

**SURREY COUNTY COUNCIL****CABINET**

**DATE:** 29 SEPTEMBER 2020

**REPORT OF:** MR MATT FURNISS, CABINET MEMBER FOR TRANSPORT

**LEAD OFFICER:** KATIE STEWART, EXECUTIVE DIRECTOR FOR ENVIRONMENT, TRANSPORT AND INFRASTRUCTURE

**SUBJECT:** A31 AND BLACKWATER VALLEY RELIEF ROAD (BVR)  
BALANCING POND RESTORATION PROCUREMENT

**SUMMARY OF ISSUE:**

The A31 and A331, also known as the Blackwater Valley Relief Road (BVR) have several balancing ponds along their length that form an integral part of the highway drainage system. Water from the highway drains into these ponds where it is stored before it discharges into nearby watercourses. The ponds act to ensure water can effectively drain from the road in order to improve safety to users of the high-speed road whilst also protecting the local area from contamination.

Recent surveys and reports have confirmed that works are required to ensure the assets are performing as designed, and funding to refurbish and maintain these assets was approved in March 2020 as part of the Council's Medium Term Financial Plan.

This report seeks approval for the addition of these works to the Annual Procurement Forward Plan to allow us to procure a specialist contractor to refurbish and maintain these assets.

**RECOMMENDATIONS:**

It is recommended that Cabinet:

1. Approves the commissioning and procurement strategy developed by Strategic Network Resilience and Procurement teams so that a suitable contractor can be appointed to maintain and refurbish balancing ponds along the A31 and Blackwater Valley Relief Road (A331);
2. Delegates the contract award decision to the Executive Director for Environment, Transport & Infrastructure in consultation with the Cabinet Member for Transport.

**REASON FOR RECOMMENDATIONS:**

We are requesting Approval to Procure for the Balancing Pond Term Contract to enable the refurbishment of essential highway drainage assets to ensure that they are performing as designed.

**DETAILS:**

1. The Highways Service are responsible for the maintenance of Surrey's drainage assets along the A31 and A331 Blackwater Valley Relief Road (BVR) which includes balancing ponds and reed beds. Work to refurbish and maintain these assets is

estimated at £2.5 million over 10 years. The work includes statutory maintenance and responsive repairs as they arise. In addition to this work, the Council is responsible for holding a safety inspection register of the existing life buoyancy aids situated at some of the sites.

2. It is proposed that the Council appoint a specialist contractor to refurbish and maintain these assets through a “Term Contract” for up to a 10-year duration.
3. The contract will be used to enable the County Council to commission works to bring the balancing ponds and associated reed beds up to the required satisfactory standard and to enable them to perform as they were designed to do. The work will include reed bed and pond refurbishment, with associated vegetation work, ditching, fencing and safety audits. It will also include minor structures maintenance. The works will take into consideration the County Council’s Greener Futures Policy by increasing flood resilience and including the planting of trees as part of the scheme. The intention is to commence the “Term Contract” in the Autumn of 2020.
4. Reports have been produced detailing the essential works required. The designed serviceable life of the balancing ponds is 25 years and thus the work is required to bring the assets up to standard and to extend their serviceable life.
5. The proposed procurement route for these works will be through open competition using a *Sub-OJEU (Official Journal of the European Union)* Procedure.
6. Due to the specialist nature of this contract, market competition is restricted to several specialist businesses who have the expertise, knowledge and experience to construct and maintain balancing pond structures. Therefore, the route to market for this tender will be “open procedure” due to the complexity of the works to be carried out. “Open procedure” allows a wider market for bidders, therefore the Council is not restricted to framework suppliers only. This will increase the range of competitive bidders for this tender. The direct award option was not considered for this tender because there was no suitable framework in the market for this type of works contract; further, this approach would limit competition and therefore the ability to demonstrate value for money.
7. The Term Contract will initially be awarded for a 5-year period with an estimated value of £250,000 per annum with an option to renew at yearly intervals thereafter up to a maximum of five years, making the total contract term 10 years.

<b>CONSULTATION:</b>
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8. In coming to the above recommendation on the preferred procurement route, officers consulted with several organisations to better understand the specialist nature of the works and to identify potentially suitable contractors. These organisations included the Environment Agency, the Canals and Rivers Trust and Surrey Wildlife Trust. Surrey Wildlife Trust had already carried out the Environmental Surveys and were in a good position to advise on what would be required to carry out the works in the most appropriate way. Officers also consulted with specialist contractors to understand what the work would entail and what the potential risks might be. These included contractors from our existing countryside framework and highways maintenance contracts.

## **RISK MANAGEMENT AND IMPLICATIONS:**

9. The contract that would result from the proposed procurement process will commit Surrey County Council to five years only and will include a three months' notice termination clause. Any extensions after that five-year period, up to ten years, will be made at the Council's choice, and the three-month termination clause will still apply to any extension period.
10. The successful contractor will have to satisfy financial checks as well as demonstrate competency in the delivery of works of this nature based on previous experience during the evaluation of the tenders. In addition, the Project/Contract Manager will be carrying out financial and insurance checks regularly in order to ensure that the contractor meets the minimum criteria during the life of the contract.
11. A 10% retention for all invoices will be held by Surrey County Council up to the value of £50,000 for the term of the contract.
12. There will be monthly meetings between the successful contractor and Surrey County Council to review the operation of and all matters affecting the contract, and where necessary, to agree corrective action when problems have been identified by either party. All contractors will have to adhere to robust performance targets.

## **FINANCIAL AND VALUE FOR MONEY IMPLICATIONS**

13. The expected contract value over the maximum 10-year period is £2.5 million. Expenditure will be controlled and scrutinised by the Project Manager and costs are expected to be met from within the Council's existing Medium Term Financial Strategy.
14. The Term Contract will provide rates to cover all activities related to the type of works involved, whilst any items not included will be charged at the invoiced amount by the Project Manager.

## **SECTION 151 OFFICER COMMENTARY**

15. Although significant progress has been made over the last twelve months to improve the Council's financial position, the medium-term financial outlook is uncertain. The public health crisis has resulted in increased costs which are not fully funded in the current year. With uncertainty about the ongoing impact of this and no clarity on the extent to which both central and local funding sources might be affected from next year onward, our working assumption is that financial resources will continue to be constrained, as they have been for the majority of the past decade. This places an onus on the Council to continue to consider issues of financial sustainability as a priority in order to ensure stable provision of services in the medium term. As such the Section 151 Officer supports the proposed commissioning and procurement strategy, which aims to ensure best value is achieved when managing the highway asset.

## **LEGAL IMPLICATIONS – MONITORING OFFICER**

16. This report seeks the approval of Cabinet to (1) procure a contractor to carry out works to maintain and refurbish balancing ponds along highways for a total value of £2,500,000 and (2) to delegate the award of the contract to the Executive Director for

Environment, Transport & Infrastructure in consultation with the Cabinet Member for Transport.

17. Under paragraph 2.7 of the Procurement and Contract Standing Orders the decision maker to approve the procurement of a contract with a total value over £1million but under £5 million is the s 151 Officer and the relevant Portfolio Holder.
18. Cabinet is permitted to delegate the award of the contract to the Executive Director for Environment, Transport & Infrastructure in consultation with the Cabinet Member for Transport.
19. The value of the contract is under the financial threshold for works under the Public Contracts Regulations 2015 however the Council is still obliged to obtain best value. By carrying out a procurement using the open procedure best value may be realised.
20. This contract will need to be registered in the Contracts Register.

#### **EQUALITIES AND DIVERSITY**

21. All works carried out will be compliant with the Equalities Act 2010.
22. Bidders will be required to deliver social value in accordance with the Orbis Social Value Measurement Charter. This will result in employment, training and apprenticeships opportunities for residents.
23. The Project/Contract Manager will be responsible for ensuring that the winning contractor delivers the agreed level of social value as part of their overall performance duties.

#### **WHAT HAPPENS NEXT:**

24. Procurement dates:
  - a. Completion of Tender Evaluation: 13 October 2020
  - b. Approval of award decision by Executive Director for Environment, Transport and Infrastructure
  - c. Standstill Period: 10 days
  - d. Agreements issued and signed by both parties: TBC.

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#### **Contact Officer:**

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#### **Sources/ background papers:**

None