



Nottingham City Council
Commissioning and Procurement Sub-Committee

Date: Tuesday, 15 June 2021

Time: 10.00 am

Due to current building limitations, any non-Nottingham City Council attendees are asked to arrive 15 minutes before the meeting start time to allow time to be taken to the meeting room.

Place: LB 31-32 - Loxley House, Station Street, Nottingham, NG2 3NG

Please see information at the bottom of this agenda front sheet about requirements for ensuring Covid-safety.

Councillors are requested to attend the above meeting to transact the following business

Director for Legal and Governance

Governance Officer: Phil Wye **Direct Dial:** 0115 8764637

| Agenda | Pages |
|--|--------------|
| 1 Election of Vice-Chair | |
| 2 Apologies for Absence | |
| 3 Declarations of Interests | |
| 4 Minutes Minutes of the meeting held on 13 April 2021, for confirmation | 3 - 8 |
| 5 Approval to procure supported accommodation for teenage parents - Key Decision Report of the Portfolio Holder for Planning, Housing and Heritage | 9 - 12 |
| 6 Contract to carry out planned road maintenance and highway construction works for Nottingham City 2021-22 - Key Decision Report of the Portfolio Holder for Highways, Transport and Cleansing Services | 13 - 20 |
| 7 Dates of future meetings | |

To agree to meet on the following Tuesdays at 10am for the 2021/22 municipal year:

2021

13 July
14 September
12 October
9 November
14 December

2022

11 January
15 February
15 March
12 April

All items listed 'under exclusion of the public' will be heard in private. They have been included on the agenda as no representations against hearing the items in private were received

If you need any advice on declaring an interest in any item on the agenda, please contact the Governance Officer shown above, if possible before the day of the meeting

Citizens attending meetings are asked to arrive at least 15 minutes before the start of the meeting to be issued with visitor badges

Citizens are advised that this meeting may be recorded by members of the public/ Any recording or reporting on this meeting should take place in accordance with the Council's policy on recording and reporting on public meetings, which is available at www.nottinghamcity.gov.uk. Individuals intending to record the meeting are asked to notify the Governance Officer shown above in advance

In order to hold this meeting in as Covid-safe a way as possible, all attendees are asked to follow current Government guidance and:

- remain seated and maintain distancing between seats through the meeting. Please also remember to maintain distancing while entering and leaving the room.
- wear face coverings throughout the meeting.
- make use of the hand sanitiser available and, when moving about the building follow signs about traffic flows, lift capacities etc
- comply with Test and Trace requirements by scanning the QR code at the entrance to the building and/or giving name and contact details to the Governance Officer at the meeting.

Nottingham City Council

Commissioning and Procurement Sub-Committee

Minutes of the meeting held remotely via Zoom on 13 April 2021 from 10.02 am - 10.39 am

Membership

Present

Councillor Sam Webster (Chair)
Councillor Cheryl Barnard (Vice Chair)
Councillor Sally Longford
Councillor Adele Williams

Absent

Councillor Eunice Campbell-Clark

Colleagues, partners and others in attendance:

| | |
|----------------------------|--|
| Trevor Bone | - Property Maintenance Manager |
| Mark Bradbury | - Highways Contracts and Compliance Manager |
| Councillor Rebecca Langton | - Portfolio Holder for Communities, Highways & Strategic Transport |
| Jamie O'Malley | - Corporate Communications Manager |
| Steve Oakley | - Acting Director of Commissioning and Procurement |
| Ceri Walters | - Head of Commercial Finance |
| Phil Wye | - Governance Officer |

Call-in

Unless stated otherwise, all decisions are subject to call-in. The last date for call-in is 22 April 2021. Decisions cannot be implemented until the working day after this date.

43 Apologies for Absence

Councillor Eunice Campbell-Clark – personal reasons

44 Declarations of Interests

Councillor Adele Williams declared an Other Registerable Interest in agenda item 6 (minute 48) because she chairs Thomas Bow City Asphalt's Board of Directors. She left the meeting prior to discussion and voting on this item.

45 Minutes

The Committee confirmed the minutes of the meeting held on 9 March 2021 as a correct record.

46 Voluntary and Community Sector Update

A verbal update document was provided by Celina Adams, Head of Support Services at The Nottingham Community and Voluntary Service (NCVS), along with a written submission which is appended to these minutes.

47 Building Services and Facilities Management Procurement Requirements 2021-2022 - Key Decision

Trevor Bone, Property Maintenance Manager, introduced the report setting out Building Services and Facilities Management (FM) procurement requirements for planned, reactive maintenance and minor works for financial year 2021/22.

Resolved to

- (1) grant authority to procure contracts in line with the annual procurement plan as set out in appendix 1 up to the value of £14.150m;**
- (2) delegate authority to the Strategic Director for Neighbourhood Services to award contracts procured under Recommendation 1 and to approve all call off arrangements under those contracts over a period of four years 2021/2025 to a maximum of £14.150m as set out in appendix 1 of the report;**
- (3) grant a dispensation from contract procedure rule 4.1.1 in accordance with financial regulation 3.29 to make a direct award to Hanovia UV Systems for the sum of £0.048m for the period 2021 to 2025 due to the specialist nature of their asset maintenance and as detailed in appendix 1 of the report;**
- (4) grant a dispensation from contract procedure rule 4.1.1 in accordance with financial regulation 3.29 to make a direct award to Aqua Cool Systems for the sum of £0.015m for the period 2021 to 2025 due to the specialist nature of their asset maintenance and as detailed in appendix 1 of the report;**
- (5) grant a dispensation from contract procedure rule 4.1.1 in accordance with financial regulation 3.29 to make a direct award to Trend BMS Systems for the sum of £0.045m for the period 2021 to 2025 due to the specialist nature of their asset maintenance and as detailed in appendix 1 of the report;**
- (6) approve the proposed expenditure of at least £1.6m of the £3.4m planned maintenance budget for 2021/22 to be spent on services delivered either through in-house provision or Nottingham City Homes.**

Reasons for recommendations:

- There are a number of contracts which the Building Services and Facilities Management department use that are coming to the end of their term in March 2021. The contracts set out in the appendix 1 and require re-procurement to enable Building Services to keep the Council's asset portfolio compliant with regulatory, legislative and insurance obligations. Through the proposed procurement routes the Council can continue to improve efficiency and service of supplier delivery across multiple high risk work streams and improve value for money for Directorates across the Council. Our annual procurement programme has been proven to be the best approach to securing a competent supply chain

with the lowest costs possible.

- This report details how orders are placed with Contractors through the Council's robust systems. To ensure a smooth and timely process for placing orders it is recommended that the Strategic Director for Neighbourhood Services has delegated authority to approve any contracts and call-offs made under frameworks for their duration. No award will be made without evidence that the budget has been approved for the ordered requirement.
- Due to the specialist nature of the asset maintenance requirement provided by Hanovia UV Systems there is considered to be no benefit to the Council to undertake a quotation process as set out at 4.1.1 of the Contract Procedure Rules due to the specialist nature of UV Systems and the lack of alternative services providers within the UK market.
- It has been identified that at least £1.6m of the 2021/22 planned maintenance budget can be delivered through a mixture of in-house services and the Council's company, Nottingham City Homes, which is a company meeting the Teckal exemption requirements under procurement legislation. Contracts to such companies are not subject to the procurement requirements as set out in the Contract Procedure Rules but authority is still required to authorise entering into such contracts.

Other options considered:

- Do nothing and allow contracts to end, which will remove statutory, regulatory and legislative compliancy across the Council's portfolio of assets and increase the risk of prosecution and reputational damage to Nottingham City Council. This option was considered unacceptable and rejected.
- Insource all of the activity covered by the contract areas under consideration for renewal. Due to the complexity and high risks involved with this task including a lack of competency based skills and training, equipment and specialised resource, it was considered unacceptable and rejected.
- Allow Nottingham City Council's directorates to purchase their own asset compliancy services. This is a very high-risk approach to asset safety and compliance across the portfolio and the Council would find it very hard to track actual compliance through our current systems. Such an approach would lead to additional expense and the general safety of the asset compromised. This option was considered unacceptable and rejected.

48 Highway Services 2022-26 Sustainable Procurement Strategy - Key Decision

Councillor Adele Williams declared an Other Declarable Interest in this item because she chairs Thomas Bow City Asphalt's Board of Directors. She left the meeting prior to discussion and voting on this item.

Mark Bradbury, Highways Contracts and Compliance Manager, introduced the report outlining the recommended procurement strategy to deliver highway improvement

schemes up to 2026.

Resolved to

- (1) approve to procure and award replacement Highways Framework Agreements in-line with Public Procurement Regulation 2015, as set out in the report;**
- (2) approve to procure and award specialist highway contracts in-line with Public Procurement Regulation 2015, as set out in the report;**
- (3) delegate authority to the appropriate manager in-line with Financial Regulations, to call off from the Framework Agreement/s over the 4 year period 2022 – 2026.**

Reasons for recommendations:

- Renewing the Highway Framework in collaboration with Derby City Council will deliver an environmentally sustainable solution for delivering highways maintenance and construction across Nottingham city reducing carbon emissions, result in reduced costs of procurement by collaborating with DCC on required tender documentation and sharing technical resources, and offer a value-for-money delivery model with no fixed financial commitment to use the framework.
- Procuring specialist highway contracts will enable the delivery of grant funded schemes in line with the timescales of the award, offer a value-for-money delivery model with no fixed financial commitment to use the framework, and provide opportunities for local Small to Medium Enterprise (SME) companies to tender for the work, with the potential for a local workforce either through direct employment or through regional SME sub-contractors.
- To enable the relevant manager to award of works to the value of their approval level under NCC financial regulations.
- Highway Services has successfully adopted this mixed approach to the delivery of highway design and construction which utilises the Council's own skilled workforce and procured specialists and contractors.
- This delivery model has a number of additional benefits including strong links to the Council's corporate value and objectives, a highly flexible and responsive structure to accommodate short term changes to design programmes, and local knowledge available in the planning and assessment of proposed works.

Other options considered:

- Don't renew - Not having a framework agreements in place will adversely affect NCC's ability to engage with private sector contractors to deliver both routine and reactive highway maintenance, as well as highway works as part of the LTP and other capital funding.

49 Nottingham City Council Design and Print Framework - Key Decision

Jamie O'Malley, Corporate Communications Manager, introduced the report requesting authority to undertake a compliant open tender process to set up a new framework contract to undertake the Authority's external design and printing requirements.

Resolved to to undertake a compliant tendering process for the procurement of a multi-supplier framework for design and print services, through the Council's tendering system, noting that this framework is for four years and has an estimated value of £3,000,000.

Reasons for recommendations:

- This council wide design and print framework will continue to seek to include the requirements of Nottingham City Homes together with the design and print requirements across the City Council and other Council owned companies during the four year period. A single corporate design and print framework will also facilitate the overall embedding of the corporate standard for design and print across the Council. It will also help to reduce design and print production where possible by working in a more efficient manner with suppliers (such as combining orders and requests where possible.)
- The procurement process also has the potential to increase opportunities for local suppliers as far as the procurement rules allow. The framework is to be divided into a number of lots for differing design and print requirements. This is a method of making the requirement more attractive to small and medium, enterprises (SMEs).

Other options considered:

- Do nothing - It is necessary to have a design and print framework so Nottingham City Council can benefit from value for money that the framework offers. The option of not having a design and print framework would be inefficient for the Council and would not provide consolidation of aspects like bus literature, vehicle graphics and lamppost banners. It is also a legal requirement to have such a framework.

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| | | | |
|---|---|---------------------------------|---|
| Subject: | Approval to procure supported accommodation for teenage parents and pregnant teenagers | | |
| Corporate Director(s)/ Director(s): | Wayne Bexton and Katy Ball | | |
| Portfolio Holder(s): | Cllr. Linda Woodings, Portfolio Holder for Planning, Housing and Heritage | | |
| Report author and contact details: | Bethan Hopcraft Bethan.hopcraft@nottinghamcity.gov.uk / 0115 876 5073 | | |
| Other colleagues who have provided input: | N/A | | |
| Key Decision | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | Subject to call-in |
| | | | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Reasons: | <input checked="" type="checkbox"/> Expenditure | <input type="checkbox"/> Income | <input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision |
| | | | <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital |
| Significant impact on communities living or working in two or more wards in the City | | | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| Total value of the decision: £1,619,807 (£231,401 per year) / £1,157,005 without possible extensions | | | |
| Wards affected: All | Date of consultation with Portfolio Holder(s): 27 th May 2021 | | |
| Relevant Council Plan Key Theme: | | | |
| Nottingham People | | | <input type="checkbox"/> |
| Living in Nottingham | | | <input checked="" type="checkbox"/> |
| Growing Nottingham | | | <input type="checkbox"/> |
| Respect for Nottingham | | | <input type="checkbox"/> |
| Serving Nottingham Better | | | <input type="checkbox"/> |
| Summary of issues (including benefits to citizens/service users): | | | |
| <p>The current contract for the provision of supported accommodation for teenage parents is due to expire on 31st October 2021. It is the intention that the service is recommissioned to continue the provision of a valuable service that provides support for pregnant teenagers and teenage parents who are unable to secure safe, suitable, permanent accommodation.</p> <p>The current service provides a model consisting of a total of 16 units, which are offered to those not able to secure and/or maintain safe, appropriate accommodation. This service supports the Council to meet its statutory duty to provide accommodation for homeless families and supports young parents to continue to look after their children. The current model has 12 self-contained supported accommodation units, and 4 units for families with lower support needs – this model, due to its success, will remain constant should a procurement process be approved. The service works with the residents to encourage them to find permanent accommodation and make referrals to additional support services.</p> <p>A review of this provision was completed in 2015 which informed the redesigning of the service for the procurement of the current contract. Due to the close monitoring and success of this service model, it was not deemed necessary to complete a full review for this procurement exercise. Whilst the number of teenage pregnancies has reduced over time, the rate exceeds the national average. The further commissioning of this service is considered necessary in light of the continuing need for supported accommodation for teenage parents.</p> <p>Whilst the current service has had many successes, such as 100% of short-term (up to 12 weeks) residents reporting positive outcomes (such as registering with a GP and dentist, and accessing employment, education and training), some improvement is required to ensure that the</p> | | | |

move on function of the service is enhanced to empower residents to find more permanent accommodation. In order to improve this, the provider under the new contract will be required to meet stricter targets in line with moving residents on; in addition, this will be a heavily weighted element within the tender process.

Exempt information: None

Recommendation(s):

- 1** To approve the expenditure associated with procuring a new supported homeless teenage parent accommodation service for five years, with the option of extending for two further one-year periods (5+1+1). The maximum contract value (based on seven years) is £1,619,807, with an annual value of £231,401.
- 2** To delegate authority to the Director of Commissioning and Procurement to approve the outcomes of the teenage parent accommodation tender and award the contract to secure best value for Nottingham's citizens.

1 Reasons for recommendations

- 1.1 The current provider's contract for this service is due to expire on 31st October 2021. Without securing a new contract, there will be no specialist provision for some of Nottingham's most vulnerable parents and their children.
- 1.2 The provision was subject to a large review in 2015/2016 which led to a change in the service model. The success of this model means that there will be no major change to the service model in the proposed procurement process as it is believed that it delivers good practice and provides good value for money.
- 1.3 Nottingham City, through numerous interventions, has managed to reduce the number of pregnant teenagers and in turn, teenage parents, and has managed to improve outcomes for teenage parents. Some of these interventions include the Family Nurse Partnership, continuation of access to contraception through a range of generic services (GP, pharmacy, schools and colleges), and through an investment into statutory sexual health provision. Despite this, the number of teenagers becoming pregnant and giving birth during their adolescence is much higher than the national average. Due to the complexities that are associated with teenage parenthood, there is an ongoing need for specialist housing for teenage parents to prevent homelessness.
- 1.4 As there is a requirement for the service to be within Nottingham City, and the housing needs of the service users are very specific, seeking suitable premises is potentially challenging for a new provider. For this reason, a longer contract length is proposed to reduce the potential challenges for new providers in securing premises for short periods of time.
- 1.5 The service has, within its current contract, avoided any voids in the units meaning that the need is at least meeting the provision available.

2 Background (including outcomes of consultation)

- 2.1 The current Supported Accommodation Service for Teenage Parents was commissioned in 2016 following a review completed by the Teenage Parents

Specialist. This review identified the need for a supported accommodation service to respond to the Council's statutory duties to alleviate homelessness and to help teenage parents to continue to care for their children.

- 2.2 As the service model remains largely unchanged, it was considered by the Teenage Pregnancy Specialist in the authority that no further consultation was required. The Teenage Pregnancy Specialist has been working closely with the current provider and contract managers to ensure full compliance with the current service specification, and monitoring the suitability in line with changes in need. This work has highlighted that there is no need to make major changes to the service specification should a tender be approved.
- 2.3 Consultation with the Service Manager for Housing Aid and Nottingham City Council's Housing Strategy Manager has resulted in their backing of this proposal.

3 Other options considered in making recommendations

- 3.1 Do nothing and let the service provision decrease. This is not a viable option because there is a clear need for this service in the city to continue to provide an appropriate means of meeting Council's statutory homelessness duties and to help teenage parents to continue to care for their children.

4 Finance colleague comments (including implications and value for money/VAT)

- 4.1 This reports seeks approval to go out to tender and award a new contract for supported homeless teenage parent accommodation. The contract duration will be for five years, with the option of extending for two further one-year periods (5+1+1). The maximum contract value (based on seven years) is £1.620m, with an annual value of £0.231m.
- 4.2 Annual budget for this contract is contained in the MTFP, within Growth and City Development, and is sufficient to meet the expected contract value. Should the tender return higher than anticipated values then a financial pressure could materialise with further funding needing to be identified. Mitigation, should this occur, needs to be sought in the first instance rather than declaring an overspend in forecasting.
- 4.3 The contract should be closely monitored against budget to ensure no financial pressure occurs. Accurate spend of the contract should be contained within the monthly forecast with any issues raised early through the appropriate channels.
- 4.4 The award of any contract should be viewed and approved within the context of the current financial position of Nottingham City Council and be deemed critical and essential.
- 4.5 A full compliant tender process will ensure value for money is delivered.

Phil Gretton – Strategic Finance Business Partner – 1st June 2021

5 Legal and Procurement colleague comments (including risk management issues, and including legal, Crime and Disorder Act and procurement implications)

- 5.1 There are no significant legal issues arising from this decision to run a compliant procurement process to contract for these services. Given the requirement for the provision of accommodation as part of the service delivery the timescales may prove to be challenging for bidders to be ready to enter into a contract for 1 November 2021 and consideration should be given as to how this may be addressed. An appropriate contract will be prepared based on the requirements set out in the tendered specification.

Advice provided by Naomi Vass – Senior Solicitor 1 June 2021

- 5.2 The decision to procure a Teenage Parent Supported Accommodation service proposed in this report is supported by the Procurement Team. The procurement process will be undertaken by the Procurement Team in compliance with Nottingham City Council's Financial Regulations and UK Public Contract Regulations (Light Touch Regime). The tender will secure best value in terms of cost, service quality and outcomes for citizens. In light of the premises requirement for supported accommodation and potential TUPE implications, there are some risks arising from the timescales for the new contract to be implemented and transition to new arrangements by November 2021.
Julie Herrod - Lead Procurement Officer 25th May 2021

6 Social value considerations

- 6.1 Social Value is inherent in the subject matter of this procurement, as it has a direct impact on supported homeless accommodation for citizens. However the possibility for creating additional social value (for example, empowering citizens to live independently sooner) will be considered as part of the procurement process.

7 Regard to the NHS Constitution

- 7.1 N/A

8 Equality Impact Assessment (EIA)

- 8.1 Has the equality impact of the proposals in this report been assessed?

No

An EIA is not required because:

The service specification will not see any major changes, and there have been no notable changes to equality legislation, nor to the population of Nottingham City

Yes

9 List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

- 9.1 None

10 Published documents referred to in this report

- 10.1 None

| | | | |
|--|---|---------------------------------|---|
| Subject: | Contract to carry out planned road maintenance and highway construction works for Nottingham City 2021-22 | | |
| Corporate Director(s)/ Director(s): | Dave Halstead - Director of Neighbourhood Services | | |
| Portfolio Holder(s): | Councillor Rosemary Healy - Portfolio Holder for Highways, Transport and Cleansing Services | | |
| Report author and contact details: | Chris Keane, Head of Highway Services Chris.Keane@nottinghamcity.gov.uk | | |
| Other colleagues who have provided input: | | | |
| Key Decision | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | Subject to call-in |
| | | | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Reasons: | <input checked="" type="checkbox"/> Expenditure | <input type="checkbox"/> Income | <input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision |
| | | | <input checked="" type="checkbox"/> Revenue <input checked="" type="checkbox"/> Capital |
| Significant impact on communities living or working in two or more wards in the City | | | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Total value of the decision: £1.65 million | | | |
| Wards affected: All wards | Date of consultation with Portfolio Holder(s): 26 May 2021 | | |
| Relevant Council Plan Key Theme: | | | |
| Nottingham People | | | <input checked="" type="checkbox"/> |
| Living in Nottingham | | | <input type="checkbox"/> |
| Growing Nottingham | | | <input checked="" type="checkbox"/> |
| Respect for Nottingham | | | <input type="checkbox"/> |
| Serving Nottingham Better | | | <input checked="" type="checkbox"/> |
| Summary of issues (including benefits to citizens/service users): | | | |
| <p>1. Highway Services (HS) are responsible for the delivery of highway design, construction and maintenance works through utilising both internal resources and private sector specialists & contractors. These supporting contractors carry out work which exceeds the capacity of internal resources as well as specialist work activities e.g. planned carriageway resurfacing.</p> <p>2. In 20/21, Highways completed a service redesign, creating a lean cost effective solution for delivering this core service. In doing so, there is recognition that there will be increased requirements for external specialists & contractors in times of peak workloads. Following a review of 2021-22 delivery programme it has identified there are a number of elements of the highways works programme that will be either over and above the capacity of the in-house delivery service or that require specialist works completing.</p> <p>These essential works, including requirements for imminent coordination and delivery, compromise of:</p> <ul style="list-style-type: none"> i. Delivery of specialist road surfacing works for NCC – this is essential Planned Road Maintenance Programme for 2021-22 delivery (c. £900k) ii. Delivery of specialist road surfacing works supporting NCC Highway Services in-house current delivery on the Broadmarsh Scheme (c. £400k) iii. Delivery of Green Lane Highway Scheme, this is largely road surfacing works (c. £350k) <p>3. All works identified are either currently approved, or in the process of being approved, and</p> | | | |

form part of 2021/22 NCC Highways Delivery Programme (wholly externally funded through LTP and or grants). This year's maintenance programme comprises of budget provision carried forward from 2021/21 as a result of COVID 19 impact. Subject to all approvals, it is proposed that these works are direct awarded to Thomas Bow Limited (TB) as this would be the most appropriate way for NCC to the deliver these works within the limited time period and the necessary lead-in period for coordination and 2021/22 delivery and re-risk the City Council in the assurance of all works being delivered in-year.

- 4. Any delays to programmed works will result in increased risks of 1/3rd party claims due to works not being completed as planned and not delivered as publicised, therefore jeopardising NCC's Section 58 Defence. NCC currently hold a strong repudiation rate of over 90% and it's essential this is maintained and reduce insurance costs to the Authority.
- 5. TB, as a key specialist surfacing contractor for NCC, has demonstrated high quality delivery (on time and on target for 3 years) on the framework and have local knowledge on the road infrastructure and planning works.
- 6. In the ethos of the Public Interest Report and NCCs Improvement Plan, this approach sets out to reduce risks and liability for the Council this year in the most efficient means of delivery of wholly external funded highway maintenance and construction project works in the employment of proven specialists and importantly the ability for the works to be coordinated and delivered within the fixed timescales of April 2021 and March 2022.
- 7. The management, quality and financial controls of the works will be under the tightly controlled environment of the established Highway Service Compliance Team. Identifying the right resources for the work activities, this includes diligent monitoring of all contractor call offs and these will be subject to SLMG approval.
- 8. The current Highways Framework will expire in March 2022 and is currently being reviewed and proposals for a replacement framework/s to be procured for a four-year period 2022-26. This has been subject and agreed under a separate decision at Commissioning and Procurement Committee on 13 April 2021.
- 9. Proposals for all future highway works, 2022/23 onwards, will be accommodated through the Highway Framework Arrangements and the appropriate selection and award processes contained therein. There will be sufficient lead-in opportunity to put this in place.
- 10. To award current programme of works directly to TB in 2021/22, it will be necessary to obtain dispensation from contract procedure rule 4.1.2 and the requirement to carry out a tendering process should be applied to these awards, in accordance with Finance Procedure Rule 3.29.

Exempt information:

None.

Recommendation(s):

1 To approve dispensation (in accordance with Financial Regulation 3.29) from the need to conduct a tender process in accordance with Contract Procedure Rule 4.1.2, to award a contract to Thomas Bow Limited to carry out planned maintenance and highway construction works around Nottingham with a total estimated value of £1.65m.

- 1.1 TB currently delivers works under a number of contracts awarded by NCC that have been tested competitively in the market, and pricing will be subject to the scrutiny of the Council's professional team, including its competent Engineers. This includes both works completed for Highways and the Major Programmes Team.
- 1.2 Ensuring value for money (VfM) is a key part to delivering these works
- 1.3 Given the tight timescales for this published programme and delays resulting from COVID, letting a contract through a 'mini competition' would jeopardise this year's programme for construction works and the available allocated road space.
- 1.4 By direct awarding to TB the City would de-risk through single programme delivery and would reduce officer time and minimise scheme costs.
- 1.5 Working with TB to deliver these works would give the following benefits:
 - Established early contractor involvement (ECI) streamlining project delivery for NCC.
 - Programme delivery approach on all schemes will greatly assist NCC with managing the highway network in 2021/22, minimising disruption, together with reducing administration costs.
 - A developed flexible and responsive delivery structure to accommodate short term changes to programmes.
 - Established service delivery for NCC and positive working relationship with NCC and clients - local knowledge on road infrastructure and planning works for NCC.
 - Established positive collaboration between the Highways Service and TB on the Broadmarsh Roadspace/Public Realm Schemes.
 - Supports delivering environmentally sustainable solutions for delivering highways maintenance and construction across Nottingham City & reducing carbon emissions.
 - Reduced whole life carbon cost of the asset by utilising local contractor provision
 - Strong links to our corporate value and objectives.
 - Keeping the pound in Nottingham.
- 1.6 Using an NEC 3 target cost approach, will enable Highway Services to ensure VfM in the coordination and planning of these essential highway works which will be delivered as an annual programme of works. The alternative, appointing under individual projects will not achieve the benefits in terms of better coordination on available road space, right timing of works, minimisation of costs in terms of; road notices/charges and uplifts.
- 1.7 By engaging TB in a Target Cost Contract, Highway Services would ensure VfM as detailed below; a target cost contract is a type of cost reimbursable contract under which the contractor is paid the 'actual cost' (usually defined in the particular contract) it incurs in carrying out the works, but subject to a target cost which is agreed by the parties at the beginning of the project. This provides transparency and better control of costs for NCC.

- 1.8 By producing a bill of quantities, before engaging the contractor we can ensure that the target cost is a realistic target cost and allows for a 'pain and gain' approach with the contractor ensuring both parties are incentivised to seek efficiencies. This will drive TB to deliver works at least cost for NCC.
- 1.9 Open book costing will ensure that the NCC engineer/contract manager can assess the costs elements and ensure that only works carried out are invoiced for by working with one contractor for all of these works will ensure continued high quality of works and materials.

This will greatly assist with transparency on each of the schemes forming part of a larger delivery programme together with reduced staffing costs for NCC.

- 1.10 Through sourcing a package of works we will achieve better VfM, rather than individual schemes and allows for monitoring of social value opportunities and to foster better working relationships. TB have previously been engaged on delivering highway surfacing & construction works and are in a unique position to deliver this programme as both a local contractor and an NCC wholly owned company.

2 Background (including outcomes of consultation)

- 2.1 It is essential that NCC has a compliant route for the delivery of these highway construction and maintenance activities.
- 2.2 The Employer Hub is Nottingham City Council's local employment and training service and will help the Council to deliver opportunities for local people while providing a free recruitment and training service to meet the workforce needs of contractors
- 2.3 There has been an assessment of the funding requirements for the proposed projects that are to be delivered through this dispensation and there is nothing preventing this route to award.

3 Other options considered in making recommendations

- 3.1 Procure works through existing framework arrangements – it is likely that there would be increased project initiation costs and it would not enable the full benefits of ECI. Our current framework has limited direct award options and it should be noted under future proposed arrangements there will be an ability to direct award to the No1 ranking suppliers, this will not be in place until April 2022 at the earliest.
- 3.2 Do nothing

Projects will not be delivered in line with funding requirements.

There are standing risks in relation to 1/3rd party claims and essential highway works not completed in year.

4 Finance colleague comments (including implications and value for money/VAT)

- 4.1 The budget to support the cost of this decision is captured within the capital and revenue Medium Term Financial Plans and will not create a financial pressure.
- 4.2 Consideration for spend needs to be:

- a) Justified to ensure the **appropriate use of public funds**, this is set out in **section 1** to support this decision.
- b) That **VfM can be demonstrated** – there has been no mini competition undertaken on the projects contained within this report to verify this is being achieved however to demonstrate VfM the following processes will be or have been undertaken:
 - i. Delivers works under a number of contracts awarded by the NCC **that have been tested competitively in the market**, and pricing will be subject to the scrutiny of the Council's professional team, including its competent Engineers section 1.3;
 - ii. **Using an NEC 3 target cost approach**, will enable Highway Services to ensure VfM in the coordination and planning of these essential highway works which will be delivered as an annual programme of works as set out in section 1.4 and
 - iii. **TB are first placed on Nottingham City Council's Highways Framework**, in terms of quality and price for this type of work as set out in section 5.1. This is a final year of the framework which could create a risk that this outcome is not achieved.
- c) **Financial and contractual regulations have been adhered to** – this report requires dispensation of the procurement process as set out in financial regulation 3.29 for operational purposes and that time constraints to deliver the published programme would be at risk if the Council were to pursue a 'mini' competition process.

The direct award of this contract to TB does not exceed the Works Threshold Limit as set out below in section 5.1.

The need to deliver on the published Highways Maintenance plan of which any deviation will increase exposure of third party liability claims. Although it is not best practice to waive financial regulations in the procurement of goods and services however, the points raised in the procurement comments in section 5 are a mitigating factor.

- 4.3 No further dispensations from Financial Regulations will be approved for similar construction works, without a competitive process being followed unless for emergency reasons.

Ceri Walters, Head of Commercial Finance 07/06/2021

- 4.4 **Chief Finance Officers observations on dispensation**
Dispensation from Contract Procedure Rule 4.1.2 in accordance with Financial Regulation 3.29 is supported to award the contract to TB.

5 Legal and Procurement colleague comments (including risk management issues, and including legal, Crime and Disorder Act and procurement implications)

- 5.1 For operational reasons within the Highways Team - Nottingham City Council now wishes to consider making a further £1.65m of direct awards to Thomas Bow, totalling £2,25m over a 3 year period, which falls below the current Works threshold of £4,733,252. Given the value is below the Works threshold then Nottingham City Council can proceed on this basis to award a contract in line with

Nottingham City Council's Contract Procedure Rules subject to a dispensation from Contract Procedure Rule 4.1.2 using Finance Regulations Rule 3.29.

As no competition is taking place careful consideration is needed as to whether this option delivers value for money. By awarding to Thomas Bow who are first placed on Nottingham City Council's Highways Framework, in terms of quality and price for this type of work, it is expected that this would ensure Value for Money has been achieved. Running a further competition from the existing Highways Framework would provide a full assessment of Value for Money but as outlined above the impact on the operational delivery of the Highways work would be a significant delay preventing necessary works from being completed in a timely manner.

Steve Oakley, Head of Contracting and Procurement 07/06/2021

- 5.2 The Constitution permits a dispensation to be granted for operational reasons. These are set out within the report and appear from paragraph 3 of the summary section to be to enable the works within limited timescales and to allow for lead-in. Given that there are a number of existing highways frameworks in place there should be consideration as to whether the proposed works can only be effectively delivered through the direct award being proposed.
- 5.3 As per the comments provided by the Head of Contracting and Procurement the values being proposed are below the threshold for the application of the Public Contracts Regulations 2015 (as amended).
- 5.4 Finally the Council must be satisfied that it is complying with its Best Value duty as established under the Local Government Act 1999. In determining Best Value consideration should not just be given to the cost or potential savings to be achieved but the application of value to all aspects of the Council's operations and having regard to a combination of economy, efficiency and effectiveness. The application of competition in securing the delivery of services allows the Council to have confidence that it is securing Best Value so consideration must be given as to whether the information set out in the report is sufficient to reassure the proposed direct award will deliver Best Value to the Council.

Naomi Vass – Senior Solicitor, Commercial Employment and Education Team
7/6/21

6 Social value considerations

- 6.1 The direct award arrangement would ensure delivery of specialist elements, flexibility in programming and resource targeting, and opportunities for local training and employment by requiring contractors to source staff through the Employer Hub.
- 6.2 The Employer Hub is Nottingham City Council's local employment and training service and will deliver opportunities for local people while providing a free recruitment and training service to meet the workforce needs of contractors.

7 Regard to the NHS Constitution

- 7.1 N/A

8 Equality Impact Assessment (EIA)

8.1 Has the equality impact of the proposals in this report been assessed?

No



An EIA is not required because:

This decision does not set out any proposals for changes in policy, service or function.

Yes



9 List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

9.1 None

10 Published documents referred to in this report

10.1 None

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