

 Brent	Key Officer Decision
	Report to Strategic Director Regeneration and Environment
Authority to Award Contract for Street Lighting Maintenance	

Wards Affected:	All
Key or Non-Key Decision:	Key decision
Open or Part/Fully Exempt:	Part Exempt – Appendices 1, 3 and 4 are exempt as they contain the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: "Information relating to the financial or business affairs of any particular person (including the authority holding that information)"
No. of Appendices:	4
Background Papers:	none
Contact Officer(s):	Kieron Condon, AMILP Senior Contracts Manager Kieron.condon@brent.gov.uk 020 8937 1052

1.0 Purpose of the report

- 1.1 This report recommends the award of the Council's contract for the provision of street lighting maintenance services up to 31st March 2023, as required by Contract Standing Order 88. The report summarises the process undertaken in tendering the contract and, following evaluation of the tenders, recommends to whom the contract should be awarded.

2.0 Recommendation

That the Strategic Director of Regeneration and Environment:

- 2.1 Approves the award of the contract for street lighting maintenance services to FM Conway Limited for an initial period of three years and ten months from 1st June 2019 up to 31st March 2023 with an option to extend for up to a further two years.

3.0 Detail

- 3.1 The main purpose of street lighting is to minimise the risk of road traffic accidents for motorists, cyclists and pedestrians. Street lighting can also play a role in the reduction of car crime, and fear of crime generally, in addition to encouraging economic and social activity during the hours of darkness.
- 3.2 The Council is responsible for maintaining almost 21,000 street lights and columns, and 5,600 other street lighting assets. These include illuminated signs, bollards and Belicia beacons. Maintenance activities ensure that street lighting assets remain in light and are maintained to maximise their life span. Maintenance activities include scouting, lamp replacement, cleaning, electrical testing and structural testing.
- 3.3 The Council's project to replace all existing SON-T street light luminaires project with an LED luminaire and a CMS (Central Management System) node is close to completion. The project will reduce the planned maintenance activities required under the new street lighting maintenance contract due to commence on 1st June 2019. This includes:
- A reduced requirement for scouting, as the CMS remotely monitors whether each street lighting luminaire is working, so faults can be identified through CMS system reporting. However, the CMS does not monitor street furniture, so some scouting will continue.
 - The new LED luminaires have a warranty of 10 years, therefore bulk lamp changes to street lights are not required for the duration of this contract.
 - Electrical testing of electrical assets will not be required for: up to two years for non-street lighting assets: and 4 years for street lighting, following installation of the new LED luminaires.
 - The volume of street lighting faults should reduce significantly, as all the luminaires will be new.
- 3.4 The Council's 20-year street lighting PFI contract expired on 30th November 2018. At the end of this contract, the Contractor (PFI Ltd) has provided to the Council a warranty that all of the street lighting columns will have a residual life of not less than five years without requiring replacement or major structural repairs. The warranty excludes column replacements required following third party damage, theft or from a lack of routine maintenance. The warranty has also provided the Council with the opportunity to pause from replacement of street lighting columns for five years, from December 2018 to November 2023. This will avoid costs estimated at £2m p.a. over the five years covered by the warranty. It is anticipated that lighting column replacement will need to re-commence by December 2023 at the latest. In the 12th March 2018 Cabinet report, it was reported that discussions were underway between PFIL and Bouygues (the current short term maintenance contractor) to transfer the warranty obligation from PFIL
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to Bouygues. The two organisations were unable to agree commercial terms, therefore PFIL remain the warranty holder.

3.5 The maintenance contract also includes provision to rectify:

- routine street lighting faults within 5 days;
- repeat faults within 1 day; and
- a 4-hour emergency response service in normal daytime working hours, and a 3-hour response outside normal working hours (when street lighting is more likely to be on), in the event of an asset becoming unsafe due to a road traffic accident or vandalism for example.

Strategy

3.6 Cabinet agreed the procurement strategy for this service in March 2018. It was decided to set an end date for the contract in March 2023, in line with other Environmental services, to facilitate a coherent strategic decision on service provision.

3.7 The Council also looked at the option of bringing the service in house. This option was not pursued for the current contract as:

- It would require prohibitive start-up costs, particularly in vehicles and equipment
- The Council does not currently possess the expertise or experience to manage the service directly
- The Council does not possess the equipment and vehicles required
- A highly localised service would find it difficult to recruit and retain staff
- Complex Transfer of Undertaking
- Higher staffing on-costs
- The overall additional costs would be prohibitive

3.8 Due to the large investment in our street lighting infrastructure over the past 20 years, lighting faults will be reduced in comparison to the old street lighting lanterns. In addition, the service credit regime in the contract will provide a strong incentive to eliminate under-performance.

The Tender Process

3.9 The new contract will be let for an initial term of three years and ten months to the end of March 2023, with option for an extension period of up to two years if desired, to provide additional flexibility and manage risk. Cabinet approval was originally obtained for a contract term of 4 years plus extension period but due to the delays in the tender process as detailed above it is considered necessary to let the contract for an initial term of three years and ten months to the end of March 2023, thereby aligning the end date with that of the Public Realm, Parking, and Trees Maintenance contracts.

- 3.10 Advertisements and invitation to tender documents were placed in the Official Journal of the European Union (OJEU) and the London Tenders Portal on 21st November 2018. Prospective bidders were invited to complete a questionnaire, which covered their financial viability and technical ability, and submit a full tender response. The tender submission closing date was 17th December 2018. Following requests from potential bidders, the tender deadline was extended to 12pm on 10th January 2019.
- 3.11 Tenders were opened on the afternoon of 10th January 2019. Three contractors completed the questionnaire and submitted full tenders using the Council's Electronic Tendering Facility.
- 3.12 All contractors' selection questionnaire responses were assessed between 10th January 2019 and 15 March 2019.
- 3.13 Tenders were then evaluated based on price and quality. The price element of the tender evaluation comprised 40% of the available mark, with the remaining 60% based on quality. In evaluating tenders, the Council assessed the following weighted criteria:

	Tender Evaluation Criteria	Weighting (%)
Q1	Management of the Contract	6
Q2	Mobilisation	6
Q3	IT	4
Q4	Provision of the service	10
Q5	De-mobilisation	4
Q6	Relationship with Authority	4
Q7	Continuous improvement	4
Q8	Right first time	6
Q9	Health and safety	6
Q10	Social value	10
	Pricing	40

Evaluation process

- 3.14 The tender evaluation was carried out by a panel of officers drawn from the Parking and Lighting service (Regeneration and Environment) and moderated by Procurement (Resources).
- 3.15 Three valid tenders were received and circulated to the evaluation panel. Each member of the evaluation panel read the tenders, and then carried out an initial evaluation of how well they considered each of the award criteria had been addressed in each tender.
- 3.16 The panel met and each submission was marked by the whole panel against the award criteria.
- 3.17 The names of the tenderers are contained in Appendix 1. The scores received by the tenderers are included in Appendix 2. The tender from
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Contractor B, namely FM Conway Limited, achieved the highest score. Officers therefore recommend the award of the contract to FM Conway Limited.

- 3.18 The contracts will commence on 1st June 2019 subject to the Council's observation of the requirements of the mandatory standstill period, noted in paragraph 5.4 below.

4.0 Financial Implications

- 4.1 Under the PFI contract, the annualised street lighting contract spend was £3.3m per annum. This covered both the cost of replacing lighting columns and the cost of all maintenance services. Following the expiry of the PFI contract on 30th November 2018, the Council currently has a five-month interim maintenance contract in place. The new contract commencing on 1st June 2019 will be a maintenance-only contract, and has previously been forecast to cost up to £1m p.a. Budget pressure would be expected to be higher in 2021/22 and 2022/23, as planned maintenance will be then required for electrical testing and structural inspections for highway sign posts and bollards. These activities will not be necessary for street lights during the term of the contract (up to March 31st 2023), as these activities have been completed as part of the LED installation programme.
- 4.2 A due diligence check has been carried out on FM Conway Limited based on a potential contract value. A review undertaken by Finance officers has confirmed that the company has passed this financial viability test.

5.0 Legal Implications

- 5.1 The Highways Act 1980 empowers the Council as Highway Authority to provide street lighting. The Council has a duty of care to the highway users and must ensure it can demonstrate it has systems and programmes in place to ensure the safety of all highway lighting equipment.
- 5.2 The estimated value of this contract for Street Lighting Maintenance Services over its lifetime is in excess of the EU threshold for Services and the award of the contract is therefore governed by the Public Contracts Regulations 2015 (the "EU Regulations"). The award is subject to the Council's Contract Standing Orders ("CSOs") and Financial Regulations in respect of High Value Contracts.
- 5.3 As the contract is classified as a High Value Contract, CSOs provide that Cabinet should approve the award of the contract. However, Cabinet on 12 March 2018 delegated authority to the Strategic Director of Regeneration and Environment in consultation with the Lead Member for Environment to award the contract.
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- 5.4 The Council must comply with the EU Regulations relating to the observation of a mandatory minimum 10 calendar day standstill period before the contract can be awarded. Therefore, once the Strategic Director has determined which tenderer should be awarded the contract, all tenderers will be issued with written notification of the contract award decision. A minimum 10 calendar day standstill period will then be observed before the contract is concluded – this period will begin the day after all Tenderers are sent notification of the award decision – and additional debrief information will be provided to unsuccessful tenderers in accordance with the EU Regulations. As soon as possible after the standstill period ends, the successful tenderer will be issued with a letter of acceptance and the contract can commence.
- 5.5 The proposed form of contract is a New Engineering Contract 3 (NEC3) Term Maintenance Contract. This is a standard form contract with specific amendments. It is a widely used and trusted form of contract which encourages joint working with the contractor. It is recommended by the Department for Transport as best practice.
- 5.6 As the preferred contractor is different from the contractor currently delivering street lighting maintenance services, staff employed by the current contractor will be eligible to transfer pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006. Further comments regarding staffing are contained in Section 8.

6.0 Equality Implications

- 6.1 An Equalities Analysis screening exercise has been undertaken and no specific diversity implications have been identified arising from this report.

7.0 Consultation with Members and Stakeholders

- 7.1 The Lead Member for Environment has been consulted on the contents of this report.

8.0 Human Resources/Property Implications (if appropriate)

- 8.1 This service is currently provided by an external contractor (Bouygues) and there are no implications for Council staff or premises arising from retendering the contracts.

9.0 Public Services (Social Value) Act 2012

- 9.1 The Council is under a duty pursuant to the Public Services (Social Value) Act 2012 (“the Social Value Act”) to consider how services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the Council might act with a view to securing that improvement; and
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whether the Council should undertake consultation. Officers have had regard to considerations contained in the Social Value Act in relation to the procurement.

- 9.2 Social value has contributed 10% towards the evaluation score. FM Conway PLC has a dedicated corporate social responsibility team (CSR) who will provide Brent with specialist skills in community engagement and social development. They will work in partnership with Brent and local stakeholders to develop long term, sustainable opportunities for local people and businesses to thrive. FM Conway will be responsible for capturing local intelligence to maximise the impact of our investment by identifying existing local initiatives and priorities where FM Conway can contribute in the most effective way. Full details are set out in Appendix 4.

10.0 Performance Management of the Contract

- 10.1 A full contract management strategy has been developed for the lifetime of the contract.
- 10.2 A set of key performance indicators were developed and included as part of the tender pack (Service Information). These were developed by the Council with the Street Lighting Consultant, taking on board best practice from the Department for Transport guidance and lessons learnt from other Councils (for example Surrey, who have a similar size estate). The key performance indicators are as follows:
- Lighting Units working as planned
 - Time taken for fault repairs – street lighting non-electricity board
 - Time taken for fault repairs (illuminated signs and bollards) non electricity board
 - Attendance at emergency call out
 - Time to permanently repair damaged unit following emergency attendance.
 - Overdue works
 - Health and safety
 - Reporting
 - Routine maintenance
 - Accuracy of MIS and Time taken to update MIS
- 10.3 The Council will be able to track faults utilising the Management Information System.
- 10.4 There was a set of credits that would be payable to the Council in the event of the contractor not meeting key deadlines.
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10.5 The Council has a full team to manage the contract (including a specialist street lighting Senior Contracts Manager) and this is set out below:

- Senior Contracts Manager (PO7)
- Principle Lighting Engineer (PO3)
- Contract Monitoring Officer (SO2)

10.6 Full details of the strategy are set out in Appendix 3.

Related documents: Cabinet Report 12th March 2018 - Street Lighting Maintenance: i) Authority to Award Interim Contract; ii) Authority to Tender Contract; and iii) Warranty Transfer

Report sign off:

AMAR DAVE

Strategic Director of Regeneration and Environment
