



## Mayor and Cabinet

**Report title:**

Approval for Contract Award for the Highways and Traffic Work Partnering Contract

**Date:** 23 September 2022

**Key decision:** Yes

**Class:** Part 1

**Ward(s) affected:** All

**Contributors:** Director of Public Realm, Head of Highways, Head of Public Realm Improvement and Delivery (report author), Director of Law, and Chief Accountant

### Outline and recommendations

Mayor and Cabinet are recommended to award a contract to the following provider as set out below to deliver the Highways and Traffic Work Partnering Contract:

- FM Conway

The contract will be for eight years with a potential extension of two years, commencing April 2023, up to a predicted contract value of £6.2m per annum.

### Timeline of engagement and decision-making

The tender opportunity was advertised between 08/04/2022 – 24/06/2022 via the council's online tendering system (Pro-Contract Procurement Portal), as per the council's contract procedure rules.

An Approval to Procure report seeking permission was placed on the forward plan and approved at Mayor and Cabinet on 10 February 2021.

## 1. Summary

- 1.1. This report seeks approval to appoint a contractor to the Highways and Traffic Work Partnering Contract within the Public Realm division to deliver its traffic and highways

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development and maintenance programmes. This service will include but is not limited to:

- Highways
- Traffic
- Highways engineering

- 1.2. This contract award replaces three separate existing contracts covering carriageway and footway maintenance which expire April 2023, combining all highways contracts, for the benefit of the council.
- 1.3. In 2021 a previous procurement exercise was halted and the existing contracts were extended by one year to allow for this combined procurement approach to proceed, as authorised by Mayor and Cabinet 10 February 2021.
- 1.4. The majority of the highways programme is funded from the council's revenue budgets with the remainder being made up from TfL funding and new development funded schemes.

## 2. Recommendations

- 2.1. It is recommended that Mayor and Cabinet approve the appointment of FM Conway to the Highways and Traffic Work Partnering Contract. The contract will be for eight years with a potential extension of two years, commencing April 2023, up to a predicted contract value of £6.2m per annum.

## 3. Policy context

- 3.1. The council, as Highway Authority, has a duty under Section 41 of the Highways Act 1980, to maintain the highway in a safe condition. The contractor is required to assist the council (where applicable) in discharging this duty.
- 3.2. Capital and revenue investment on the public highway network is required to ensure the council discharges its legal duties, and traditionally external contractors assist the council by carrying out highway construction and repair works.
- 3.3. The council's Corporate Plan (2018-22) set out the council's corporate strategy, values, priorities and budget. The contents of this report are consistent with the council's policy framework with particular relevance to the many economic, environmental and social improvement that rely on a modern transport system. The objectives and outcomes for the intelligent management and delivery of the highways service are aligned with the council's corporate priorities. In particular highways services impacts on the following priorities:
  - Open Lewisham
  - Making Lewisham Greener
  - Building Safer Communities
- 3.4. Lewisham is committed to managing and maintaining its highway assets to ensure that they are fit for purpose and able to fulfil their functions in an efficient and sustainable manner.
- 3.5. To meet its priority to secure 'best value public services' the council is required to make arrangements to secure continuous improvement in the way it exercises its functions, having regard to a combination of economy, efficiency and effectiveness.

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- 3.6 The value of the Highways and Traffic Works Partnering Contract is over the threshold set out in the Public Contracts Regulations 2015 (as amended) and therefore was required to be openly advertised.

### 4. Background

- 4.1. The new contract will be funded from existing budgets and revenue streams. There is no additional cost to the authority.
- 4.2. The highway services were previously procured via three separate contracts:
- Highways Resurfacing, held by FM Conway, which commenced April 2019
  - Highway Footway Works, held by Kensons which commenced April 2019
  - Highway Maintenance and Planned Works, held by FM Conway which commenced April 2014
- 4.3. All three contracts were awarded following previous procurement exercises.
- 4.4. A comprehensive review of current provision was undertaken by officers during 2020 to inform the procurement approach for this service. It was decided to combine the services of the smaller contracts into one consolidated contract, to be awarded to a single contractor in order to provide financial efficiency and simplify contract monitoring and management. Permission to proceed was agreed by Mayor and Cabinet on 10 February 2021.
- 4.5. Prior to procurement an assessment of the needs of the council going forward was completed taking into consideration a new approach to improve the outcome and accountability of all highway maintenance through a single and larger combined contract.
- 4.6. The intention was to introduce a new partnering approach to further strengthen collaboration and openness between the council and the contractor.
- 4.7. The new contract contains revised key performance indicators (KPIs) focusing on the experiences of residents, and will measure the following aspects:
- Customer satisfaction
  - Environmental performance
  - Health and safety recording and management
  - Starting and completing works to programme
  - Defects
  - Submission of invoices
- 4.8. The KPIs will be monitored monthly and are designed to meet public expectations, allow residents an ability to influence the service directly and ensure key environmental factors are considered in the implementation of works. The KPIs are designed with stretch targets to promote improvement and the achievement of high standards, thus improving the reputation of the council.
- 4.9. As such the new consolidated Highways and Traffic Works Partnering Contract, will allow the council to meet its obligations whilst improving performance and outcomes for the residents and businesses of Lewisham, while potentially reducing costs. Costs would be reduced by one single contractor having fewer overheads and additional costs than multiple suppliers. Further savings are anticipated in officer time with a reduced requirement for contract management, key performance indicator monitoring, and contract liaison meetings.

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- 4.10 The council undertook a procurement exercise in accordance with the Public Contracts Regulations 2015 as amended by the Public Procurement (Amendment etc) (EU Exit) Regulations, inviting bids from contractors, for an eight year period with an option to extend by a further two.

### 5. Procurement process

- 5.1. The procurement was open to bidders between 08 April 2022 and 24 June 2022 which included an extension of the deadline to submit bids which was granted at the request of one of the tenderers who asked for additional time to complete their submission.
- 5.2. Nine suppliers expressed formal interest in the procurement.
- 5.3. Six of these opted out of the process or did not reengage after the initial expression of interest.
- 5.4. Three valid submissions were received via the council's procurement portal.
- 5.5. The process was conducted in line with all applicable procurement legislation, and local policy and procedures.
- 5.6. Tenderers were requested to respond to all aspects in the Method Statements, providing fully evidenced responses to each of the criteria.
- 5.7. Tenderers were asked to provide cost for both Planned works and Unplanned works which formed the total tender price.
- 5.8. Prices submitted were to cover all aspects of cost: labour, equipment, materials, sub-contractor costs, and any fees.
- 5.9. Tender price analysis and sense checking was carried out by Peridot Consulting.

### 6. Tender evaluation and synopsis of the bids received

- 6.1. Full synopsis of the bids received are set out in Section 6 of the Part 2 report.
- 6.2. As stated in the 'Invitation to Tender' document the tender evaluation was weighted with 60% of the overall score based on quality and the remaining 40% on price.
- 6.3. The quality of bids was assessed based on nine criteria within the submissions. One additional criteria (GDPR and Data Handling) was required as part of the submission but not used for weighted quality scoring.
- 6.4. The weighting of the individual quality criteria is set out as below:

Method Statement	Main Criteria	Weighting
MS1	Service Delivery	8%
MS2	Quality Assurance and Project Management	8%
MS3	Collaboration	8%
MS4	Continuous Improvement	8%
MS5	Equality, Diversity and Inclusion	3%
MS6	Health and Safety	6%
MS7	Social Value	6%
MS8a	Climate Change and Environmental impacts: impact minimisation	6%

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MS8b	Climate Change and Environmental impacts: accreditation	2%
MS9	Stakeholder Engagement	5%
MS10	GDPR and Data Handling	Info only
	<b>Total Quality Weighing</b>	<b>60%</b>

- 6.5. Quality submissions were assessed during August and September 2022 by three separate assessors using the council's standard 0-10 scoring matrix. Tenders which failed to attain minimum threshold score for one or more criteria were deemed invalid.
- 6.6. Additionally the council's social value procurement specialist independently assessed the three Social Value criteria submissions.
- 6.7. Two moderation meetings supervised by a Senior Procurement Officer from the council's Procurement team took place, whereby all evaluators discussed their scores and reasoning, and agreed a moderated consensus score for each method statement.
- 6.8. Moderation took place during September 2022.
- 6.9. The tables that follow summarise the overall scores for each tender

### 6.10. Overall scoring

Rank	Tenderer	Overall score	Valid/Invalid
1	F M Conway	91.70	Valid
2	Bidder A	79.17	Valid
n/a	Bidder B	n/a	Invalid

## 7. Financial implications

- 7.1 This report is asking Mayor and Cabinet to approve the appointment of FM Conway to the Highways and Traffic Work Partnering Contract for a period of eight years with a potential extension of two years, and at an estimated spend of up to £6.2m per annum.
- 7.2 All contracted works will be carried out within existing budgets and ongoing funding agreements. No additional council resources will be required as a result of this contract award.

## 8. Legal implications

- 8.1. The council's constitution contains requirements about how to procure and manage contracts. These are in the Contract Procedure Rules (Constitution Part IV). Some of the requirements in those Rules are based on the Public Contracts Regulations 2015 as amended by the Public Procurement (Amendment etc) (EU Exit) Regulations ("the Regulations") with which the Council must comply. The value of the works contract is above the procurement threshold therefore the Regulations apply.
- 8.2. The report proposes the establishment of a contract for eight years with the option to extend for up to 2 years. The potential value of the contract including the extension is above £1,000,000, which means that this is a Category A contract for the purposes of the council's Contract Procedure Rules and one which is to be awarded by Mayor and Cabinet.
- 8.3. This contract has been externally and openly advertised as required by the Council's Constitution. If the proposal to award the contract is approved, award notices must

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be published in the prescribed form.

- 8.4. The report explains the evaluation approach and process applied to the bidders and the reasons for recommending the successful bidder for approval. The Invitation to Tender set out that tenderers had to reach specified scores. The process followed, including exclusion of tenderers who did not reach the minimum score, was in compliance with the advertised and required procedures.
- 8.5. The decision is a key decision under Article 16.2 (c) (xxiii) of the Constitution as the award of contracts is for £200,000 or more. It is therefore required to be contained in the current Key Decision Plan and the Council's Key Decision procedure must be followed.

### **9. Equalities implications**

- 9.1 As part the procurement process tenderers were asked to address equal opportunities in the Method Statements.
- 9.2 Consultation with hard to reach groups also formed a significant part of the assessment of the Consultation and Engagement criteria.
- 9.3 Pedestrian and public transport users, particularly vulnerable users and people with mobility impairments are affected by a poorly designed environment. Best use of investment will improve access and ensure residents and visitors to Lewisham can move around safely and easily.
- 9.4 This partnering contract provides services for Highways and Traffic Works. The service is required to abide by equality legislation. The service specifications for the new services will focus on reducing barriers to employment and support for all underrepresented groups in line with the Equality Act 2010, and have considered the potential impact on all of the nine protected characteristics.
- 9.5 The council's equalities objectives are addressed in the contract documentation and formed part of the tender evaluation criteria.

### **10. Climate change and environmental implications**

- 10.1. The contract requires the supplier to incorporate best practice and demonstrate sustainable solutions, and minimise environmental impact.
- 10.2. The contractor is expected to assist with designs and solutions that reduce carbon emissions, using innovative sustainable materials, tools and transportation options. They will also consider construction solutions that have the potential to lower whole life carbon and whole life cost.
- 10.3. The council's environmental objectives are addressed in the contract documentation.

### **11. Crime and disorder implications**

- 11.1 There are no specific crime and disorder implications resulting from this contract procurement and award.
- 11.2 The services detailed in this report relates to the provision of the Highways and Traffic Work Partnering Contract. This will therefore make a contribution to the work of the Safer Lewisham Partnership and link in directly with the Safer, Stronger Communities outcome to 'minimise harm caused by homelessness and rough sleeping'.

### **12. Health and wellbeing implications**

- 12.1 Investment in, and the design of, highway environments has an indirect impact on

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health as a result of the positive impact on economic and environmental living conditions.

- 12.2 Providing a high quality public realm, improving access for all and delivering infrastructure for sustainable and active modes of travel contributes to encouraging people to walk and cycle more and to providing positive conditions for growth.

### 13. Social Value

- 13.1 The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the wellbeing of the local area can be secured.
- 13.2 Bidders were therefore asked to submit a method statement that has a weighted score of 6%. Bidders needed to demonstrate how the service will contribute to the key social value outcomes, including how the organisation works with local employers and training organisations to remove stigma and barriers to support individuals in returning to employment, training and/or education
- 13.3 The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, contractors and sub-contractors engaged by the council to provide works or services within Lewisham pay their staff at a minimum rate equivalent to the LLW rate. Successful contractors will be expected to meet LLW requirements and contract conditions requiring the payment of LLW will be included in the tender documents.
- 13.4 The incorporation of social value into Lewisham contracts will significantly help the council to deliver on its strategic corporate and Mayoral priorities and deliver added value for the borough as a whole.
- 13.5 Once contracts have been awarded the social value delivery and monitoring will be formally reported on the KPI Performance report.
- 13.6 The appointed contractor will be encouraged to employ locally.
- 13.7 The recommendations included in this report will contribute to making Lewisham a greener more environmentally sustainable borough.

### 14. Contract Management

- 14.1 In accordance with the council's contract management framework this contract is a tier 3 contract. Contract Management meetings will be held on a monthly/quarterly basis and the key performance indicators (KPIs) on the contract management dashboard will be monitored and reported on accordingly.
- 14.2 The Highways and Traffic Work Partnering Contract will be managed by dedicated permanent staff in the Highways Service within the Public Realm division.

### 15. Background papers

- 15.1 The following background documents were referenced in this document.
- Approval to Procure report (10 February 2021)

### 16. Glossary

- 16.1 Description of terms below

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Term	Definition
LLW	London Living Wage
TfL	Transport for London

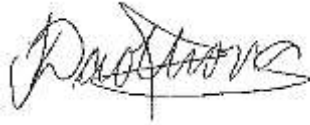
### 17. Report author(s) and contacts

- 17.1 **Report author:** Joe Turner, Head of Public Realm Improvement and Delivery:  
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- 17.2 **Comments for and on behalf of the Executive Director for Corporate Resources:** Shola Ojo, Principal Accountant, Financial Services:  
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### 18. Approval

I approve the appointment, as per the details set out in this report

Signed:



**Name:** Jennifer Daothong, Executive Director of Housing, Regeneration and Public Realm

**Date:** 24 October 2022