

	Cabinet 12 November 2024
	Report from the Corporate Director, Neighbourhoods & Regeneration
	Lead Member - Cabinet for Environment and Enforcement (Councillor Krupa Sheth)
Authority to invite tenders for the provision of Street Lighting Maintenance Services	

Wards Affected:	All
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
No. of Appendices:	None
Background Papers:	None
Contact Officer(s): (Name, Title, Contact Details)	Tony Kennedy, Head of Highways Management 020 8937 5025 tony.kennedy@brent.gov.uk

1.0 Purpose of the Report

1.1 This report concerns the procurement of Street Lighting services for maintenance and schemes. This report requests approval to invite tenders in respect of a contract for the provision of street lighting maintenance services as required by Contract Standing Orders 88 and 89.

2.0 Recommendation(s)

That Cabinet:

2.1 Approve inviting tenders for the provision of Street Lighting Maintenance Services on the basis of the pre - tender considerations set out in paragraph 3.3 of the report.

- 2.2 Approve Officers evaluating the tenders referred to in 2.1 above on the basis of the evaluation criteria set out in paragraph 3.3.1 section (vi) of the report.
- 2.3 Delegate authority to the Corporate Director, Neighbourhoods and Regeneration in consultation with the Lead Member for Environment and Enforcement to award the contract for the provision of Street Lighting Maintenance Services for a term of four (4) years with the option to extend by yearly periods up to a maximum of two (2) years (on a 4+1+1 basis).
- 2.4 Approve the variation of the existing contract for street lighting maintenance services with FM Conway to permit the extension for the reasons set out in paragraph 3.2.7.
- 2.5 Approves the extension of the Contract detailed in paragraph 2.4 for a period of three (3) months from 1 April 2025 to 30 June 2025 in the sum of £333,000.00 for the reasons set out in paragraph 3.2.7.

3.0 Detail

3.1 Cabinet Member Foreword

- 3.1.1 The purpose of street lighting is to improve road safety 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. It is therefore essential we have provision in place for planned and reactive maintenance to ensure our lighting assets remain in good working order.
- 3.1.2 It will directly contribute to strategic priorities 1, 2 and 5 of the Borough Plan. Priority 1: Prosperity & Stability in Brent – Working street lighting supports the nighttime economy. Priority 2: A Cleaner Greener Brent, Priority 5: A Healthier Brent – working lighting set at appropriate levels encourages walking and cycling whilst also reducing the perception of fear of crime.

3.2 Background

- 3.2.1 The Council requires the provision of street lighting maintenance services of its street lighting stock, including illuminated signs and bollards. Officers have considered whether the provision of street lighting maintenance services can be provided by the Council itself but have concluded that street lighting maintenance services is best provided by an external contractor.
- 3.2.2 The maintenance services within the proposed contract will ensure that street lighting assets remain in light and are maintained to maximise their life span. The service also includes provision to rectify faults within 48 hours; and a 2 hour emergency response service in the event of an asset becoming unsafe due to a road traffic accident or vandalism, for example.

- 3.2.3 The Council use Symology to order and monitor scheme delivery and a Central Management System (CMS) to remotely monitor / adjust lighting levels. The CMS also detect faults that can then be issued to the contractor for repair / investigation
- 3.2.4 During the term of the new contract it will be necessary to carry out structural and electrical testing on all circa 21,000 columns. A similar exercise has just been completed and all columns categorised as "red" have been replaced. A number of columns categorised as "amber with limitations" will require further investigation during the new contract to confirm if the column needs to be replaced.
- 3.2.5 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 Belisha beacons. FM Conway Limited are the current contractors delivering the service, having been appointed in 2019 on a 6 year contract on a 4+2 years basis. The current contract expires on 31 March 2025 and the Council requires street lighting maintenance services thereafter.
- 3.2.6 The purpose of this report is to seek approval to go out to tender for the provision of a contractor to deliver the full range of street lighting maintenance services for the Council.

Extension of existing contract

- 3.2.7 Officer also recommend the variation and extension of the existing contract for street lighting maintenance services with FM Conway for a period of 3 months from 1 April 2025 to 30 June 2025. The Council entered into contractual arrangements for street lighting maintenance services with FM Conway on the 1st June 2019 for a period of 3 years with options to extend by a further 2 years. The extension options in the contract have been utilised and the contract is due to expire on 31 March 2025. Officers envisage that the new contract for Street Lighting Maintenance Services will not be in place by 1 April 2025 due to the lack of resources to prepare the procurement which has led to time constraints with the procurement timetable. Officers therefore recommend that the existing contract is varied and extended for a period of 3 months to avoid a disruption of services until the procurement process is completed and the new contract is in place. Officers have entered into discussions with FM Conway to explore the possibility of varying and extending the existing contract from 1 April 2025 to 30 June 2025, and FM Conway have indicated their agreement to the proposed variation and extension for 3 months.

3.3 Pre-tender Considerations

- 3.3.1 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations for the procurement of the contract for Street Lighting maintenance services (the "Contract") have been set out below for the approval of the Cabinet.

Ref.	Requirement	Response	
(i)	The nature of the services / supplies / works.	The provision of planned and reactive maintenance services for all illuminated street furniture, including street lighting, illuminated signs and bollards. The provision of services to deliver scheme work for both Council and third party schemes. Provision of call-out service.	
(ii)	The estimated value.	Circa £8m excluding VAT (over six (6) years on an initial four (4) year term with options to extend by yearly periods up to a maximum of two (2) years)	
(iii)	The contract term.	Four (4) years with the option to extend by yearly periods up to a maximum of two (2) years (on a 4+1+1 basis)	
(iv)	The tender procedure to be adopted.	Open	
(v)	The procurement timetable.		Indicative dates are:
		Adverts placed	December 2024
		Expressions of interest returned	January 2025
		Invite to tender	January 2025
		Deadline for tender submissions	February 2025
		Panel evaluation and shortlist	February 2025
		Interviews (if any) and contract decision	March 2025
		Report recommending Contract award circulated internally for comment	March 2025
		Corporate Director approval	April 2025
		Minimum 10 calendar day standstill period – notification issued to all	April 2025

Ref.	Requirement	Response
		<p>tenderers and additional debriefing of unsuccessful tenderers (contracts covered by the full requirements of PCR 2015 only)</p>
		<p>Contract Mobilisation</p> <p>May 2025</p>
		<p>Contract start date</p> <p>1 July 2025</p>
(vi)	The evaluation criteria and process.	<p>1. A selection questionnaire will be used to identify organisations meeting the Council's financial standing requirements, technical capacity and technical expertise.</p> <p>2. For those meeting the requirements, the panel will evaluate the tenders against the following criteria:</p> <ul style="list-style-type: none"> • Price 40% • Quality 50% • Social Value 10% • Health & Safety compliance pass/fail
(vii)	Any business risks associated with entering the Contract.	No specific business risks are considered to be associated with entering into the Contract.
(viii)	The Council's Best Value duties.	An open tendering process will enable the Council to achieve best value for money.
(ix)	Consideration of Public Services (Social Value) Act 2012	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. Officers have had regard to considerations contained in the Social Value Act in relation to the procurement and social value forms 10% of the evaluation score.
(x)	Any staffing implications, including TUPE and pensions.	See section 9 below.

Ref.	Requirement	Response
(xi)	The relevant financial, legal and other considerations.	See sections 5 and 6 below.
(xii)	Sustainability	This has been assessed in line with the Procurement Sustainability Policy and determined that a quality measure for sustainability is not required and can be captured as part of the Social Value criteria.
(xiii)	Key Performance Indicators / Outcomes	Appropriate Key Performance Indicators / Outcomes will be included in the Contract.
(xiv)	London Living Wage	The Contract will require the payment of the London Living Wage.
(xv)	Contract Management	A contract manager will be appointed and appropriate contract management provisions will be included in the Contract.

3.3.2 Cabinet is asked to give its approval to these proposals as set out in the recommendations and in accordance with Standing Order 89.

4.0 Stakeholder and ward member consultation and engagement

4.1 The Cabinet Member for Environment and Enforcement has been consulted on this report.

5.0 Financial Considerations

5.1 The estimated total value of the service to be provided under the contract over the contract term of 6 years (4+1+1) is £8m at today's prices.

5.2 The 3 month extension has been agreed with the supplier, which is in line with the current contract price, and therefore within existing budget.

5.3 The cost of the new Contract will be funded from existing revenue budget within Highways Management.

6.0 Legal Considerations

6.1 The estimated value of the Contract is above the threshold for Services under the Public Procurement Regulations 2015 (the "PCR 2015") and the procurement is therefore governed by the PCR 2015.

6.2 The procurement is subject to the Council's own Standing Orders and Financial Regulations in respect of High Value Contracts given the procurement is valued at £8,000,000 plus VAT for High Value Contracts, the Cabinet must approve

the pre-tender considerations set out in paragraph 3.3 above (Contract Standing Order 89) and the inviting of tenders (Contract Standing Order 88).

- 6.3 In accordance with Recommendation 2.3, once the tendering process is undertaken, Officers will report to the the Corporate Director, Neighbourhoods & Regeneration explaining the process undertaken in tendering the Contract and recommending award.
- 6.4 As this procurement is subject to the full application of the PCR 2015, the Council must observe the requirements of the mandatory minimum 10 calendar standstill period imposed by the PCR 2015 before the Contract can be awarded. The requirements include notifying all tenderers in writing of the Council's decision to award and providing additional debrief information to unsuccessful tenderers on receipt of a written request. The standstill period provides unsuccessful tenderers with an opportunity to challenge the Council's award decision if such challenge is justifiable. However if no challenge or successful challenge is brought during the period, at the end of the standstill period the Council can issue a letter of acceptance to the successful tenderer and the Contract may commence.
- 6.5 As the decision that is being sought here is a Key Decision, the decision may not be taken by Cabinet unless this matter has been published on the Forward Plan. The Key Decision must be published on the Forward Plan (Paragraph 30 of the Access to information rules) and must be included on the Forward Plan not less than 28 days before the decision is to be made. (Paragraph 34 of the Access to Information Rules).
- 6.6 As the decision that is being sought here is a Key Decision, the decision is subject to a 5 clear day call-in period. This call-in period will run concurrently with the standstill period under the PCR 2015. The decision to award may not be implemented until after expiry of the call-in period provided that no call in has been made.
- 6.7 The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) is likely to apply where there is a continuation of the service by a new provider upon contract award. Should a new provider be awarded the Contract then TUPE is likely to apply in this instance. There will be no Council staff impacted by this decision.
- 6.8 Officers recommend the variation and extension of the original contract for street lighting maintenance services with FM Conway as set out in paragraphs 2.4 and 2.5. The value of the original contract is such that it is subject to application of the Public Contract Regulation 2015 (PCR 2015).
- 6.9 A contract may only be modified (to include an extension) without a new procurement procedure where this is done in accordance with Regulation 72 of the PCR 2015. Regulation 72 sets out various circumstances in which it is possible to vary and extend a contract. Regulation 72 (1)(b) of the PCR 2015

states that contract and framework agreements may be modified without a new procurement procedure for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor:

- (i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, and
- (ii) would cause significant inconvenience or substantial duplication of costs for the contracting authority;

provided that any increase in price does not exceed 50% of the value of the original contract.

7.0 Equity, Diversity & Inclusion (EDI) Considerations

7.1 Pursuant to s149 Equality Act 2010 (the “Public Sector Equality Duty”), the Council must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act
- (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,

7.2 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.

7.3 Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.

7.4 There is no prescribed manner in which the council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary.

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

7.6 There are no health equalities implications arising from this report

8.0 Climate Change and Environmental Considerations

8.1 All of our light columns have been converted to LED and subjected to lighting level reviews for dimming. During the term of the Contract further energy savings will be explored through an illuminated bollard replacement programme and review of illuminated signs.

9.0 Human Resources/Property Implications (if appropriate)

9.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from retendering the Contract. However, if a new provider is awarded the Contract then there will be TUPE implications with staff from the incumbent provider liable to transfer pursuant to TUPE to the new provider. As part of the procurement process all employee liability information will be shared with bidders.

9.2 This service is currently provided by an external contractor and there are no property considerations.

10.0 Communication Considerations

10.1 N/A

Report sign off:

Alice Lester
Corporate Director,
Neighbourhoods and Regeneration