

**REPORT TITLE: PETERBOROUGH HIGHWAYS SERVICES CONTRACT
 1ST OCTOBER 2013 TO 30 SEPTEMBER 2023 (EXTENDABLE UNTIL 2033)**

**LEADER OF THE COUNCIL AND CABINET MEMBER FOR GROWTH,
 STRATEGIC PLANNING, HOUSING, ECONOMIC DEVELOPMENT AND
 BUSINESS ENGAGEMENT.**

AUGUST 2013

Deadline date: 13/08/13

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| Cabinet portfolio holder: | Councillor Cereste, Leader of the Council and Cabinet Member for Growth, Strategic Planning, Housing, Economic Development and Business Engagement |
| Responsible Director: | Paul Phillipson, Executive Director Operations |
| Is this a Key Decision? | YES If yes has it been included on the Forward Plan: Yes Unique Key decision Reference from Forward Plan: <u>KEY/18APR13/01</u> |
| Is this decision eligible for call-in? | YES |
| Does this Public report have any annex that contains exempt information? | Yes, there is an Exempt Annex attached to this report which is not for publication in accordance with paragraph 3 of Schedule 12A of Part 1 of the Local Government Act 1972 in that it contains information relating to the bidders final tenders, details of the Council's evaluation of the final tenders and the outcome of the evaluation process, all of which contain commercially sensitive information affecting the Council's and bidders respective business positions relating to the scoring and ranking in the final tender evaluation. The public interest test has been applied to the information contained within the exempt annex and it is considered that the need to retain the information as exempt outweighs the public interest in disclosing it because to do so would compromise the respective positions of the Council and bidders in relation to the procurement, market confidence, probity and integrity in the procurement process. |

R E C O M M E N D A T I O N S

The Cabinet Member is recommended to:

1. Note the evaluation methodology used for the purpose of evaluating the final bidders' tenders which was pre-determined and issued to bidders as part of the invitation;
2. Note the scores and rankings following evaluation of the final tenders and the reasons for the scores and rankings as set out in the Exempt Annex ;
3. Identify the name of the preferred bidder for Peterborough Highways Services which is Atkins

- Limited (Atkins) as having submitted the most economically advantageous tender to the Council;
4. Agree that the broad range of service elements (including their component parts) to be included in the scope of the partnership at the commencement are:-
 - Highway maintenance;
 - Professional services relating to the provision of highway services;
 - Street lighting;
 - Drainage;
 - Highways inspection;
 - Infrastructure Delivery Team – design services;
 - Intelligent Transport Systems (ITS) contract management.
 5. Note the additional service elements included on Atkins' road map which may be included in the contract at a later date;
 6. Award a 10 year contract to Atkins Limited and the ability of the Council to extend for two further periods each of 5 years with an annual contract value of £7,638,696 subject to satisfactory performance in accordance with the contract;
 7. Endorse that a Strategic Partnership Board will oversee the partnership providing such strategic direction for the delivery, development and growth and resolving any escalated issues or other matters which require high level input or direction as part of the governance arrangements;
 8. Agree that on expiry of the call-in period relating to this decision, Atkins be formally identified and appointed as the preferred bidder for the partnership on suitable conditions to include the award of the partnership contract subject to:-
 - expiry of the Alcatel standstill period;
 - formal consultation with transferring employees and their Trade Union representatives under the Transfer of Undertakings (Protection of Employment) Regulations 2006;
 - satisfactory resolution of any outstanding matters and completion of the suite of legal documents applying to the partnership (including Admitted Body Agreement in respect of transferring employees protection under the Local Government Pension Scheme) in readiness for contract commencement;
 9. Authorise the Executive Director – Operations in conjunction with the Chief Executive and/or the Head of Legal Services to determine any high level strategic or other issues that may require resolution and to authorise any action necessary to be taken on any such matters to enable the suite of legal documents to be completed; and
 10. Authorise the Executive Director – Strategic Resources to sign a certificate under Section 3 of the Local Government (Contracts) Act 1997, if required, to confirm the Council has the relevant legal powers to enter into the contract.

1. SUMMARY OF MAIN ISSUES

This report seeks the Cabinet Member's approval to award the Peterborough Highways Services Contract to Atkins from 1st October 2013 to 30th September 2023, with the option of extending for two further five year periods.

2. PURPOSE OF THIS REPORT

- 2.1 This report is for the Leader of the Council and Cabinet Member for Growth, Strategic Planning, Housing, Economic Development and Business to exercise delegated authority

under paragraph 3.3.3 of Part 3 of the constitution in accordance with the terms of his portfolio at paragraphs 3.4(g) and 3.4(b) respectively.

- 2.2 The attached report is NOT FOR PUBLICATION in accordance with paragraph 3 of Schedule 12A of Part 1 of the Local Government Act 1972 in that it contains information relating to the bidders' final tenders, details of the Council's evaluation of the final tenders and the outcome of the evaluation process, all of which contain commercially sensitive information affecting the Council's and bidders respective business positions relating to the scoring and ranking in the final tender evaluation. The public interest test has been applied to the information contained within the exempt annex and it is considered that the need to retain the information as exempt outweighs the public interest in disclosing it because to do so would compromise the respective positions of the Council and bidders in relation to the procurement, market confidence, probity and integrity in the procurement process.

3. **TIMESCALE**

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| Is this a Major Policy Item/Statutory Plan? | NO | If Yes, date for relevant Cabinet Meeting | |
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4. **DETAILS OF DECISION REQUIRED**

This report seeks the approval of the recommendations proposed within the recommendations section of this report, included but not limited to the appointment of Atkins as the preferred bidder.

5. **CONSULTATION**

- 5.1 There has been on-going dialogue between senior staff and trade unions on matters relating to TUPE and pensions and Cambridgeshire County Council (pension authority) is aware of the Peterborough Highways Services procurement. The recognised Trades Unions have been involved in the evaluation of workforce matters. All potentially affected staff have been informed of progress at each step and working groups formed to facilitate involvement and officers will continue to be consulted and engaged with the transfer and mobilisation arrangements.
- 5.2 The Executive Director – Operations has been keeping employees informed and updated on a regular basis through the Peterborough Highways Services procurement.
- 5.3 There has been consultation with the Head of Strategic Finance on the financial aspects of the Peterborough Highways Services Contract.
- 5.4 The Sustainable Growth Scrutiny Committee received a report on the procurement at its meeting on 20th March 2013.

6. **ANTICIPATED OUTCOMES**

The Peterborough Highways Service Contract is expected to provide the Council with the best possible value for money from the basket of services to be provided, delivered through a highly competitive procurement process.

7. **REASONS FOR RECOMMENDATIONS & ANY RELEVANT BACKGROUND INFORMATION**

- 7.1 Services provided in Highway Services have been subject to budget savings year on year and have delivered significant savings internally through service efficiencies, streamlined

staffing and income generation, as well as robustly challenging existing suppliers. The Council recognised that in order to take these achievements even further, it needed to have an external partner to work with the Council to consolidate existing service provision both external and in-house to:

- deliver synergies across what is currently fragmented provision;
- provide inward investment;
- guarantee further savings and value for money services;
- serve as a catalyst for change; and
- bring wider benefits to the Council, the City and the services such as local job opportunities.

7.2 The Council advertised the Peterborough Highway Services Contract in the Official Journal of the European Union in line with the EU procurement rules for interest from bidders wishing to be considered as the Council's potential Partner for Peterborough Highway Services. An envisaged contract period for the partnership was stated as being 10 years with the ability to extend it for two further periods of 5 years each.

7.3 Due to the complexity of the range of services included in Peterborough Highway Services, the Council chose to use the Competitive Dialogue procedure under the EU procurement rules so the Council could develop with the bidders the service scope, innovative solutions and growth potential in terms of improved service delivery and pricing. It has also been emphasised that the Council wishes to work in a collaborative and partnering style and positively wished to see bids that combined all the necessary qualities that the Council was seeking to achieve from this procurement. The Competitive Dialogue has allowed flexibility within the procurement process to enable the Council to explore the various options that bidders wished to submit to meet the Council's requirements.

7.4 The Competitive Dialogue procedure has several stages:-

Stage 1: Prequalification:

7.5 As a result of a notice placed in the Official Journal of the European Union and a bidder open day, 8 bidders expressed an interest to be considered for this procurement. 5 bidders prequalified who were:-

- Amey;
- Atkins;
- Balfour Beatty;
- Ringway; and
- Volker.

Stage 2: Outline Solution:

7.6 The five bidders who pre-qualified were invited to submit outline solutions (initial proposals) detailing their quality approach. During this stage, Amey withdrew from the procurement for their own commercial reasons. However, intensive dialogue continued with the following bidders and bids were received from:-

- Atkins;
- Balfour Beatty;
- Ringway; and
- Volker.

All four bidders were selected to go forward to the next stage.

Stage 3: Detailed Solution:

7.7 The four bidders were invited to submit detailed solutions (detailed proposals). Intensive dialogue continued with the four bidders to assist them in developing their proposals to meet the Council's requirements. Having received, and rigorously evaluated, detailed solutions from the four bidders, all bidders were selected to go forward to the next stage.

Stage 4: Final Tender:

- 7.8 The Council held a final round of dialogue with the bidders to assist them in refining their solutions ready for the call for final tenders.
- 7.9 Final tender bids were received in early July 2013 from four bidders and following rigorous evaluation of the final tenders, the Council is now ready to identify its preferred bidder.

EVALUATION METHODOLOGY AND IDENTIFICATION OF PREFERRED BIDDER:

- 7.10 The final tender evaluations were carried out in line with the evaluation methodology which was pre-determined by the Council and issued to the bidders. The underlying principle was for the Council to seek the most economically advantageous final tender based on the following:-

Price 60%:

- 7.11 In **outline**, the final Price evaluation consisted of the following tiers:-

- Schedule of rates - 25%
- Target Cost Routine (Revenue) – Winter Service & Incident Response - 5%
- Target Cost Schemes - 5%
- Additional Services - 5%
- Affordability - 5%
- Contract Efficiencies - 15%

- 7.12 **Bidders** were required to submit financial information to demonstrate how they would carry out, improve and grow affordable services with the Council's budgets and offer the Council value for money and savings.

6.1.1 Quality 40%:

- 7.13 In outline, the final Quality evaluation consisted of the following tiers:-

- Environmental Sustainability - 6%
- Growth - 6%
- Innovation - 6%
- Customer Service – 6%
- Responsive Highways Service 6%
- Legal and Commercial – 10%

- 7.14 Each of the quality criteria was designed to test the bidders' responses on service delivery and standards in line with the Council's requirements and the extent to which they offer value for money.

- 7.15 The Exempt Annex sets out details of the evaluation of the final tenders submitted by the four final bidders, the scores and their rankings in line with the evaluation methodology.

- 7.16 Although the competition between the four final bidders was extremely strong, and all bidders submitted credible and commendable final tenders, as a result of the evaluation of the final tenders, Atkins' tender is considered to represent the most economically advantageous tender to the Council.

SCOPE OF THE PETERBOROUGH HIGHWAYS SERVICES CONTRACT:

- 7.17 As at commencement of the partnership the scope of the Partnership will broadly include the following services (and their component elements):-

- Highway maintenance;
- Professional services relating to the provision of highway services;
- Street lighting;
- Drainage;
- Highways inspection;

- Infrastructure Delivery Team – design services;
- Intelligent Transport Systems (ITS) contract management;

7.18 As with partnerships of this nature, it will evolve over time and there is potential for other services to be considered to come within the scope. A number of services have already been identified within Atkins' roadmap and are detailed in the Exempt Annex.

TERM OF THE PARTNERSHIP:

7.19 The Council required bidders to submit final tenders on the basis of 10 years which is the initial term of the partnership.

STRATEGIC PARTNERSHIP BOARD:

7.20 The contract (which will include the terms and conditions between the Council and the preferred bidder (the Partner)) provides for:-

- day to day operations to be managed through a robust client officer; and
- a Strategic Partnership Board which will oversee the contractual relationship.

7.21 The Strategic Partnership Board will provide strategic direction for delivery, development and growth of the partnership; resolve any escalated issues or other matters which require high level input or direction as part of the overall governance arrangements.

7.22 This Strategic Partnership Board will comprise representatives from senior people within the Council and the Partner.

7.23 The Strategic Partnership Board will need to be established ahead of the commencement of the partnership since it will have an important role in overseeing mobilisation of the partnership (e.g. to agree appropriate 'branding' for the partnership and ensure that through mobilisation there is a seamless transfer of services, staff and assets).

TIMESCALES FOR COMMENCEMENT OF THE PARTNERSHIP:

7.24 There will be detailed mobilisation plans to be discussed in detail with the preferred bidder which will include for a range of actions e.g. communications with key stakeholders, Trade Union and staff consultations and engagement, arrangements for transferring services, staff and assets to ensure a seamless handover with no disruption to service delivery.

PREFERRED BIDDER IDENTIFICATION AND APPOINTMENT AND AWARD:

7.25 The name of the preferred bidder has been included in the decision (rather than waiting until after expiry of the call-in period) to end any uncertainty over who this is. Once the call-in period has expired, the Council will formally identify and appoint Atkins as its preferred bidder. That appointment will contain conditions on such matters as:-

- award of the partnership subject to the expiry of the Alcatel period;
- formal consultation with the transferring employees and their Trade Unions under the Transfer of Undertakings (Protection of Employment) Regulations 2006; and
- satisfactory resolution of any outstanding matters and completion of suite of legal documents that are associated with the project (including Admission Agreement in respect of transferring employees' protection under the Local Government Pension Scheme) in readiness for commencement of the partnership.

OFFICER DELEGATIONS:

7.26 It is not unusual in partnerships of this nature for there to be matters that need to be expediently resolved in the final stages and any such matters may require high level input. For this purpose, it would be appropriate for the Executive Director – Operations in consultation with the Chief Executive and/or the Head of Legal Services to be authorised to determine any high level strategic or other issues that may require to be dealt with and to authorise any action necessary to be taken on any such matters to enable the suite of legal documents to be completed.

TUPE, PENSIONS AND TRADE UNIONS:

- 7.27 The Transfer of Undertakings (Protection of Employment) Regulations 2006 apply to staff that are currently engaged on the services that are to be transferred under the partnership.
- 7.28 An Admission Agreement will be entered into by the Partner to protect the transferring employees in respect of their Local Government Pensions.
- 7.29 Staff and Trade Unions have been kept updated throughout the procurement process on an informal basis, ahead of the formal TUPE consultation process which is due to take place.

SUITE OF LEGAL DOCUMENTS:

- 7.30 As with partnerships of this nature, there will be a suite of legal documents to be entered into by the Council and the Partner to reflect the commercial deal. The NEC3 Term Service Contract model contract will be utilised for this contract.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 Two alternative options were considered in the development of the business case for Peterborough Highways Services:
- 8.2 Do nothing – this option was discounted as the existing contracts would have expired leaving the Council without a compliant route to purchase:
- Highway maintenance;
 - Professional services relating to the provision of highway services;
 - Street lighting;
 - Drainage;
- 8.3 Re-let as four separate contracts – this option was discounted as soft market testing indicated the best opportunity to deliver savings to the Council was from the synergies available from combining contracts and removing management layers.

9. IMPLICATIONS

- 9.1 The new highways partnership contract will provide revenue savings over the life of the contract. The potential annual revenue savings are sufficient to provide a clear indication of the financial benefits of the contract. The actual savings delivered will depend on the contract being managed within the work volumes anticipated through the tender process. In addition to delivering savings the contract has in place robust management procedures to ensure service quality, above and beyond the current levels of service
- 9.2 A total of 18% of the quality evaluation was give over sustainability, ensure tenders were focused of added value within the Peterborough economy and support the Environment Capital.

Legal:

- 9.3 The contract was procured under the Competitive Dialogue Procedure (Regulation 18 of the Public Contracts Regulations 2006). The Council is entering into the contract pursuant to its powers contained in section 30, 38, 43, 50, 96, 134, 278, 274A, and 301 of the Highways Act 1980; section 57-60 and 72 Road Traffic Regulation Act 1984; Section 106 of the Town and Country Planning Act 1990; Section 260 of the Public Health Act 1936; section 111 of the Local Government Act 1972 and section 1 of the Localism Act 2011.

10. DECLARATIONS / CONFLICTS OF INTEREST & DISPENSATIONS GRANTED

None.

11. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985) and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

- Call for Final Tenders
- Invitation to Submit Detailed Solutions
- Invitation to Submit Outline Solutions
- Invitation to Participate in Dialogue
- Service Information.