8</b> Years + up to <b>4</b> Years extension
<b>Lot C</b> - Bridges & Structures Maintenance Management and Improvement	<b>8</b> Years + up to <b>4</b> Years extension
<b>Lots D</b> - Gully Service	<b>8</b> Years + up to <b>4</b> Years extension

- 4.2 In certain works types, each borough currently operates different requirements for the specification of highways maintenance works. We have taken and will need to

continue to take into account our differing streetscape policies and political priorities when using and managing any framework contract.

- 4.3 In terms of the use of SME's for the main contract, it would be difficult for such a company to deliver some of the major scheme work require each year and be able to offer the reduced costs that the framework contracts can deliver. However the current and future tree maintenance contract is ideal for an SME and the company currently with the contract is a SME.

## **5. PROPOSAL AND ISSUES**

- 5.1 To join the Westminster Contract for three key highway maintenance areas of paving and resurfacing, gully repair and highway enhancements works. In LBHF gully cleansing would also be procured via contract D.
- 5.2 There are two small contracts areas that do not fit into the current Westminster contract arrangements which are in LBHF. Tree Maintenance which is worth £200,000 and Winter Maintenance which is worth £80,000 and currently part of the paving contract. Officers are currently exploring the option of using the LoHAC Contract to delivery of Winter Maintenance and extending the present tree maintenance contract to explore further options.
- 5.3 A single contractor- FM Conway - was successful in two of the three contracts that we wish to join; however, FM Conway are a known contractor to both boroughs and currently undertake our paving contract in LBHF and Structures work in RBKC. Enterprise Mouchel is the contractor for gully services which is contract D.
- 5.4 It is proposed after assessment that street lighting work is under taken using a either a Bi-Borough Contract or exploring tendering options with other local councils. To enable this officers are seeking approval that the current street lighting contract is extended by 12 months to allow these further procurement options to be explored.

### **Risks**

- 5.5 In case the call off process breaks down: there are still options within the existing contracts to extend some or all of the existing contracts by agreement, the programmed works could be deferred, or procured by framework contract or through LoHAC.
- 5.6 In case of failure during the contract, the risk to the Council could include delay in completing work or loss of external income. Where we are using Westminster contracts then there are Bi-Borough Contracts already drafted that can be procured.

### **Project Team**

- 5.7 We have reviewed all the documents in the contracts process in consultation with the contract lawyer in Legal Services and in compliance with corporate Procurement and Health & Safety policies. This has included a meeting with Westminster to review in detail the call off procedures.

- 5.8 The project team includes the Head of Highways, the Chief Engineer Projects, the Group Leader Contracts and Special Projects and representatives from Corporate Procurement, Finance and Legal Services.

### **Corporate Issues/Best Value and Workforce Matters**

- 5.9 We expect the Contractors to comply with the relevant health and safety legislation and with any reasonable request from the Councils for the purpose of ensuring compliance. We will assess health and safety documentation in conjunction with the Council's Health and Safety Advisor's guidance.
- 5.10 We will include clauses in the document requiring compliance with Environmental issues and requesting the Contractors policy and proposals.
- 5.11 Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) may be applicable to this service.
- 5.12 Typical annual work values per borough for the existing contracts are included in Appendix A. However, these will vary considerably each year.

## **6 OPTIONS AND ANALYSIS**

- 6.1 a) Extend the existing contracts listed in Appendix A. **(Recommended Street Lighting and Tree maintenance only)**
- b) Enter into an access agreement with WCC to call off services from their framework contractor **(Recommended with the exception of Street lighting and Tree maintenance)**
- 6.2 Samples of comparison undertaken by NRP and independent consultants are attached as appendix C & D
- 6.3 In terms of how the contracts would work in practice, there are fully integrated contracts

## **7 CONSULTATION**

- 7.1 This report was developed in consultation with all key officers associated with the service.

## **8 EQUALITY IMPLICATIONS**

- 8.1 We expect the contractors to comply with the relevant Equalities legislation and with any reasonable request from the Council for the purpose of ensuring compliance.

## **9 LEGAL IMPLICATIONS**

- 9.1 Legal Services will either review or draft all contract terms and conditions and advise as necessary.
- 9.2 Implications verified/completed: Babul Mukherjee Solicitor(Contracts)0207361 3410

## 10 FINANCE AND RESOURCE IMPLICATIONS

- 10.1 The total cost of the procurement process will be £12,000 shared equally between the two boroughs. The cost of procurement will be met from existing revenue budgets.
- 10.2 The new contract arrangements will be in place to meet the medium term financial savings plans for highways maintenance effective from 2015/16. Currently, the estimates of savings are expected to be around 11% as verified by an independent construction consultant. In LBHF a minimum of £150,000 in revenue savings per annum are forecast with a further £200,000 per annum from capital. It is proposed that capital savings are reinvested in the footways network in Hammersmith and Fulham.
- 10.3 Appendix A outlines the current highways works contracts and their typical annual values. The total value of all the contracts combined is £16.53 million per annum. This comprises of £5.73 million relating to RBKC and £10.8 million relating to LBHF. In terms of the three contracts A, C & D then this totals £9.47 million for Hammersmith and Fulham.
- 10.4 Street lighting and Trees Maintenance are not in scope of savings in this report and will dealt with in separate reports to follow.
- 10.5 Implications verified/completed by: (Gary Hannaway, Head of Finance, Ex. 6071)

## 11 PROCUREMENT IMPLICATIONS

- 11.1 These are outlined in the report and a procurement consultant was part of the project team that carry out the contract work and the report was presented to procurement board.
- 11.2 Implications verified/Completed by:(Alan Parry Procurement Consultant Ex 2581)

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### **LOCAL GOVERNMENT ACT 2000** **LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

<b>No.</b>	<b>Description of Background Papers</b>	<b>Name/Ext of holder of file/copy</b>	<b>Department/ Location</b>
1.	5 Contracts listed in Appendix A (Exempt)	Ian Hawthorn 3058	TTS/ Pembroke Road
2.	Westminster Contracts listed in the report (Exempt)	Ian Hawthorn 3058	TTS/ Westminster
3.	NRP Reports Appendices C&D (Exempt)	Ian Hawthorn 3058	TTS/ Pembroke Road
4.	Key Decision Report – Extension of Contracts 2013	Ian Hawthorn 3058	TTS/ Pembroke Road

## LIST OF APPENDICES:

- Appendix A – Existing Contracts both Boroughs*
  - Appendix B – Assimilation Table of current contracts into Westminster’s Framework Contract*
  - Appendix C – Report of NRP on Cost Comparison Contract A (exempt)*
  - Appendix D – Report of NRP on Cost Comparison Contract B (exempt)*
  - Appendix E – Equality Statement*
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### \*LoHAC Brief History

- In July 2009 Transport for London (TfL) on behalf of the London Technical Advisory Group (LoTAG), Capital Ambition and the Office of Government Commerce (OGC) commissioned a project to consider the benefits of Pan London (TfL, London Boroughs and the City of London) collaborative procurement of Highway term maintenance and improvement works.
- In December 2010 TfL decided not to extend its Highways Works Maintenance Contracts past April 2013 and has led on the development to transform London’s Highways management of which LoHAC is the key work stream.
- Preparations for LoHAC have included current pan London contract and market analysis, preparation of a common specification and contract design. All London Boroughs have been encouraged to contribute to this process and to share the outputs.

## Appendix A

### Existing Highway Works Contracts

#### LBHF

**\*Please note that the LBHF Contracts include the potential to carry out capital project not just maintenance works and therefore the nominal value is higher than RBKC Contracts that have separate contracts.**

Contract Name	Contractor	Contract Dates	Final date with extensions	Contract Nominal Value (per annum)	Contract Description
Paving Works	FM Conway	April 2009 to March 2014	March 2017	£6M	Planned and general footway maintenance. Capital works as required. Out of hours emergency standby service
Resurfacing & Road Markings	Colas	April 2010 to March 2015	March 2018	£3.1M	Planned and general carriageway maintenance. Capital works as required. Line marking of new carriageway works as required.
Public Lighting & Ancillary Works	ETDE	June 2012 to March 2015	March 2017	£1M	Public Lighting repair and renewal
Tree Maintenance	Advance Tree Services	April 2011 to March 2014	March 2017	£200k	Tree maintenance of highway trees
Drainage & Gully Cleansing	Eurovia	April 2009 to March 2014	March 2017	£500k	Cyclic & ad-hoc gully cleaning. Repair and renewal of road gullies and connections.



**RBKC for reference**

<b>Contract Name</b>	<b>Contractor</b>	<b>Contract Dates</b>	<b>Final date with extensions</b>	<b>Contract Nominal Value (per annum)</b>	<b>Contract Description</b>
Paving Works	J Murphy	April 2009 to March 2015	March 2017	£2.5M	Planned and general footway maintenance. Out of hours emergency standby service
Resurfacing	Eurovia	April 2010 to March 2015	March 2018	£1M	Planned and general carriageway maintenance.
Public Lighting	Eurovia	April 2010 to March 2015	March 2018	£1M	Public Lighting repair and renewal
Drainage	Cappagh	April 2009 to March 2015	March 2017	£300k	Repair/replacement road gully and connections.
Road Markings	Eurovia	April 2009 to March 2014	March 2017	£100k	Road marking maintenance
Highway Improvements	Balfour Beatty	April 2010 to March 2015	March 2018	£750k	Highway improvement scheme work
Bridges & Structures	FM Conway	April 2009 to March 2014		£80k	Bridges and structures maintenance

### Appendix B Current contract assimilation table

LBHF Contract Name	Contractor	Contract Dates	Final date with extensions	Contract Nominal Value (per annum)	Contract Description	New Contract
Paving Works	FM Conway	April 2009 to March 2014	March 2017	£6M	Planned and general footway maintenance. Capital works as required. Out of hours emergency standby service	Westminster Contract A
Resurfacing & Road Markings	Colas	April 2010 to March 2015	March 2018	£3.1M	Planned and general carriageway maintenance. Capital works as required. Line marking of new carriageway works as required.	Westminster Contract A
Public Lighting & Ancillary Works	ETDE	June 2012 to March 2015	March 2017	£1M	Public Lighting repair and renewal	Possible Bi-Borough or shared Boroughs Contract from 2016/17
Tree Maintenance	Advance Tree Services	April 2011 to March 2014	March 2017	£200k	Tree maintenance of highway trees	Single LBHF Contract or shared borough contracts from 2016/17
Drainage & Gully Cleansing	Eurovia	April 2009 to March 2014	March 2017	£500k	Cyclic & ad-hoc gully cleaning. Repair and renewal of road gullies and connections.	Repair Westminster Contract A Cleansing Contract D