

Subject:	Coast Protection and Highway Structures Maintenance Framework Agreement		
Date of Meeting:	18th July 2019		
Report of:	Executive Director, Economy, Environment & Culture		
Contact Officer:	Name:	Alistair Booton	Tel: 01273 291733
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

1.1. This report seeks approval for the tendering and award of a new framework agreement to provide for the structural maintenance of the City's coast defences and highway structures.

2. RECOMMENDATIONS:

2.1. That Policy Resources & Growth Committee:

2.1.1. Approves the procurement of a new framework agreement for structural maintenance works to coast defences and highway structures with a term of four years and provision for an extension of the term by up to a further two years;

2.1.2. Grants delegated authority to the Executive Director of Economy, Environment & Culture to:

- (i) Carry out the procurement and award of the framework agreement referred to in 2.1.1
- (ii) Enter into call-off contracts under the framework agreement referred to in 2.1.1
- (iii) Grant an extension of the term of the framework agreement for a period of up to two years, subject to satisfactory performance by the successful contractor

3. CONTEXT/ BACKGROUND INFORMATION

3.1 The Council is a coast protection authority and a highway authority.

Coast Protection

- 3.2 The powers under the Coastal Protection Act 1949 enable the Council to carry out works to defend its 14km of coastline from the impact of coastal erosion and flooding.
- 3.3 Current coastal defences consist of shingle beaches, timber and concrete groynes, seawalls and the Undercliff Walk. These defences provide protection to both residential and commercial properties, as well as strategically important infrastructure such as Shoreham Power Station, Shoreham Sewerage Works and the A259 coast road, which has recently been included within the Department for Transport's Major Road Network.
- 3.4 The coastal defences also provide protection to the City's beaches and promenades, which form a fundamental part of the attractiveness of Brighton & Hove as a leisure and tourist destination.
- 3.5 The on-going maintenance and improvement of the coastal defences is critical to ensure that the impact of climate change and the resultant rise in sea levels, does not negatively impact the draw of the seafront to the visitor economy.

Highway Structures

- 3.6 As a highway authority under the 1980 Highways Act the Council carries out a range of activities under a number of different contracts. 'Highways Structures' is the collective term given to the bridges, retaining walls, tunnels and subways that support or cross the public highway. Highway structures provide physical support to parts of the highway network and require regular maintenance and repair to ensure their effectiveness and safety. As a highway authority, the Council is required to maintain the public highway free from danger.
- 3.7 The Transport Projects and Engineering Team currently carries out repairs, reconstruction and general maintenance of our coast defences and highway structures under an Engineering and Construction contract that is due to expire on 30 September 2019.
- 3.8 It is therefore necessary to procure a new single supplier framework agreement to be in place following the expiry of the existing maintenance contract. The length of the agreement for 4 years with the provision for an extension of 2 years, will enable longer term programming of inspections and work. A single supplier agreement is preferred as typically the value of contract works is low, c.£300,000 per annum, which would not be attractive as a multi supplier framework.
- 3.9 The new framework agreement can be made available to Brighton Marina and Shoreham Port Authority so that they may also use the contractor and choose to call off contracts for works under the framework. This should increase the attractiveness of the contract to tenderers, increase competitiveness and result in better value for money for the Council.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The City Council's beaches, defences and promenades are strategic assets and a fundamental part of the attractiveness of Brighton & Hove and will continue to be maintained to an acceptable standard in accordance with our policy set out in the Coast Protection Strategy.
- 4.2 There are no other frameworks applicable for the Council to use, that are suitable for the type of small value works, typically undertaken as part of the current framework applicable for the Council to use.

Intention of Policy, Growth and Resource to develop new framework

- 4.3 A new framework agreement will enable the Council to carry out works of repair, reconstruction and maintenance to the city's coast defences and highway structures. The framework agreement will be between the Council and one contractor.. As it will be a framework agreement, it means that the appointed contractor has no guarantee of any work over the 4 year period of the agreement. The average value of any individual contract called-off under the framework is unlikely to exceed £90,000, calculated from the individual scheme costs over the length of the current contract. Given the work is often in response to extreme weather this can only be an estimate.
- 4.4 Shoreham Port Authority and Brighton Marina could be invited to join the Council in this framework. Both these organisations have requirements for coast defence work. The Council will be promoting collaboration with both organisations to enable closer working relationships and a more coherent strategy for the whole stretch of coastline, as well as potentially achieving greater economies of scale due to the amount of work being greater between the three organisations than just from the Council's own requirements. Over the 4 years of the framework agreement the combined value of works is likely to be approximately £2.6 million which puts the value of the framework arrangement under the EU procurement financial threshold for works. It will therefore not be necessary to advertise it in OJEU but officers will run a competitive procurement process in accordance with all the relevant public procurement legislation and Contract Standing Orders.
- 4.5 Various procurement options have been discussed with Financial Services and Procurement and this form of single supplier framework, procured through a rigorous tender process is considered most suitable. The use of a framework agreement with "call-off" arrangements and a Schedule of Rates, allows market tested competitive rates to be utilised for any civil engineering projects within the scope of the specification.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Not applicable, as this framework only enables individual works and projects to be undertaken, each of which will undergo its own engagement and consultation process as required as per the councils Statement of Community Involvement (SCI).

6. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 6.1 The proposed procurement is subject to compliance with the council's Contract Standing Orders and Financial Regulations. The councils Contract Standing Orders state that contracts above the value of £500,000 require approval from the relevant Committee or executive decision-making body. The achievement of value for money when procuring goods and services is a key task to ensure that public money is well spent.
- 6.2 It is estimated that the combined value of works of the recommended framework agreement will be £2.6 million over the four year contract period. It is anticipated that expenditure related to the proposed tender will be funded from existing revenue budgets and approved capital budgets within the City Transport service. Any variation between contract costs and approved budgets will be reported as part of the monthly budget monitoring process.

Finance Officer Consulted: Steven Bedford

Date: 14/02/2019

Legal Implications:

- 6.3 Under the Highways Act 1980, the Council has a duty to maintain the public highway and a general power to undertake improvements to the highway, including the maintenance of any structures on the highway.
- 6.4 The powers given to Coast Protection Authorities under the Act are permissive, i.e. the Council is not obliged to protect the coastline but chooses to do so in Brighton & Hove in accordance with its 'hold the line' Policy.
- 6.5 The Council has a duty to secure continuous improvement in the way in which its functions are exercised having regard to a combination of 'economy, efficiency and effectiveness' (known as the duty of best value)
- 6.6 In accordance with Part 4 of the Council's Constitution, Policy, Resources & Growth Committee is the appropriate decision-making body in respect of the recommendations set out in paragraph 2 above. In addition, in order to comply with CSO 3.1, authority to enter into contracts in excess of £500,000 must be obtained by the relevant committee.
- 6.7 Further, the Council's Contract Standing Orders require that authority to enter into a contract valued at £500,000 or more be obtained from the relevant committee, which in this instance is the Policy Resource and Growth Committee due to the total value involved of the proposed call-off contracts over the term of the framework agreement.

Lawyer Consulted:

Wendy McRae-Smith

Date: 3/07/2019

Equalities Implications:

- 6.8 The Council's Code of Practice on Equalities and Workforce Matters is enforced in all procurement and incorporated within the framework agreement.

Sustainability Implications:

- 6.9 Sustainability is promoted in all highway engineering contract procurement. Specifications allow for recycling and development of sustainable processes. Contractors are required to have current ISO14001 certification or a recognised equivalent.
- 6.10 The contractor will be required to demonstrate the sustainable use of timber in line with Government requirements
- 6.11 Living wage: it is Council policy that the Outer London Living Wage (OLLW), set by the Living Wage Foundation, be paid as a minimum salary to the Contractor's staff employed to carry out any call-off contracts under this framework.
- 6.12 OLLW increases will be implemented and paid immediately and recharged to the Council accordingly.

Crime & Disorder Implications:

- 6.13 There are no Crime & Disorder implications arising directly as a result of this report.

Risk and Opportunity Management Implications:

- 6.14 There are risks involved in failing to fulfil the Council's statutory duty as Highway Authority to maintain the public highway in accordance with the Council's approved Highway Maintenance Plan. Failure to maintain highway structures could adversely affect the highway asset leading to increasing rates of structural deterioration and associated risk of increasing claims in relation to health and safety, and other types of damage, such as damage to vehicles, which will mean increased insurance claims.
- 6.15 Failure to adequately manage coast defences may lead to coastal erosion, property damage, service disruption, risk to life and potential insurance claims against the Council. It will also harm the visual aspect and attractiveness of the city, together with the tourism value of the city's beaches. The Council therefore wishes to continue to maintain its coast defences and to have control over the standards and appearance of its beaches and promenades.

Public Health Implications:

- 6.16 The maintenance of the City's beaches and promenades for public access encourages outdoor activities such as walking, jogging, swimming etc. and addresses the negative issues outlined in 6.15 above.

Corporate / Citywide Implications:

6.17 Approval to procure and award this framework agreement and call off contracts from the framework agreement will enable coast protection and highways structure maintenance works to be undertaken throughout the city without the need to undertake further individual tendering procedures.

Any other significant implications

6.18 None

7. REASONS FOR REPORT RECOMMENDATIONS

7.1 In approving the procurement and award of this framework agreement, the Council and call off contracts from the framework agreement will have the means not only to fulfil its statutory duties but also help deliver corporate priorities.

SUPPORTING DOCUMENTATION

Appendices:

None

Documents in Members' Rooms

None

Background Documents

None