



## **ENVIRONMENT, CLIMATE EMERGENCY AND TRANSPORT COMMITTEE**

**Monday, 27 January 2025**

<b>REPORT TITLE:</b>	<b>COMMENCEMENT OF THE PROCUREMENT PROCESS FOR – B4 PUBLIC RIGHTS OF WAY AND MISCELLANEOUS WORKS CONTRACT</b>
<b>REPORT OF:</b>	<b>DIRECTOR OF NEIGHBOURHOOD SERVICES</b>

### **REPORT SUMMARY**

This report seeks approval to commence with the procurement process for B4 Public Rights of Way and Miscellaneous Works Contract. This will enable the Council to carry out essential works for the repair and improvement of public rights of way, bridleways or other footpaths and provision of labour, associated plant and equipment to assist the Council's highway operational services in undertaking works on and off the adopted highway.

The works provided under the proposed contract is to enable the Council to meet its statutory duties under Section 41 of the Highways Act 1980.

The report supports the Council Plan Wirral Working Together 2023-27, specifically the themes: People-Focussed Regeneration and Safe, Resilient and Engaged Communities and Protecting Our Environment.

This matter affects all wards and is a key decision.

### **RECOMMENDATIONS**

The Environment, Climate Emergency and Transport Committee is recommended to

1. approve the commencement of a procurement exercise to appoint a contractor to deliver the B4 Public Rights of Way and Miscellaneous Works Contract
2. delegate authority to the director to make an appointment following tendering process.

## **SUPPORTING INFORMATION**

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

- 1.1 The recommendation will enable the subsequent appointment of a Contractor, to deliver works under the proposed contract, to enable the Council to carry out essential works for the repair and improvement of public rights of way, bridleways or other footpaths and provision of labour, associated plant and equipment to assist the Council's highway operational services in undertaking works on and off the adopted highway, other Council assets and private property. The works provided under the proposed contract is to enable the Council to meet its statutory duties under Section 41 of the Highways Act 1980.

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 Extend the current contract. This was discounted as the current contract does not have an option available to extend the contract further.
- 2.2 Do nothing. This was discounted as the Council has a statutory duty under Section 41 of the Highways Act 1980 to maintain the highway network.

### **3.0 BACKGROUND INFORMATION**

- 3.1 In 2018 the Council brought highway service delivery back in-house using a small direct workforce supported by a number of tendered contracts. The continued delivery of the Council's highway service via an in-house plus top-up model, was approved by Environment, Climate Emergency and Transport Committee on 16 March 2021.
- 3.2 This is one of several contracts, which the Council needs to procure in order to maintain the Council's highway service delivery provision.
- 3.3 This contract will enable essential works for the repair and improvement of public rights of way, bridleways or other footpaths and provision of labour, associated plant and equipment to assist the Council's highway operational services in undertaking works on and off the adopted highway.
- 3.4 The current contract is due to terminate on 31 March 2025. The proposed timeline for the B4 Contract for Public Rights of Way and Miscellaneous Works will be to procure, award and commence on 1 April 2025.
- 3.5 The contract has an indicative value of £2,000,000 based upon a hypothetical basket of works likely to be issued over the contract term of 3 years and will be subject to an Open Tender procurement process via the Council's e-tendering portal, The Chest, with the final contract award being subject to a subsequent decision based upon an evaluation of tenders. The procurement process will be supported by the Council's Procurement Team.

#### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 The estimated maximum value of this contract will be £2,000,000 with the tendering exercise to determine the exact financial value. This contract will have no commitment to spend should funding not be made available.
- 4.2 This will be funded from the Liverpool City Region Combined Authority (LCRCA) using City Region Sustainable Transport Settlements (CRSTS) and revenue budgets to maintain Public Rights of Way.

#### **5.0 LEGAL IMPLICATIONS**

- 5.1 Section 41 of the Highways Act 1980 imposes a duty on the Council, as a Highway Authority, to maintain highways at the public expense. The Council also has a devolved duty to maintain and improve those parts of Liverpool's City Region's Key Route Network that are within Wirral in accordance with Section 6 of the Highways Act 1980.
- 5.2 The Services in the proposed contract will be carried out under terms and conditions of the NEC3 Term Service Contract Third Edition, published in April 2013 by the Institution of Civil Engineers, using main Option A, Priced Contract with Price List. The decision to use an NEC3 contract was chosen because this is more familiar to the majority of contractors, in particular local contractors, than the newer NEC4, therefore we believe it will be more attractive for them to tender. NEC contracts have a number of options, from A to E. Option A has been chosen as this gives the best value, while providing the minimum risk of cost control to an employer.
- 5.3 The Open Tender procurement exercise for the commissioning of the contract for public rights of way and miscellaneous works will comply with the provisions of the Public Contracts Regulations 2015 and the Council's Contract Procedure Rules.
- 5.4 The contract award is subject to a subsequent decision based upon an evaluation of tenders, based on price 50%, quality 40% and social value 10%.
- 5.5 A contract for the works will be prepared by the Director of Law and Corporate Services to protect the Council's interests and ensure the deliverables under the contract are of satisfactory quality and standard.

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

- 6.1 This proposed contract will enable the Council to fulfil its statutory requirements as a Highway Authority. There are no additional staffing, ICT or assets implications.

#### **7.0 RELEVANT RISKS**

- 7.1 Failure to have sufficient contractor support to undertake a programme of planned highway maintenance works or reacting to defective highway conditions could result in the Council not meeting its statutory duties as set out in the Highways Act 1980.
- 7.2 Failure to procure the contract would lead to a deterioration of the network condition, which could have an adverse effect not only on the number of claims against the

Council, but the defensibility of those claims and potential cost implications. Insurance related claims come with an excess of £250,000 payable by the Council.

- 7.3 Failure to have sufficient contractor support to undertake preparation works for maintenance and improvement works on the highway could result in reputational damage to the Council and potentially the Liverpool City Region Combined Authority and may affect future funding allocations. It would also result in a failure to support the delivery of the priorities of the Liverpool City Region Combined Authority Transport Plan. Consequently, this could result in the loss or clawback of already allocated grant funding.
- 7.4 Potential risks related to the performance of the contract will be monitored via robust contract management arrangements to ensure standards are met during the lifespan of the contract.

## **8.0 ENGAGEMENT/CONSULTATION**

- 8.1 The decision to proceed to procurement has no specific consultation implications.

## **9.0 EQUALITY IMPLICATIONS**

- 9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help Council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity.
- 9.2 The Highways Structural Maintenance Programme 2024/25 Equality Impact Assessment, has been checked reviewed and is still valid and can be viewed here: –

<https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments>

## **10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS**

- 10.1 Sustainable travel is at the heart of the Council's Climate Emergency declaration and providing a safe and well-maintained highway is key to encouraging active travel, with cycling and walking. All relevant opportunities for innovation and efficiency to generate cost and carbon emission savings will be explored with the contractor in the tender process and during the term of the contract.
- 10.2 A resilient highways network is critical to the delivery of bus priority measures and high-quality walking and cycling route surfaces. As well as reducing noise and improving air quality promoting increased cycling and walking with better infrastructure will help combat climate change. By encouraging and enabling people to travel more on foot and by cycle instead of private car harmful emissions will be reduced. Promoting active travel can result in reduced emissions of nitrogen dioxide, particulate matter and carbon dioxide helping to tackle climate change and improve air quality.

## **11.0 COMMUNITY WEALTH IMPLICATIONS**

- 11.1 A requirement of the tender will consist of both a qualitative and quantitative Social Value submission to deliver local community wealth benefits which will be monitored throughout the life of the contract.
- 11.2 It is considered that the B4 Public Rights of Way and Miscellaneous Works Contract will help to support Wirral's wider Community Wealth Building commitments to deliver a prosperous, inclusive economy that benefits residents and supports the principles of community wealth building.
- 11.3 The proposed contract supports several key Community Wealth Building aims, including: Local Employment – creation of local employment and training opportunities; Maximising the Wirral Pound – buying supplies for schemes delivered through this contract locally wherever possible to support business and employment. Green and Sustainable: protecting the environment, minimising waste and energy consumption and using other resources efficiently, within the contractor's supply chain.

**REPORT AUTHOR: Name:** Linda Summers  
Highway Asset Manager  
telephone: 0151 606 2267  
email: lindasummers@wirral.gov.uk

## **APPENDICES**

None

## **BACKGROUND PAPERS**

Highways Act 1980  
Social Value Policy

## **TERMS OF REFERENCE**

This report is being considered by the Environment, Climate Emergency and Transport Committee in accordance with Section 5.2 (b) of its Terms of Reference, in relation to all highways matters and as highway authority, street authority, bridge authority, including but not limited to public open spaces, street furniture on the highway and open spaces or parts of open spaces immediately adjacent to the highway

**SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
Environment, Climate Emergency and Transport Committee	16 March 2021