

**Forward Plan reference number: FP/918/12/20**

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| <b>Report title:</b> Approval to place 2021/22 contractual task orders with Ringway Jacobs for values of £2m and over  |                      |
| <b>Report to:</b> Cabinet  |                      |
| <b>Report author:</b> Councillor Kevin Bentley, Deputy Leader and Cabinet Member for Infrastructure  |                      |
| <b>Date:</b> 16 February 2021  | <b>For:</b> Decision |
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| <b>County Divisions affected:</b> All Essex  |                      |

## **1. Purpose of Report**

- 1.1 The Council's highways contract with Ringway Jacobs Limited requires the Council to place orders for all work undertaken. Some task orders within this programme of work have a value in excess of £2m.
- 1.2 Although Council sets the highways budget as part of the annual budget, spending decisions on executive functions of over £5m should be taken by the Cabinet.
- 1.3 This report asks the **Cabinet** to approve the issue of those task orders likely to exceed £2m to Ringway Jacobs for the 2021/22 financial year.

## **2. Recommendations**

- 2.1 Agree that the Director, Highways and Transportation may issue the task orders to Ringway Jacobs as outlined in **Table 1, Appendix 1** after taking legal advice about the form and content of the task orders.
- 2.2 Agree that the Leader, or Deputy Leader and Cabinet Member for Infrastructure, may change the work to be undertaken under the task orders.

## **3. Summary of issue**

- 3.1 Essex County Council (ECC) is the local highway authority for Essex and as such it has many legal duties and powers with respect to the local highways network, including a legal duty under the Highways Act 1980 to maintain the Essex highways network. At present ECC primarily meets this duty by commissioning Ringway Jacobs to deliver highways services. The Council has a ten-year contract which commenced in April 2012. The Council only issues

task orders to Ringway Jacobs for the work it asks Ringway Jacobs to do. As such ECC has a broad discretion as to which task orders are issued.

- 3.2 Due to the high value of some task orders approval is required at the start of the new financial year 2021/22 for the task orders to be issued.
- 3.3 The high-level budget for all Council services in 2021/22, including Essex Highways, have been recommended for approval by Council at its meeting on 23 February 2021. Those budgets were based on planned levels of expenditure under a number of headings. This report seeks authority to issue task orders to reflect the assumptions made when the budget was proposed.
- 3.4 Task orders are issued under a number of headings. Some of them are for planned maintenance such as resurfacing, some are for upgrading services – such as the installation of LED streetlighting and some are for fixed costs.
- 3.5 The task orders are listed in the appendix to this report. One of the task orders relates to the basic costs of running the service, such as management costs and the costs of running depots and IT systems.
- 3.6 Most of the task orders relate to planned maintenance. In these cases, the value of the task order is calculated by reference to the target costs of a number of schemes. RJ is required to achieve the target cost and both ECC and RJ share any under and overspends above a certain limit. The number of schemes deliverable is likely to change over the year, as it may need to change as a result of unexpectedly long periods of hot or cold weather or the impact of the network of a cold spell. It may also need to change to respond to major issues occurring (e.g. the need for bridge maintenance). Changes are dealt with by variations to the task order issued under the contract.
- 3.7 For responsive maintenance there is a value attached to the task order. The format of the task order is being revised to ensure that work is prioritised in the best way possible and to clarify the position on liability for claims.
- 3.8 For major schemes, the schemes we expect to deliver in 2021/22 are in the appendix but again these may be subject to change. Any decision to change task orders will be taken in accordance with the constitution.
- 3.9 The highways service helps achieve the following aims of the Organisational Strategy:
  - **Help create great places to grow up, live and work**
    - Secure sustainable development and protect the environment
      - Reduce the environmental impact and cost to the taxpayer of dealing with waste, by working effectively with partners to minimise waste.
      - Improve the image of the county, by promoting the benefits of Essex Highways and the County Council.

- Reduce carbon emissions and energy costs for Essex Highways by supporting the development of new strategies that promote clean growth and the use of affordable energy.
- **Transform the council to achieve more with less**
  - Limit cost and drive growth in revenue
    - Optimise revenue from services, by charging appropriately and realising commercial benefit
    - Drive out inefficiency, by reducing costs, increasing productivity and adopting lean methodology.
    - Work collaboratively with partners to deliver maximum value for taxpayers' money that is spent through Essex Highways.

#### **4. Options**

- 4.1 **Option 1:** Issue the task orders as in **Table 1, Appendix 1** which will enable Essex Highways to commission Ringway Jacobs to deliver planned highways maintenance services, within the already agreed budget for 2021/22.

This is the preferred option which will ensure there is no further delay to delivering works and services already scheduled for this financial year.

- 4.2 Other options include not issuing task orders, but this is not recommended as it means that no highway works will be delivered. The task orders are recommended as they represent a balance between
- planned maintenance – which reduces the cost of responsive maintenance
  - responsive maintenance - to discharge the council's legal duties
  - investment in improving the service which may lead to a reduction in revenue costs (e.g. installation of LED lighting)

#### **5. Issues for consideration**

##### **5.1 Financial implications**

- 5.1.1 Essex Highways has a draft 2021/22 revenue budget allocation of £28.7m within which the revenue task orders detailed in Appendix 1 can be accommodated. The task orders will be set at a level to ensure the budget can accommodate any cost pressures that contractually must be incurred.

- 5.1.2 Essex Highways has a draft 2021/22 capital budget allocation of £78.3m within which the capital highways maintenance task orders detailed in Appendix 1 can be accommodated. The Highways capital budget allocation is assumed to be funded partly by an un-ring-fenced Department for Transport (DfT) grant which is estimated to be £34.7m and ECC resources. The associated revenue cost of borrowing to fund the remainder of the maintenance programme is approximately £2.1m per annum (based on £43.6m borrowing being required). This is accounted for within the proposed Medium-Term Resources Strategy (MTRS), there are no additional costs as a result of this decision.

5.1.3 Also within the draft 2021/22 capital programme is a capital budget allocation of £82.9m in relation to named Highways Major schemes which can accommodate the named schemes task orders as detailed in Appendix 1. This is funded by a mixture of grants and ECC resources. It is estimated that the associated revenue cost of borrowing is approximately £683,000 per annum (based on £3.4m borrowing being required). This is accounted for within the MTRS, there are no additional costs as a result of this decision.

## **5.2 Legal implications -**

5.2.1 The contract with Ringway Jacobs Limited requires task orders to be issued. Ringway Jacobs must comply with the task orders. It is important that the task orders reflect sufficient information about the works which the contractor is required to do otherwise it is difficult to legally hold it account if it does not deliver what the Council is expecting. It is therefore very important that Legal advice is taken on the content of the task orders.

## **6. Equality and Diversity implications**

- 6.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
  - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 6.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

## **7. List of appendices**

Appendix 1 – 2021 22 Task Order values of £2m and over  
Appendix 2 - Equality Impact Assessment

## **8. List of Background papers**

None