

CONTRACT FOR DELIVERY OF THE PUBLIC REALM IMPROVEMENT WORKS IN WESTGATE FOR THE 2017/18 FINANCIAL YEAR
Councillor Peter Hiller, Cabinet Member for Growth, Planning, Housing and Economic Development
June 2017
Deadline date: June 2017

Cabinet portfolio holder: Responsible Director:	Councillor Peter Hiller, Cabinet Member for Growth, Planning, Housing and Economic Development Simon Machen, Corporate Director Growth and Regeneration
Is this a Key Decision?	YES If yes has it been included on the Forward Plan: YES If yes reference number: KEY/01MAY17/01
Is this decision eligible for call-in?	YES
Does this Public report have any annex that contains exempt information?	NO
Is this a project and if so has it been registered on Verto?	Once approved a programme will be created on Verto to monitor delivery of the work programme.

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

The Cabinet member is recommended to:

1. To approve the design and construction of the Westgate public realm highway improvement scheme KEY/01MAY17/01 for the financial year of 2017/2018 and authorise the associated package of work to be issued to Skanska Construction UK Limited under the Council's existing agreement with SKANSKA dated 18th September 2013 (the Highways Services Agreement. The total scheme package is £1.5m. This will be funded through the medium term financial strategy.

2. Authorise the Director of Growth and Regeneration to vary the works order value when required subject to;
 - i. available budget being in place;
 - ii. the total sum of each variation not exceeding £100,000,
 - iii. the combined value of any authorised variation(s) do not exceed the total sum of £500,000.

Any variations are to be made in prior consultation with internal audit, finance and legal services.

1. SUMMARY OF MAIN ISSUES

- 1.1 This report seeks approval from the Cabinet Member for Growth, Planning, Housing and Economic Development to approve the design and construction of the 2017/18 Westgate public realm highway improvement scheme. It also seeks authorisation for the associated package of work to be issued to Skanska Construction UK Limited under the Council's existing Peterborough Highway Services Contract.

2. PURPOSE OF THIS REPORT

- 2.1 This report is for the Cabinet Member for Growth, Planning, Housing and Economic Development to consider exercising delegated authority under paragraph 3.4.3 of Part 3 of the constitution in accordance with the terms of their portfolio at paragraph (b).

3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	NO
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4. DETAILS OF DECISION REQUIRED

- 4.1 This project is part of the work envisaged in the 2008 Public Realm Strategy and a continuation of the public realm improvement programme in the city centre, as outlined in the Medium Term Financial Strategy (MTFS). The current public realm in Westgate is tired and dated, as such it detracts from the attractiveness of Peterborough as a destination for shoppers and visitors. The Westgate area is used by a large number of pedestrians and bus service users, with buses regularly traveling through Westgate in both directions. Improvements will include resurfacing the footway and carriageway along with restricting access for private vehicles (as the infrastructure currently in place restricts the movement of buses which can lead to delays in services).
- 4.2 The Scheme and budget is included in the Council's Medium Term Financial Plan.
- 4.3 The Council intends to award a package of work for the design and construction of the associated works under the Highway Services Agreement.

5. CONSULTATION

- 5.1 Initial consultation has taken place and further consultation is scheduled to take place during the design phase. Consultation will be undertaken with key stakeholders including: ward councillors, the bus service operators, taxi providers, Peterborough Disability Forum, the Cycle Forum, local businesses and other interested parties. This process will align with the design and construction phases to ensure that outcomes from the consultation, as appropriate, align with delivery programmes and final design details.
- 5.2 Once the preliminary designs are progressed the scheme proposals will be put on the Council website and the general public will be alerted to this via local and social media.

6. ANTICIPATED OUTCOMES

- 6.1 The Council awards a package of work to Skanska (Construction) UK Limited for the design and construction of the Westgate public realm works as part of the Highway Services Agreement.

7. REASONS FOR RECOMMENDATIONS AND ANY RELEVANT BACKGROUND INFORMATION

- 7.1 Recent improvements to the city centre public realm have demonstrated that this can be instrumental in bringing inward investment to the city. The improvements to the public realm at Westgate are expected to have a positive impact on the local economy by encouraging more people to spend more time in an attractive city centre environment (thus encouraging more retail spend) and attracting new businesses to move into the city centre. This contributes to the aims of both the Council and the Government by supporting the city's growth agenda, improving accessibility to key services, providing safer roads and reducing congestion.
- 7.2 In 2008, a Public Realm Strategy was adopted by Peterborough City Council. With the main objective being to create a vibrant and sustainable city centre that will increase people's access to facilities, services and historic assets, such as the Cathedral, Guildhall and Long Causeway; changing the pattern of movement through it and facilitating an expansion of interest in the city centre making it much more of a twenty-four hour location for activity; as well as creating the broader potential to attract tourists and inward investment.
- 7.3 The overarching aim of the Public Realm Strategy is to help revitalise the physical and economic status of the city and ensure that the existing tourist, retail and commercial centres located at the heart of the city can attract shoppers and visitors alongside new retail developments.
- 7.4 The aim of the Westgate public realm improvements is to produce a public realm commensurate with the aims of the Strategy which will realise the full benefits that this scheme could deliver for Peterborough's growth and regeneration agenda.
- 7.5 Highway services delivered by the Council acting as Local Highway Authority have been subject to annual budget reductions and have delivered significant savings internally through service efficiencies, streamlined staffing and income generation, as well as robustly challenging existing suppliers. In 2013 the Council recognised that in order to take these achievements even further, it needed to have an external partner to work with to consolidate existing service provision both external and in-house to:
- deliver synergies across a wide range of service provision;
 - provide inward investment;
 - guarantee further savings and value for money services;
 - serve as a catalyst for change; and
 - bring wider benefits to the city (such as local job creation).
- 7.6 The Council advertised the Highway Services Agreement in the Official Journal of the European Union in line with the Public Contracts Regulations 2006 for interest from bidders wishing to be considered as the Council's potential Partner for Peterborough's highway services. An envisaged contract period for the partnership was stated as being ten years with the ability to extend it for two further periods of five years each.
- 7.7 Due to the complex range of services to be delivered under the Highway Services Agreement, the Council chose to use the Competitive Dialogue Procedure under the regulations so the Council could develop with the bidders the service scope, innovative solutions and growth potential in terms of improved service delivery and pricing. Strong emphasis was placed on the Council's desire to work in a collaborative and partnering style and that it wished to see bids that combined all the necessary qualities that the Council was seeking to achieve from the procurement process. The Competitive Dialogue procedure consisted of four stages, as follows:
- Stage 1: Prequalification

- Stage 2: Outline Proposals
- Stage 3: Detailed Proposals
- Stage 4: Final Tender

7.8 Following a rigorous year-long competitive dialogue process and thorough evaluation of tender documents, Skanska were identified as the Council's preferred supplier, culminating in 2013 with the establishment of Peterborough Highway Services (an informal collaborative 'partnership' between PCC and Skanska to deliver highway related services across the unitary authority area) and the award of a contract to Skanska. This process was ratified by a Cabinet Member's Decision Notice (AUG13/CMDN/068).

Although the majority of the proposed work will be carried out by Skanska under the Highways Agreement, certain aspects of the work may be awarded to third parties and to utility companies.

7.9 The CMDN established the principle of evolution of the partnership and identified the potential for additional services to come within the scope of the Highways Services Agreement at a later date. Clause Z13.2 of the Highway Services Agreement, provides the legal basis for extending the scope of works delivered by Skanska.

Project Delivery

7.10 It is proposed that the Westgate realm improvement scheme will be carried out by Skanska as a highway scheme under the Professional Services element of the Highways Services Contract 2013-2023.

7.11 It is recommended that the current Peterborough Highway Services Contract 2013-2023 should also be utilised as the delivery mechanism for the physical works. The Conditions of Contract are the core clauses of the NEC3 Engineering and Construction Contract June 2005 (with amendments June 2006 and September 2011). The works will be priced by the Contractor using Option C: Target contract with activity schedule.

7.12 In this option the Contractor tenders a target price using an activity schedule in which each activity is priced as a lump sum plus fee. During the course of the delivery, the target price is adjusted to cater for compensation events that are set out in the contract. Payment is made on the basis of actual costs plus fee. Within Option C, Target Contract, there is an incentive mechanism for the Contractor to minimise costs with both savings and overspends shared between both client and contractor. The sharing of risk in the target cost approach is likely to reduce the occurrence of disputes between both parties.

7.13 In the past the Council used its Professional Services Partner for the design and supervision role for major schemes in excess of £500,000 and procured the delivery element either via a competitive tender on the open market or through an established Framework Agreement such as the Midlands Highway Alliance or the Eastern Highways Alliance. Whilst these procurement routes have proven successful the tender process can lead to delays in awarding contracts which presents a significant financial risk.

7.14 When procuring works via the open market, there are significant costs associated with the preparation of open market tenders for each project in terms of staff time and resource, these effectively cancel out any potential savings that could be generated by procuring works in this way, and the potential benefits of design and build efficiencies can be lost when the two key components of a scheme are completed by different contractors.

7.15 In recent years the Council has procured its major public realm and transportation projects through the Midlands Highway Alliance (MHA) Framework Agreement. In addition to the annual membership fee, a fee is charged for each project using its Medium Schemes Framework Contract (MSF1) on an escalating scale, calculated against the initial target

price. In utilising the existing NEC Term Service Contract, on which the Highways Services Agreement is based, the Council will avoid the project fee and in doing so will realise an immediate efficiency for each project delivered.

- 7.16 To place this into context, the MHA fee for using the MSF1 Contract on a typical construction project target costed at £1.0m would be £12,000. This fee would not be incurred if delivered by the Highway Services Agreement.
- 7.17 In addition to the project fee, in April 2014, the MHA launched a new version of its Medium Schemes Framework Contract (MSF2) which replaced the MSF1 Contract. To date, no works have been procured by the Council under the MSF2 Contract. As such, it remains untried and untested as a delivery mechanism for major projects. A number of new contractors have been accepted onto the MSF2 Framework and several of these have no proven track record of delivering major projects for the Council.
- 7.18 Following evaluation of the alternative procurement mechanisms detailed above it is considered that the Highway Services Agreement provides the most suitable delivery mechanism of the Westgate public realm improvement scheme. Utilising the existing Highway Services Agreement will mean that the Council will realise the following benefits:
- Reduced procurement costs by using an existing framework contract.
 - Improved project management and cost certainty through the utilisation of a target cost style of contract.
 - Reduced construction costs through 'Early Contractor Involvement' (ECI) at the design stage to manage and mitigate more effectively any potential build issues with the design.
- 7.19 The work will be completed in small phases where possible in order to minimise disruption to both shoppers and local businesses.

Representing best value:

- 7.20 When the Highway Services Agreement was awarded to Skanska it was viewed as having submitted the most economically advantageous tender submission, thereby demonstrating best value in the market place. This is something that Peterborough Highway Services has continued to demonstrate via robust contract management tools such as adoption of the Peterborough Highways Performance Manual and the adoption of Key Performance Indicators (KPIs).
- 7.21 The Peterborough Highway Performance Manual sets out the process for measurement and management of performance in delivering the contract requirements. The Peterborough Highways Performance Hierarchy gives the Partnership a standard approach to capturing performance data in order to achieve:
- Visibility of service provider performance.
 - Consistency in the data captured.
 - Benchmarking of performance results.
 - Capturing continuous improvement.

The service areas for the Highway Services Contract are:

- Operations (responsive Highway Service)
- Commercial and Financial
- Added value
- Customer Service

- 7.22 Performance is monitored in line with these four weighted 'domains', providing regular visibility of the service leading to better, more informed decision making on where resources and improvement efforts need to be focussed.
- 7.23 Regular reviews of all projects are undertaken by the Peterborough Highways Operation Team (PHOT), which is a group of representatives from the Council and Skanska who meet on a monthly basis to discuss the operation of the Highways Services Agreement, in order to capture lessons learned and support continuous improvement of the process. The hierarchy is updated on an annual basis with reviews used to refocus the service areas to align with the changing needs of the Council and reflect the associated movement of the parties' objectives.
- 7.24 A series of Key Performance Indicators (KPI's) are used to evaluate performance under the Highway Services Agreement. They are collated on a monthly basis and summarised on a dashboard with status shown as either, 'Green', 'Amber' or 'Red' against an agreed target percentage. All the monthly KPI scores will contribute to an annual, overall performance score for the Contract. This will be used to determine whether extensions to the Contract are awarded to Skanska when the current term expires.
- 7.25 One of the Operational KPI scores used to evaluate the performance of the Contract relates specifically to accurate target cost forecasting (KPI OP13). The information collected to calculate the KPI is the initial target cost, the final target cost figure including agreed compensation events and the final defined or 'actual' costs of the works. This indicator measures the difference between the final target cost and the final defined cost expressed as a percentage. The agreed target for the Highway Services Agreement is for ninety-five per cent of all scheme target costs to come within +/- ten per cent of the final defined costs. The expectation is for Skanska to better understand the concept of cost not price and the factors that influence cost changes to ensure that target costs are being jointly and correctly set.
- 7.26 Service credits will be incurred in the event that performance targets are not met although they can be nullified where the overall annual performance score for the contract exceeds ninety-five per cent. The relationship between the level of failure and the service credit is linear. It is subject to agreement between the Contract service manager and the PHOT prior to the start of each year. The key benefit of this tapered arrangement is that the service provider is rewarded for each percentage improvement to performance whilst ensuring that poor performance is penalised. This incentivises the service provider to invest in the service and] deliver continuous improvement.
- 7.27 Given the performance mechanisms detailed above and as a result of Skanska's documented performance since the commencement of the Highway Services Agreement in September 2013, it is recommended that they are the contractor selected to deliver the Westgate public realm improvement scheme utilising the Highway Services Agreement. In addition to proven quality and value for money as demonstrated by the adoption of the Peterborough Highways Performance Manual and KPIs, this route would also deliver:
- An increased turnover rebate from Skanska to the Council.
 - Design and build end-to-end efficiencies.
 - Increased economies of scale.
 - Greater opportunity to retain work in the local area.
 - Security of materials and resources supply.
 - Innovation.
 - Increased efficiencies and revenue benefits for access to additional work at zero bid cost.
- 7.28 The use of an NEC3 Option C Target Cost Contract will demonstrate value for money as the payment mechanism will give the Council full transparency over all costs and the

pain/gain mechanism will further encourage Skanska to drive down costs and maximise efficiencies.

- 7.29 In order to improve the delivery of major projects Skanska have proposed the creation of a 'Core Management Team' with the express aim of planning, co-ordinating and implementing the Council major capital projects. This team will also look to pursue additional Third Party Schemes (for other Council Directorates and Departments) through the Highway Service Contract to generate economies of scale.
- 7.30 The creation of a dedicated team to deliver major projects removes the need for the Council to engage another professional service provider to administer, manage and supervise the contract on its behalf. As an example, the current fee charged by the MHA to use its professional services partnership is one per cent of the total value of the work charged through the framework to the member in question.
- 7.31 In addition to the immediate savings associated with each project, Serco, the Council's procurement partner have been in discussions with Skanska with regards to additional efficiency opportunities that can be generated within the Contract. A number of options have been previously explored and agreed subject to increased contract turnover associated with the delivery of schemes greater than £500,000.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 Not to deliver a programme of works: Lack of public realm improvements to Westgate would see inward investment stalling. This will result in a reduced attractiveness of Peterborough City Centre to shoppers and visitors. In addition, the existing infrastructure (including carriageway and footway surfaces, street lighting and street furniture) would continue to deteriorate, leading to an increase in long term maintenance costs and a failure by the Council to comply with its statutory duties under the Highways Act 1980.
- 8.2 Agree an alternative scheme: The Westgate highway works scheme put forward has been developed in consultation with a wide range of key stakeholders and assessed to ensure it meets the necessary objectives and provides value for money.
- 8.3 The Council has also considered procuring the works via the open market or utilising the MHA Framework, but these options were not pursued for the reasons set out in paragraphs 7.11 to 7.18.

9. LEGAL IMPLICATIONS

- 9.1 The Council is placing further works packages under the Highway Services Agreement pursuant to its powers contained in sections 30, 38, 43, 50, 96, 134, 278 and 301 of the Highways Act 1980. The Highway Services Agreement was procured under the Competitive Dialogue Procedure (under regulation 18 of the Public Contracts Regulations 2006).

10. FINANCIAL IMPLICATIONS

- 10.1 Approving the recommendation will ensure that that the planned expenditure is consistent with the capital program of works via the performance measurement and efficiency mechanisms built into the Highway Services Agreement.

11. PROCUREMENT IMPLICATIONS

- 11.1 There are no procurement implications.

12. EQUALITY IMPLICATIONS

12.1 An Initial Equality Impact Assessment has been carried out and there are no detrimental effects associated with the scheme. In addition, further consultation will be undertaken to ensure that the views of different groups is carefully considered before the scheme is constructed.

13. DECLARATIONS / CONFLICTS OF INTEREST & DISPENSATIONS GRANTED

13.1 None

14. 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

- Peterborough Local Transport Plan 4 (2016 – 2021)
- <http://www.peterborough.gov.uk/ltp>
- 2008 Public Realm Strategy