



**WIRRAL COUNCIL**

**AUDIT & RISK MANAGEMENT COMMITTEE**

**23<sup>RD</sup> JULY 2018**

<b>REPORT TITLE</b>	<i>RE-COMMISSIONING OF HIGHWAY SERVICES FROM OCTOBER 2018</i>
<b>REPORT OF</b>	<i>STRATEGIC COMMISSIONER FOR ENVIRONMENT</i>

### **REPORT SUMMARY**

The Council and contractor Bam Nuttall (BAMN) recently agreed that the current strategic contract for Highway services, worth approximately £6M per annum, would come to an end on 30<sup>th</sup> September 2018 after a six month extension to the original four year contract that commenced in April 2014.

Following an options appraisal process, approval was given in November 2017 to bring the Highways contract back under Wirral Council's control from 1<sup>st</sup> October 2018.

At the last meeting of the Committee on 12<sup>th</sup> March 2018, the high-profile nature and progress of the Highways Re-commissioning Project was discussed and it was resolved that 'the Committee wish to be satisfied by way of a written report that the procedures are in place to ensure full preparation for transfer i.e. costings are in place for plant, equipment, materials, adequate supervision and management resources; and that the issue be subject of an additional entry in the risk register' (Minute 64 refers).

### **RECOMMENDATION/S**

Committee is requested to note the update on service mobilisation/ transfer and management of key risks as outlined in this report.

**SUPPORTING INFORMATION**

## **1.0 REASON/S FOR RECOMMENDATION/S**

1.1 Re-commissioning these services to ensure new arrangements are in place for October 2018 when the current contract expires is important to ensure continuity of service delivery. This is especially important for the day-to-day routine work such as pothole and street lighting repairs that ensure the Council meets its statutory obligations as Highway Authority.

## **2.0 OTHER OPTIONS CONSIDERED**

2.1 Alternative re-commissioning options were considered as part of the options appraisal exercise using the Highway Maintenance Efficiency Programme (HMEP) Procurement Route Choices Toolkit. Taking account of the limited time period available, this work highlighted the most viable option is to bring these services back under the direct control of the Council.

2.2 The following critical success factors were used in the options appraisal process:

- Strategic fit – aligns with strategic aims
- Value for money – delivers value for money
- Manageable/ flexible – meets the level of service required
- Affordable – delivered within budget
- Achievable – delivered within timescale

## **3.0 BACKGROUND INFORMATION**

3.1 Wirral's highway network, the Council's biggest asset, is currently worth £2.48 billion and consists of approximately 1,200 kilometres of road, and is currently maintained via the strategic contract with BAM Nuttall (BAMN).

The contract, which started in April 2014 and is worth around £6 million per year, will come to an end on 30<sup>th</sup> September 2018 having been extended for 6 months past the original four year term. The following service areas are covered by the current contract:

- Carriageways, footways
- Drainage, culverts and drains
- Street Lighting
- Signs and road markings
- Structures
- Winter maintenance

- Coastal protection infrastructure maintenance
- Minor highway improvements

3.2 In summary, the contract consists of two broad types of work:

- Routine/ reactive work – day-to-day revenue-funded activity such as pothole and street lighting repairs, traditionally undertaken by resources directly employed by the main contractor and crucial to enabling the Council to discharge its statutory responsibilities as Highway Authority; and
- Structural/ planned work – capital-funded activity such as ‘plane out and resurface’ schemes or specialist surface treatments, traditionally undertaken by specialist highway sub-contractors and instrumental in enabling the Council to achieve its overall highway condition performance indicators

#### **4.0 MODEL FOR SERVICE DELIVERY FROM OCTOBER 2018**

4.1 The proposed operating model from October will be a part commissioned / part direct delivered model, which roughly equates to 65/35 split respectively.

4.2 Commercial Management Service will commission out planned structural schemes worth approximately £4m per annum. This will be capital-funded activity such as ‘plane out and resurface’ schemes, specialist surface treatments and transportation improvements approved by the City Region Combined Authority – usually undertaken by specialist highway sub-contractors and instrumental in enabling the Council to achieve its overall highway condition performance indicators.

4.3 Delivery services, supported by external (sub) contracts where necessary, will mobilise operations and carry out day-to-day routine/ reactive revenue-funded activities, such as pothole and street lighting repairs, worth approximately £2m per annum. This is work that was traditionally undertaken by resources directly employed by the main contractor and crucial to enabling the Council to discharge its statutory responsibilities as a Highway Authority. Once under Wirral Council control service level agreements will be in place between Delivery Services and any internal service clients.

4.4 Client based functions such as highway inspections and work scheduling will still continue to be carried out and controlled by the Council.

#### **5.0 UPDATE ON SERVICE MOBILISATION/ TRANSFER AND MANAGEMENT OF KEY RISKS**

## **5.1 Project Management/ Governance and Assurance**

- Service mobilisation overseen by Project Board consisting key disciplines (HR, Procurement, Legal, Finance, Communications etc), providing updates to Corporate Investment & Change Board and attended by Internal Audit
- Management/ mitigation of operational risks to ensure smooth service transfer and business continuity has been key consideration
- From zero hours 1<sup>st</sup> October 18 proposed that Delivery Services Emergency Call-out capability will be in place
- From Day 1 proposed that key Reactive service up-and-running (street lighting/ furniture repairs following road accidents, urgent pothole repairs)
- During Week 1 proposed that full Delivery Services Routine/ Reactive capability will be in place (drainage cleansing, road markings, minor civils/ bridge repairs etc.)
- Performance Management Framework in place from day 1
- Development of service level agreement between new operation and internal clients
- Update to Business Overview and Scrutiny Committee in July 2018

## **5.2 HR/ Staffing and Health and Safety**

- 5.2.1 In terms of staffing, approximately 25 BAMN employees will be eligible to transfer to the Council under the Transfer of Undertakings and Protection of Employment (TUPE) Regulations when the current arrangements cease on 30th September 2018. Staff on the 'client' side (Commercial Management Services) will not be directly affected by this re-commissioning exercise but are being kept informed via staff briefings and intranet updates.
- 5.2.2 Key risks exist around the TUPE staff transferring which if not managed effectively may result in staff becoming disengaged and/or not transferring successfully. These risks are being managed through staff briefings, staff and trade union engagement sessions, development of an Organisational and Development Plan and the attendance and support of key roles such as Legal and HR on the project board. The Council have also engaged with a temporary staffing agency to ensure there is cover for key posts should any member of the BAMN staff choose not to TUPE across.
- 5.2.3 The Council are currently working with BAMN to ensure the necessary health and safety risk assessments and method statements are in place from midnight October 1st. The senior sponsor of the project will oversee and approve all documentation with the support of the Council's Corporate Health & Safety team.

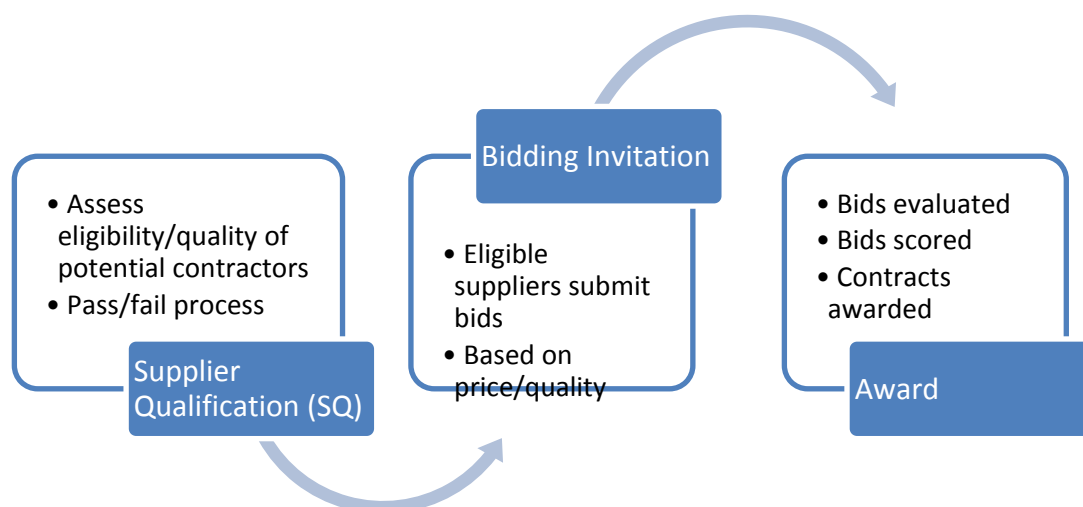
### **5.3 Depot/ Premises and ICT/ Communications**

- 5.3.1 BAMN delivers the current contract out of Prenton Depot in Prenton, Wirral. The depot, leased by BAMN is wholly owned by Wirral Council. The lease will expire on the 30<sup>th</sup> September 2018 after which the depot will pass back to the Council and be used as the operational base for the new service going forward.
- 5.3.2 BAMN have carried out a number of improvements to the depot since leasing it from Wirral Council 4 years ago which include security features such as CCTV cameras and shuttering. The improvements, the central location and staff familiarity make the site an ideal operational base from October 1<sup>st</sup> ensuring business continuity.
- 5.3.3 The depot will be fitted with a monitored Wi-Fi system. Procurement of new ICT, which includes Wi-Fi infrastructure, secured laptops, printers and mobile phones is currently underway in order to issue and complete work. This equates to approximately £20k funded from the Service Mobilisation allocation (refer 6.4).
- 5.3.4 Work is underway to identify the necessary system changes to continue the issuing and completion of work from day 1. To ensure operations continue to run smoothly following transfer the Council is working with all service areas including BAMN to understand current procedures. The intention is to replicate these procedures as near as possible in line with the “lift and shift” philosophy. This reduces the risks associated with system change and eliminates the unnecessary work required as most of the procedures in scope are due to be redesigned and replaced by either the new Customer Access System (CAS) or the new Asset Management System (AMS). However any necessary changes required will go through conference room pilots and user acceptance testing before being rolled out. Training will be provided to officers where applicable.

### **5.4 Commissioned Work**

- 5.4.1 In accordance with Contract Procedure Rules it is proposed that two procurement routes are taken for the commissioned elements of the contract; Restricted tender for the ‘planned structural work’ capital schemes and the Constructionline framework for the ‘routine and reactive’ revenue work. The routes outlined for each are summarised as follows:

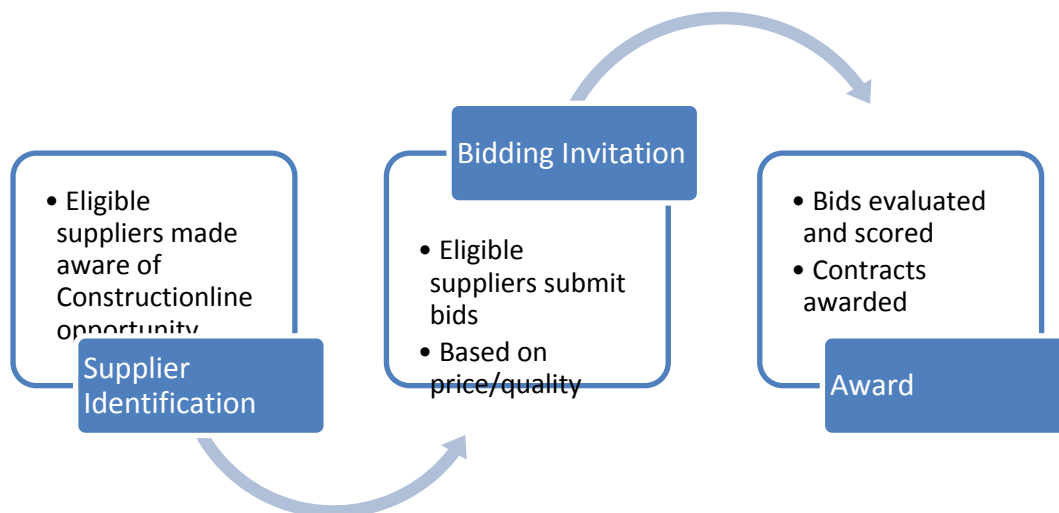
## Planned structural work - Restricted tender



The table below details the scope, packaging and values associated with the 'planned structural and transport' contracts:

<b>Contract</b>	<b>Period/Duration</b>	<b>Est. Value</b>
Surface Dressing Processes	12 months (+12 months extension – subject to performance)	£320k
Micro asphalt processes	12 months (+12 months extension – subject to performance)	£800k
Slurry sealing processes	12 months (+12 months extension – subject to performance)	£30k
Carriageway structural resurfacing	12 months (+12 months extension – subject to performance)	£1m
Civil Engineering – Highway and Traffic improvements including drainage	12 months (+12 months extension – subject to performance)	£1m
Civil Engineering – Minor carriageway and footway improvements	12 months (+12 months extension – subject to performance)	£1m
Civil Engineering – Sustainable transport improvements including off-road locations	12 months (+12 months extension – subject to performance)	£200k

## Routine and reactive - Constructionline framework



The table below details the scope, packaging and values associated with the 'planned routine and reactive' contracts:

<b>Contract</b>	<b>Period/Duration</b>	<b>Est. Value</b>
Routine/planned bitmac and HRA patching repair (carriageway and footway) North Wirral	18 months	£350k
Routine/planned bitmac and HRA patching repair (carriageway and footway) South Wirral	18 months	£350k
Carriageway markings and white lining	18 months	£90k

5.4.2 All contracts tendered will adopt the NEC3 TSC Option A contract, which is industry standard.

5.4.3 There has been intensive activity over the last couple of months to ensure these arrangements are in place by October 1<sup>st</sup>. This has included;

- Securing presence on the board by senior officers from Corporate Procurement
- Working with our current contractor to understand their current sub-contractor arrangements
- Holding two soft market testing events to test the appetite of commercial civil contractors including local contractors
- Peer engagement with other councils to understand their current arrangements, their recent tender exercises and any lessons they have learnt

5.4.4 This area remains a high risk area which will continue to be closely monitored over the coming weeks to ensure the necessary arrangements are in place for October.

## **5.5 Plant, Equipment and Vehicles**

5.5.1 BAMN have provided the Council with a list of all known plant and equipment required for day-to-day operations. The majority of plant and equipment is currently hired by BAMN as and when required as the use is dependent on the type of job carried out. This reduces the risks and costs associated with ownership, maintenance and breakdown. The Council intend to continue with this setup and will ensure an arrangement is in place with a local tool hire company from October 2018.

5.5.2 All vehicles used to deliver the contract are in place. Two of the specialist vehicles an 18 tonne DAF drop side Hiab used for street lighting repairs and an 18 tonne LHD Scania Gully Emptier used for gully cleansing, are being purchased from BAMN using capital from the Council's Capital Programme budget (refer 6.4). The Council are working with BAMN and their leasing company to understand the leasing and valuation costs for each of the other remaining vehicles with a view to either continuing the leasing arrangements or purchasing them outright.

## **5.6 Stock and Materials**

5.6.1 The necessary supply chains are already in place for street lighting repairs, personal protective equipment, general office supplies and purchases less than £5k per annum in total.

5.6.2 During a recent board meeting an operational decision was made by the board to source the rest of the stock via a purchase arrangement with BAMN. Wirral Council will purchase the necessary stocks and materials from BAMN to cover the first three months of operation. This mitigates any risk associated with procurement and supply chains. During this period the necessary supply chains going forward will be established.

5.6.3 To gain an idea of the stock levels required the Council is working with BAMN to understand stock usage. This is being done via monthly stock takes.

## **6.0 FINANCIAL IMPLICATIONS**

6.1 The combined annual budget for the Highways contract is £6m per annum. This consists of:

<b>Service Area</b>	<b>Work Type</b>	<b>Approximate</b>	
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		<b>budget £m</b>	
Commercial Management Services	Planned structural and transport schemes	£4.0m approx	Commissioned out through restricted tender to external contractors
Delivery Services	Day-to-day routine / reactive revenue repairs	£1.2m approx	Delivered direct utilising directly employed staff (including 25 staff currently employed by BAMN)
		£0.8m approx	Commissioned out through Constructionline to external (sub) contractors and quotations

- 6.2 It is anticipated that there will be financial efficiencies by bringing contracting functions back under the direct control of the Council especially on the Routine/ Reactive (revenue funded) side, however these are likely to be in the medium-long term and cannot be confirmed at this stage.
- 6.3 There will be one-off costs associated with the departure from the existing (BAMN) contract however these costs will be incurred regardless of which future commissioning model is chosen.
- 6.4 A Service Mobilisation allocation of £100k has been set aside from existing mainstream revenue budgets to cover the cost of mobilising the new operational service as outlined in section 5.0. In addition, £305k has been approved in the Council's Capital Programme to cover costs associated with depot premises, equipment and vehicles.

## **7.0 LEGAL IMPLICATIONS**

- 7.1 The re-commissioning of these services is essential to enable the Council to fulfil its statutory obligations as Highway Authority, especially the Routine/ Reactive Works side which plays a key role in the Highways Act Section 58 Defence inspection and repair regime.
- 7.2 Section 41 of the Highways Act 1980 imposes a duty on the Council, as Highway Authority, to maintain highways at the public expense.

## **8.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS**

- 8.1 Investment in new ICT equipment is necessary in order to issue and complete work. This equates to approximately £20k funded from the Service Mobilisation allocation (refer 6.4).
- 8.2 In terms of staffing, approximately 25 BAMN employees will be eligible to transfer to the Council under the Transfer of Undertakings and Protection of Employment (TUPE) Regulations when the current arrangements cease on 30<sup>th</sup> September 2018. Staff on the 'client' side (Commercial Management Services) will not be directly affected by this re-commissioning exercise.
- 8.3 In terms of assets, the current contract is delivered by BAMN who operate from Prenton Depot, currently leased by BAMN from Wirral Council. From 1<sup>st</sup> October the Prenton Depot will become the new operational base for the new transferring service.

## **9.0 RELEVANT RISKS**

- 9.1 A project risk log has been established in accordance with the Council's defined project management and risk management protocol.
- 9.2 The Project Board will continue to manage the progress of the project and to apply measures to mitigate unexpected risks if any should develop.
- 9.3 After 1<sup>st</sup> October, Service Risk Plans will be updated to ensure any risks arising from ongoing service delivery for the new arrangements are effectively mitigated.

## **10.0 ENGAGEMENT/CONSULTATION**

- 10.1 Engagement with the service provider market has taken place via two soft market testing events.
- 10.2 A number of peer councils were contacted to learn from their experiences during similar exercises they had carried out.
- 10.3 Regular engagement and updates for trade union representatives and staff, both with the Council and with BAMN, have been an important aspect of the project and will continue over the next couple of months to ensure a smooth transition to the new arrangements.

## 11.0 EQUALITY IMPLICATIONS

11.1 There are no implications under this heading.

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## APPENDICES

None

## REFERENCE MATERIAL

None

## SUBJECT HISTORY (last 3 years)

<b>Council Meeting</b>	<b>Date</b>
Leader Decision Report	November 2017