



London Borough of Enfield

Title:	Operational KD Report Extension of the Carriageway Recycling and Resurfacing Contract G/MD 445
Report to:	Doug Wilkinson, Director of Environment and Street Scene,
Date of Report:	24 th March 2023
Cabinet Member:	Cllr Rick Jewell
Directors:	Director of Environment and Street Scene
Report Author:	Darren Bryant
Ward(s) affected:	All
Key Decision Number	KD 5589A
Implementation date, if not called in:	10 th July 2023
Classification:	Part I Public with Confidential Appendix
Reason for exemption	

Purpose of Report

1. This report details the requirement for an extension to the existing Enfield Council Carriageway Recycling and Resurfacing Contract G MD 445, which was tendered through the London Tenders Portal in December 2020 and January 2021.

Recommendations

1. That the Director of Environment and Street Scene notes and approves the extension of the Enfield Council Carriageway Recycling and Resurfacing Contract G MD 445, for a period of up to 12 months from 10th July 2023 to the incumbent contractor under the same terms and conditions of the existing contract awarded under KD 5192 on 30th April 2021, with the addition of a price fluctuation mechanism in order to cater for inflationary pressures affecting labour, plant and materials market conditions. Please refer to Part 2 for further details.

Background and Options

(Include consultation and feedback to consultation, options considered and risks of each option, general discussion, etc.)

2. Over the past 12 years Enfield council has successfully used the specialised process of in-situ carriageway recycling to deal with the increasing instances of Tar bound asphalt uncovered in roads around the Borough.
3. During April 2021 Highway Services completed a competitive tendering process for a 2-year individual term maintenance contract with a contract start date of May 10th 2021.
4. The scope of the contract includes specialised in-situ carriageway recycling as well as more traditional carriageway resurfacing and associated works.
5. A retendering process is currently underway to procure a new 10-year contract, but an extension of the current contract is required to ensure service continuity.
6. The incumbent contractor 'Marlborough Highways' have successfully delivered over 100 individual schemes during the original 2-year period of this contract and with a new depot set up on the boundary of Enfield and Haringey are very well placed to continue with the delivery of the contract through the extension period.

Options Considered

7. Other options considered include commissioning this work through existing term contracts, however, rates would need to be provided under variation orders outside of a competitive environment and would therefore be unlikely to provide such good value. Alternatively, the option to invite quotes for specific schemes, or for packages of schemes, would be more time consuming and less efficient than entering into a term contract.

Risks that may arise if the proposed decision and related work is not taken

8. Should a decision not be taken with the current Recycling and Resurfacing Term Contract ending on 10th May 2023, Enfield's Road network will continue to deteriorate resulting in a potential rise in insurance claims with the possibility for roads either having to be closed or individual contracts let on a reactive basis to procure the required works to keep roads open which would be both a costly and time-consuming process.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

9. The contractor awarded these works could go bankrupt or into insolvency. Thorough background checks into all providers have taken place by Enfield's Finance Team during the procurement process to ensure all are going concerns. Recent background checks into Marlborough Highways have taken place in relation to another procurement they are involved in confirming they are still a going concern. In the unlikely event that an unforeseen issue should arise with the chosen provider Highway Services have other Term Contractors in place who could carry out works in the short term while another procurement process took place.

Preferred Option and Reasons for Preferred Option

10. Approval of the extension will allow the Council to continue with planned maintenance of its carriageways and associated highway assets through resurfacing and recycling techniques while a new 10-year contract is procured, the process for which is already underway.

Relevance to Council Plans and Strategies

11. Enfield's highway network is probably the largest and most visible community asset for which Enfield is responsible and fundamental to the economic, social, and environmental well-being of the community. A well managed and maintained highway network supports all three of the Council's priorities-

Good homes in well-connected neighbourhoods

Safe, healthy, and confident Communities

An economy that works for everyone

Financial Implications

(Note: The Finance Officer will insert his or her name here and the date of their approval/comments. Their initials should be deleted by the report author once the report is signed off by EMT)

Drafted by Atul Lad (20//04/2023)

Summary

12. This report seeks to extend the Enfield Council Carriageway Recycling and Resurfacing Contract G MD 445, for a period of up to 12 months with the contractor Marlborough Surfacing Ltd from the 10th of May 2023.
13. The estimated value of this extension is £1m. The cost of this contract will be met from the Highways capital budget. There is currently a budget of £3.2m in the 2023/24 capital programme for carriage way resurfacing and planned defects.
14. Marlborough Surfacing Ltd are the current providers of carriageway recycling and resurfacing works. As part of the extension finance performed an assessment of their financial and economic standing.
15. The assessment method is line with the central government guidance on the assessment of the economic and financial standing of bidders and suppliers. This includes a review of financial statements using a range of financial metrics and ratios, independent audit statements and external credit scores from credit agencies.
16. Following this assessment Marlborough are economically and financially sound, and there are no known reasons for them not to continue to operate as a going concern.

Revenue budget impact

17. The contract is expected to cost up to £1m which will be funded through borrowing. This will result in annual financing costs charged to revenue of £75k over 25 years at a rate of 5.5%
18. Where costs do not meet the Councils capitalisation policy they will be charged to revenue. All costs in the contract are expected to be capitalised.

Capital Budget Impact

19. There is currently £3.2m approved budget in 2023/24 in the capital programme. This budget will fund the works in this contract and will be funded from prudential borrowing. There will be no additions to the capital programme because of this contract extension. No other known impact on the capital programme

Taxation

20. Costs through the contract will be subject to VAT. VAT will be recovered as part of the business as usual process on VAT under the Councils current processes. No other known tax implications.

Accounting Treatment

21. All costs will be accounted for in line with the Councils financial regulations and capitalised where costs meet the criteria set out in the Councils capitalisation policy. Where costs do not meet the capitalisation requirements they will be charged to revenue.
22. All costs incurred through this contract are expected to be capitalised in line with the Councils capitalisation policy.

Risks

23. The main risks with mitigations are shown in the table below:

Risks	Mitigation
Contractor Failure	Financial checks have been performed on the contractor with no known issues highlighted. Should the contractor fail for other reasons there are other contractors that could step in.
Price Fluctuation Mechanism results in significant increase in costs to the Council	Contract is capped at £1m, therefore all works to be managed within the contract sum.

Legal Implications

(by ZS 4 April 2023)

24. The Highways Act 1980 places a duty on the Council as Highway Authority to maintain the highways for which it is responsible to an appropriate standard for their respective uses. In addition, the general power of competence in s.1 (1) of the Localism Act 2011 states that a local authority has the power to do anything that individuals generally may do provided it is not prohibited by legislation and subject to Public Law principles. By virtue of s.111 of the Local Government Act 1972, the Council has the power to do anything (whether involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of its functions. The recommendations in this report are in accordance with the Council powers and duties.

25. This report is a Key Decision under the Council's Constitution and, as such, must comply with the Key Decision process.
26. The agreement must be in a form approved by the Director of Law and Governance and contracts with a value above the Key Decision threshold of £500,000 must be executed under seal.
27. For contracts £1,000,000+ in value, the CPRs provide that contractors must be required to provide sufficient security in one of the forms outlined in CRP 7.3. If the contractor cannot provide such security, the Executive Director of Resources must approve such a decision, with reasons and risk mitigation measures set out in the relevant authority report, prior to the award of the contract.
28. The Council must ensure value for money in accordance with the overriding Best Value Principles under the Local Government Act 1999.
29. Please see Part 2 report.

Equalities Implications

30. Through the tender process the contractor has signed up to the Equality Act 2010, Human Rights Act 1999 and the Employers Equal Opportunities policy all detailed in Section 5 Terms and conditions (Para 72.4.1) of The Contract.

Environmental and Climate Change Implications

31. Understanding the embodied carbon of highway maintenance products and methods throughout the complete supply chain is complex with many stages from raw material acquisition, processing, transport, and implementation. Through renewed contracts, an assessment of the whole life emissions of the various projects within the programme will increasingly allow for comparison of alternative products and services, actively seek lower carbon alternatives and understanding the impact of using recycled and secondary materials.
32. The carriageway recycling and resurfacing contract has sought submissions on innovation to reduce the carbon footprint of maintenance and improve environmental protection through the introduction of low temperature asphalts and carriageway rejuvenator treatments.
33. Continued innovation will continue to be sought from the incumbent provider and their supply chain partners throughout the contract extension to assist with Enfield's climate change goals.

Public Health Implications

34. Transport has obvious public health implications in terms of physical activity, air pollution and access to employment, shops, services etc. Climate change has been described as the greatest threat to public health

in the 21st century. If road materials can be recycled this will help to mitigate this threat.

Property Implications

35. With regards to Corporate Property assets, there are no property implications that arise from the implementation of the contract.
36. With regards to Public Highway assets, the proposed work programmes are good asset management practice as they help prevent the progressive deterioration of these assets, which in turn helps to reduce potential corporate liabilities.

Other Implications

37. Any procurement must be undertaken in accordance with the Councils Contract Procedure Rules (CPR's).

The award of the contract, including evidence of authority to award, promoting to the Councils Contract Register, and the uploading of executed contracts must be undertaken on the London Tenders Portal project reference number DN488616 including future management of the contract. This includes procurements from a framework. Where procurement was undertaken outside of the LTP, all documentation can be provided to Procurement.support@enfield.gov.uk for uploading into the London Tenders portal, and the corporate contract register.

All awarded projects must be promoted to Contracts Finder to comply with the Government's transparency requirements.

All frameworks must be legally accessible to the Council and be access in line with the framework rules.

All contracts over £100k must have a nominated contract manager in the London Tenders Portal. Contracts over £500,000 must show evidence of contract management of KPI's to ensure VFM throughout the lifetime of the contract.

Form of Security has been considered for this procurement, but a Waiver was approved by the Director of Resources Department as part of the original contract award as it appears to be low risk to the council in terms of provider failure for performance and financial failure.

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Appendices

Confidential Part 2 Report

#Departmental reference number, if relevant: PL2223_019