



BROMLEY CIVIC CENTRE, STOCKWELL CLOSE, BROMLEY BRI 3UH

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DATE: 12 April 2018

To: Members of the  
**EXECUTIVE**

Councillor Colin Smith (Chairman)

Councillors Graham Arthur, Peter Fortune, William Huntington-Thresher, Kate Lymer,  
Peter Morgan and Diane Smith

A special meeting of the Executive will be held at Bromley Civic Centre on **FRIDAY  
20 APRIL 2018 AT 10.00 AM**

MARK BOWEN  
Director of Corporate Services

*Copies of the documents referred to below can be obtained from  
<http://cds.bromley.gov.uk/>*

## **A G E N D A**

- 1 APOLOGIES FOR ABSENCE**
- 2 DECLARATIONS OF INTEREST**
- 3 AWARD OF CONTRACT FOR HIGHWAY MAINTENANCE - PART 1**  
(Pages 3 - 8)
- 4 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT  
(ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM  
OF INFORMATION ACT 2000**

The Chairman to move that the Press and public be excluded during consideration of the items of business listed below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

## **Items of Business**

### **5 FORMER TOWN HALL, BROMLEY**

Bromley Town ward

(To follow)

### **6 VARIATION TO CONTRACT: PROPOSAL TO TRANSFER NIGHTINGALE PUPIL REFERRAL UNIT TO BROMLEY TRUST ACADEMY** (Pages 9 - 28)

### **7 AWARD OF CONTRACT FOR HIGHWAY MAINTENANCE - PART 2** (Pages 29 - 36)

## **Schedule 12A Description**

Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Report No.  
ES18040

London Borough of Bromley

## PART 1 – PUBLIC

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**Decision Maker:** EXECUTIVE

For pre-decision scrutiny by Environment PDS

**Date:** 20<sup>th</sup> April 2018

**Decision Type:** Urgent Executive Key

**Title:** AWARD OF CONTRACT FOR HIGHWAY MAINTENANCE

**Contact Officer:** Garry Warner, Assistant Director (Highways)  
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**Chief Officer:** Nigel Davies, Executive Director of Environment and Community Services

**Ward:** Borough wide

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1. Reason for report

To report on the outcome of tendering for the Major and Minor Highways Maintenance Contract 2018 and the procurement process undertaken.

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2. RECOMMENDATION(S)

2.1 The Executive is invited to confirm their agreement to:-

**Note the information set out in this Part 1 report and subject to any comments award the Major and Minor Highways Maintenance contracts for a term of eight years from 1<sup>st</sup> July 2018 as set out in the Part 2 report in this agenda.**

### Impact on Vulnerable Adults and Children

1. Summary of Impact: Highway Maintenance services are used by all residents, including vulnerable adults and children. Protection is not their primary purpose but adjustments are made, as required, to ensure services are as accessible as possible and all users are safe.
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### Corporate Policy

1. Policy Status: Existing Policy
  2. BBB Priority: Quality environment
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### Financial

1. Cost of proposal: Estimated Cost As detailed in the Part 2 report
  2. Ongoing costs Details are set out in the Part 2 report
  3. Budget head/performance centre: Highway budget for major & minor works plus Transport for London funding for both primary route maintenance & traffic schemes
  4. Total current budget for this head: £4.414m revenue and £2.16m capital
  5. Source of funding: Existing revenue budget for minor & major works for 2018/19, TfL funding for primary route maintenance & traffic schemes
- 

### Personnel

1. Number of staff (current and additional): 15
  2. If from existing staff resources, number of staff hours: 15
- 

### Legal

1. Legal Requirement: Statutory Requirement
  2. Call-in: Applicable
- 

### Procurement

1. Summary of Procurement Implications: The Procurement Strategy for schemes within the Basic Need Programme has been set out in previous reports
- 

### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Borough wide
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: n/a

### **3. COMMENTARY**

#### **Background**

- 3.1 Bromley's highway network comprises 856 miles (1370 km) of footway and 552 miles (884 km) of carriageway. This represents the Council's single most valuable asset with a gross replacement cost of £1.1 billion. Good quality and well maintained streets make a significant contribution to the street scene appearance, the prosperity of our community and help to ensure our streets are both safe and accessible for users.
- 3.2 Maintenance of our carriageway and footway assets is currently undertaken through two separate contracts let in 2010. The Major Works contract is operated by F.M. Conway Ltd and principally involves planned resurfacing and reconstruction of our carriageways and footways. The Minor Works Contract is operated by O'Rourke Surfacing and Construction Ltd and deals with day to day reactive maintenance works including repairs to pot holes, minor scheme works and operating the Council's fleet of winter maintenance vehicles. By their nature both contracts have a high profile in the borough delivering tangible and visible services, frequently in the public eye.
- 3.3 Both contracts will end on 30<sup>th</sup> June 2018, having previously been extended for one year. No further extensions to these contracts are available under the terms of the contract.

#### **The Contract**

- 3.4 The contracts are based on the NEC4 Conditions of Contract and includes Conditions, Service Information and Price Lists. The tender evaluation and award criteria comprise 40% quality and 60% price, based on indicative quantities of work for one typical year.
- 3.5 The Contract will be increased annually in line with the published indices.
- 3.6 The quality aspect of the award criteria examines the organisations' proposals for delivering highway maintenance in the borough. The 40% Quality score reviews the operational competence and customer care issues in accordance with corporate procurement policy, broken down as follows:-
- Financial (5%)
  - Quality and operational competence (20%)
  - Contract monitoring (20%)
  - Localism (5%)
  - People & contract management (10%)
  - Supply chain (5%)
  - Continuous Savings and Efficiencies (5%)
  - Communication (5%)
  - Customer satisfaction (5%)
  - Waste management & recycling (10%)
  - Supporting apprenticeships (5%)
  - ICT & data management (5%)

#### **Procurement**

- 3.7 In December 2017 a report (report number ES17088) provided an updated on the Environment Services commissioning programme. A proposal to let the new highways contracts (previously referred to as Lot 6 &7) through a separate procurement exercise was approved by Executive.

- 3.8 A Project Board was established to manage the procurement process. Members of the board comprised of officers from Legal, Finance, Commissioning, and Environmental Services.
- 3.9 The value of work to be tendered for each contract required European Union Procurement Directives to be followed. In order to reduce the timescale of the procurement procedure the OJEU Open process was used to invite bids from interested suppliers. As this process does not involve a prequalification phase, shortlisting was not required.
- 3.10 In accordance with the London Borough of Bromley's requirements, the invitation to tender was issued on 12<sup>th</sup> February 2018 via London Borough of Bromley's procurement portal Pro Contract. The initial return date for both tenders was 12 Noon on Monday 19<sup>th</sup> March 2018, although an extension was allowed for the Major Works contract to noon on Wednesday 21<sup>st</sup> March 2018.

### **Tender Evaluation**

- 3.11 Tenders were received via the Due North portal. Seven contractors returned tenders in accordance with London Borough of Bromley's requirements.
- 3.12 The Tender returns were assessed and scored on the basis of a split weighting of 60% cost and 40% quality. The tender returns were analysed by members of the Project Board .
- 3.13 Six tenders were returned for the Major Highways contract and five tenders for the Minor Highways contract.
- 3.14 Tenders were evaluated in accordance with Bromley's recommended procurement process. Of the five bids received for the Major Highways Works Contract, one was dismissed on quality grounds. All other suppliers exceeded the minimum quality scores required. One tender for the Minor Highway Works contract was rejected under the terms set out in the ITT for an incomplete submission.
- 3.15 Marks were awarded for each tenderer's quality submission by a panel selected from the Project Group. The marks were converted to a score according to their weighting and added to a score derived from the financial bids.

### **Justification for Award**

- 3.16 Full details of the qualitative and financial evaluation are set out in the associated Part 2 report on the agenda.
- 3.17 Both Contracts are based on a Price List, where works can be ordered at agreed unit rates. As part of the evaluation, financial bids were based on the typical workload for one year ordered through each contract. Sensitivity testing was also undertaken to consider the impact of varying workloads being issued under both contracts,

### **Services to be considered for future inclusion in the Contracts**

- 3.18 As part of the review of current services, officers identified opportunities to include other service areas within the Major Highway contract which could be included at a later stage if it is considered this offers value for money. The OJEU Notice included provision for the future inclusion of professional services, currently undertaken by the Council's Term Consultant, and highway / streetworks inspectors, which are carried out by a team of in-house Highway Inspectors.

- 3.19 Once the Contract has been award, discussions will be held with the contractor with a view to including these additional services from April 2019. These proposals will be the subject of a future report.

#### 4. IMPACT ON VULNERABLE ADULTS & CHILDREN

- 4.1 Highway Maintenance services affect the daily lives of all Bromley residents and tend to be universal in nature - rather than being directed at particular groups within our community. Where vulnerable adults or children may be affected by service delivery, the issues would be covered in the relevant report and not in this business management overview.

#### 5. POLICY IMPLICATIONS

- 5.1 The borough's carriageways and footways have a high profile and are used by most residents and businesses on a daily basis. Maintaining these assets to an appropriate standard will contribute to the Council's vision of providing a place where people choose to live and do business and links well with policy priorities of a quality environment, vibrant thriving town centres and supporting independence/safer communities.
- 5.2 The "Building a Better Bromley" objective of being an Excellent Council refers to the Council's intention to provide efficient & effective services and value for money to its residents.

#### 6. PROCUREMENT IMPLICATIONS

- 6.1 The Tender process for the Highways Maintenance Contracts for Major and Minor works has been conducted in compliance with the Public Contract Regulation 2015.
- 6.2 As identified in the Contract OJEU Notice, the evaluation of submitted Tenders has been completed in line with the Council's Standard Tender Evaluation Procedure, which views financial and quality matters in line with its pre tender estimate of value and its stated quality criteria. A minimum quality score was also incorporated in to the evaluation process in viewing quality matters.
- 6.3 The Tenders were evaluated by a number of client officers, with scoring being overviewed and moderated, as necessary by a member of the Corporate Procurement Division in arriving at a consensus score for the Panel.

#### 7. FINANCIAL IMPLICATIONS

- 7.1 The budget available in 2018/19 for the highway maintenance contracts is as follows: -

	Major Works £'000	Minor Works £'000	Total £'000
<b>Revenue</b>			
Carriageways & Footways	424	1,438	1,862
Street Lighting	1,718	0	1,718
Drainage/Gully Cleansing budgets	0	626	626
Winter maintenance budgets	0	208	208
Vehicle Crossovers (Fully funded by residents)	0	200	200
Impact damage from road accidents (Fully funded from Insurance claims)	0	70	70
	2,142	2,542	4,684
Less contributions from residents & insurance claims	0	-270	-270
<b>Net Revenue Budget</b>	<b>2,142</b>	<b>2,272</b>	<b>4,414</b>
<b>Capital</b>			
TfL LIP funded traffic schemes	500	560	1,060
Other TFL /LBB funded capital schemes	1,100	0	1,100
	<b>1,600</b>	<b>560</b>	<b>2,160</b>

- 7.2 The figures in the table above do not include the revenue budgets of £2.5m for carriageway and footway reconstructions that have been temporarily removed for 5 years whilst the planned highway investment works are completed. It should be noted that these budgets are expected to be reinstated in 2022/23 during year 5 of the contract.
- 7.3 The budget available for major highway works on the principal road network has been reduced during the next 2 years due to funding restrictions from Transport for London. Once the current capital highways investment project has been completed, funding for planned works is likely to be reduced for the next 4 years until revenue budgets are reinstated.
- 7.4 These scenarios have been modelled as part of the financial evaluation.

## 8. LEGAL IMPLICATIONS

- 8.1 The full force of the Public Contracts Regulations 2015 applies to these contracts. The Open Procedure pursuant to Regulation 27 was followed, which is an appropriate and complaint competitive tendering process which also complies with the Council's Contract Procedure Rules
- 8.2 For this contract it is necessary to formally consult with the Executive and the Commissioning Board prior to award pursuant to rules 5.4 and 5.5. of the Council's Contract Procedure Rules.
- 8.3 The report author will need to consult with the Legal Department regarding the execution of the contract.
- 8.4 Under the Highways Act 1980 the Council as Highway Authority has duties to ensure the safe passage of users of the highway and to maintain the highway.
- 8.5 The Council in advertising these contracts indicated it was looking for the most economically advantageous tender, not the lowest bid. This not only allows, but requires, non financial elements to be taken into account in evaluating such bids. Officers have applied the scoring matrix uniformly and the results are set out above. It is worth reminding Members of the increasing interest of the European Union in procurement activities of UK public bodies and an increasing tendency of unsuccessful firms to challenge award processes.

<b>Non-Applicable Sections:</b>	PERSONNEL IMPLICATIONS
Background Documents: (Access via Contact Officer)	Report number ES17088



By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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