

	Officer Key Decision
	Report to the Corporate Director, Resident Services
	Lead Cabinet Member of Environment
Authority to Tender Contract for Highway Spray Injection Patching	

Wards Affected:	All
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
List of Appendices:	None
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	<p>Jonathan Westell, Highways Contracts & Delivery Manager jonathan.Westell@brent.gov.uk</p> <p>Tony Kennedy, Head of Service, Highways Management tony.kennedy@brent.gov.uk</p> <p>Chris Whyte Director, Environment & Leisure chris.whyte@brent.gov.uk</p>

1.0 Executive Summary

- 1.1. This report concerns the proposal to carry out a borough wide programme for the repair of potholes and carriageway defects across Brent's highway network using a specialist injection-patching contractor. This report requests approval to invite tenders in respect of Highway Injection Patching Works as required by Contract Standing Orders 88 and 89

2.0 Recommendation(s)

That the Corporate Director, Resident Services:

- 2.1 Approves inviting tenders for Highway Injection Patching Works on the basis of the pre - tender considerations set out in paragraph 3.2.10 of the report.
- 2.2 Approves Officers evaluating the tenders referred to in paragraph 2.1 above on the basis of the evaluation criteria set out in paragraph 3.2.10 section (vi) of the report.

3.0 Detail

3.1 Contribution to Borough Plan Priorities & Strategic Context

3.1.1 This work aligns well with our Borough Plan, particularly “Prosperity & Stability in Brent” and “A Cleaner Greener Future”. Our efforts to reduce the carbon footprint of our highways works help our “Climate and Ecological Emergency Strategy”. The proposed injection patching contract will be procured in accordance with the “Procurement Strategy”. Overall, highway maintenance allows our highway assets their continued availability to contribute towards the “Transportation Strategy”.

3.2 Background

3.2.1 The Council requires the provision of Highways Injection Patching Works. It has been determined that the most appropriate means of providing such works is through the procurement of a contractor by way of a tender process.

Alternative Options Considered

3.2.2 This work is to be delivered through a specialist contractor using specialist machinery and trained operatives. Due to the required capital and ongoing revenue investment it is not considered practical, at the present time, to purchase the necessary equipment and recruit and train staff to enable this service to be delivered in-house.

3.2.3 The estimated cost of purchasing an injection patching machine by itself is in the region of £200,000 with the life expectancy of a vehicle believed to be around 10 years, subject to usage and servicing. Regular maintenance is essential to ensure the vehicle operates to its optimum. Storage facilities for the machine and materials would also need to be identified, however this is seasonal work taking place through the summer period and to resource staff throughout the year and store the machines does not appear to be viable at this time.

3.2.4 This procurement is below the threshold for works set out in the Public Contracts Regulations 2015. The Council will therefore invite tenders from a select number of organisations, which the Highways and Infrastructure Team have identified as being suitable and experienced in delivering these requirements.

3.2.5 The requirement is using new technology for patching work on Highways, therefore there are limited number of suppliers in the market. As a result three pre-identified organisations will be invited to register on the Council’s e-procurement system and to tender for the contract.

Additional Background

3.2.6 The Council is looking for a supplier to carry out a borough wide programme for the repair of potholes and carriageway defects across Brent’s highway network using a specialist injection patching supplier.

3.2.7 This is required to reduce the number of visible defects (potholes/cracks) on our road network and improve the feel of the local environment.

3.2.8 The Council is expecting the supplier to deliver a large number of repairs across the borough, approx. 60 per day, over a sustained period of about 4 months per annum or until the allocated budget has been exhausted, as works need to be carried out in the summer when the temperature is higher.

3.2.9 Overall, this work will assist the Council to:

- deliver its statutory duty to manage and maintain the borough’s carriageways so they are fit for purpose and safe to use.
- reduce the number of visible defects (potholes / cracks) on our road network and improve the overall feel of the local environment.
- reduce the volume of customer reports and complaints received by the Highways & Infrastructure Service regarding the condition of the carriageway.
- improve satisfaction levels amongst our residents and businesses.

3.2.10 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations for the procurement of the contract for Highways Injection Patching (the “Contract”) have been set out below for the approval of the Corporate Director.

Ref.	Requirement	Response	
(i)	The nature of the works.	Highways Injection Patching	
(ii)	The estimated value.	£1,000,000 (One million GBP) over the duration of the whole contract term based against current budget allocation.	
(iii)	The contract term.	48 Months. No extensions	
(iv)	The tender procedure to be adopted.	As set out in sections 3.4 and 3.5 of this report.	
(v)	The procurement timetable.	The indicative dates are:	
		Invite to tender	30/10/2023

Ref.	Requirement	Response																
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(vi)	The evaluation criteria and process.	<p>1. At selection stage shortlists are to be drawn up in accordance with the Council's Contract Procurement and Management Guidelines by the use of a selection questionnaire to identify organisations meeting the Council's financial standing requirements, technical capacity and technical expertise.</p> <p>2. At tender evaluation stage, the panel will evaluate the tenders against the following criteria:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>Technical / Quality</th> <th>Weighting</th> </tr> </thead> <tbody> <tr> <td>Q1 Delivery</td> <td>10%</td> </tr> <tr> <td>Q2 Resources</td> <td>9%</td> </tr> <tr> <td>Q3 Traffic Management</td> <td>7%</td> </tr> </tbody> </table>	Technical / Quality	Weighting	Q1 Delivery	10%	Q2 Resources	9%	Q3 Traffic Management	7%								
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(vii)	Any business risks associated with entering the contract.	No specific business risks are considered to be associated with entering into the proposed contract. Financial Services and Legal Services have been consulted concerning this contract																		
(viii)	The Council's Best Value duties.	Due to the use of new technology in delivering the required works it is proposed that a limited number of suppliers who have been identified as being capable of undertaking this work with said technology are invited to tender. This will generate competition whilst ensuring that the appointed supplier can meet the Council's requirements.																		
(ix)	Consideration of Public Services (Social Value) Act 2012	<p>The Council is under 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 whether the Council should undertake consultation. Whilst the Social Value Act does not apply to works contracts, Officers have nonetheless had regard to considerations contained in the Social Value Act in relation to the procurement.</p> <p>Brent Council have a comprehensive Social Value Action Plan with a range of highlighted areas where Social Value contribution is possible. The tender will include a minimum of three strategic objectives, which the bidder will respond to, which will be</p>																		

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		enforceable within the terms of the contract. If the supplier has not delivered on their commitments given on their Social Value method statement, the Council is within its rights to charge the supplier the amount committed in order for the commitment to be delivered. The contract manager will manage this, with all KPI commitments monitored by Procurement.					
(x)	Any staffing implications, including TUPE and pensions.	See section 9.0 below.					
(xi)	The relevant financial, legal and other considerations.	See sections 5.0 and 6.0 below.					
(xii)	Sustainability	Due to the nature of this project, sustainability commitments will be included as part of this tender. See (vi) above.					
(xiii)	Key Performance Indicators / Outcomes	There is a detailed KPI scorecard which will be included in the tender and the areas which are being measured are as follows: <table border="1" data-bbox="662 1093 1348 1272"> <tr> <td>Communication & Reporting</td> </tr> <tr> <td>Health, Safety & Environment</td> </tr> <tr> <td>Customer Care</td> </tr> <tr> <td>Site Standards & Quality Management</td> </tr> <tr> <td>Performance & Project Delivery</td> </tr> </table>	Communication & Reporting	Health, Safety & Environment	Customer Care	Site Standards & Quality Management	Performance & Project Delivery
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(xiv)	London Living Wage (LLW)	This contract will require the supplier to pay LLW					
(xv)	Contract Management	As this contract is deemed as operational, according to the Contract Management Policy 2020, a 6 monthly review needs to be completed.					

4.0 Stakeholder and ward member consultation and engagement

4.1 No specific consultation has been undertaken. Both the Leader of the Council and the Lead Cabinet Member for Environment are advocates of the injection patching method.

5.0 Financial Considerations

5.1 This will be funded through the annual £3.5m Highways budget, approved by full council in March through the capital budget setting process.

6.0 Legal Considerations

- 6.1 The proposed contract for Highway Injection Patching Works (the “Contract”) is below the threshold for works contracts under the Public Contracts Regulations 2015 (“PCR 2015”) and as such the PCR 2015 only apply in part to the procurement of the contract.
- 6.2 The Contract is classed as a Medium Value Contract under the Council’s Contract Standing Orders. For Medium Value Contracts, the Corporate Director must approve the pre-tender considerations set out in paragraph 3.2.11 above (Standing Order 89) and the inviting of tenders (Standing Order 88).
- 6.3 Once the tendering process is undertaken, Officers will report back to the Corporate Director / Director in accordance with Contract Standing Orders, explaining the process undertaken in tendering the contracts and recommending award.
- 6.4 Section 41 of the Highways Act 1980 places a duty on the council as highways authority to maintain the public highway. Both planned and reactive maintenance programmes must make sufficient provision for the Council to comply with this duty. Breach of this duty can render the council liable to pay compensation if anyone is injured as a result of failure to maintain the highway. There is also a general power under section 62 of the Highways Act 1980 to improve highways.
- 6.5 Officers have determined that it would be suitable to use the NEC4 Term Services Contract (2017 version) for this Contract.

7.0 Equality, Diversity & Inclusion (EDI) Considerations

- 8.1 The Council must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment and victimisation
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it,pursuant to s149 Equality Act 2010. This is known as the Public Sector Equality Duty.
- 8.2 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 8.3 The purpose of the duty is to enquire into whether a proposed decision disproportionately affects people with a protected characteristic. In other words,

the indirect discriminatory effects of a proposed decision. Due regard is the regard that is appropriate in all the circumstances.

- 8.3 The proposals in this report have been subject to screening and Officers consider that there are no adverse equality implications.

8.0 Climate Change and Environmental Considerations

- 8.1 Injection Patching is an innovative approach for quickly tackling thousands of defects, delivering permanent repairs that cost a fraction of traditional patching techniques.

- 8.2 There's no excavation, no waste, no need for road closures, and because there's no heat involved, it's also exceptionally low on carbon emissions.

- 8.3 Well-maintained roads can help to reduce the carbon emissions of road traffic. With transport now accounting for the majority of UK emissions – 26% of all emissions – the contribution that a well-maintained road network can make towards their reduction should be recognised and pursued.

- 8.4 Analysis of the relationship between road pavement maintenance condition, fuel consumption and vehicle emissions by Smart Transport Alliance found that good road surface conditions result in reductions of fuel consumption and CO2 emissions of up to 3.5% for light vehicles and 4% for heavy vehicles.

9.0 Human Resources/Property Considerations (if appropriate)

- 9.1 There are no Human resources implications for Council staff associated with this contract.

- 9.2 To keep costs down, in accordance with past practice with previous injection contracts, it is intended to allow the successful tenderer to use a small area within an existing Council depot to operate out of, including storage of materials and overnight parking for the injection patching vehicle. Use of the Council depot will be on a lease/licence basis.

10.0 Communication Considerations

- 10.1 None

Report sign off:

Peter Gadsdon
Corporate Director, Resident Services