

# Birmingham City Council

## Report to Cabinet

Date: 30th July 2019



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**Subject:** Extension of Constructing West Midlands Contractor Framework Lots 1-4 and Lot 7  
**Report of:** Chief Finance Officer  
**Relevant Cabinet Member:** Councillor Tristan Chatfield, Finance and Resources  
**Relevant O &S Chair(s):** Councillor Sir Albert Bore, Resources  
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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 006612/2019		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential : Information relating to the financial or business affairs of any particular person (including the authority holding that information).		

### 1 Executive Summary

- 1.1 This report seeks approval to extend a number of Lots within the Constructing West Midlands (CWM) Framework Agreement with effect from 1<sup>st</sup> October 2019 for a period of up to 12 months.
- 1.2 The CWM Framework Agreement is the main delivery vehicle for major capital works construction projects, repair and maintenance projects, mechanical and electrical works and statutory testing undertaken by the Council across its property portfolio.

- 1.3 The Building Fabric Repair and Maintenance (B,F,R&M) Framework is a framework that is now procured by Acivico to deliver planned maintenance, reactive repairs and minor construction projects. This effectively replaced Lots 5 and 6 of the CWM Framework Agreement due to performance issues and disputes with the contractors that were initially appointed to it
- 1.4 The CWM Framework agreement is due to expire on 30<sup>th</sup> September 2019.
- 1.5 The Council utilises the CWM Framework to deliver capital and revenue works, statutory testing services and repairs and maintenance services for their estate and to maintain the premises for front line delivery of services e.g. care homes, and to provide/ maintain the statutory provision of primary / secondary schools.

## 2 Recommendations

That Cabinet:

- 2.1 Approves the extension of the CWM Framework Agreement Lots 1-4 and Lot 7 to the suppliers detailed below from 1<sup>st</sup> October 2019 for a period of up to 12 months.

Lot No	Scope of works	Area of City	Contractor
1	Legionella Inspection and Servicing	North	Integrated Water Services
2	Legionella Inspection and Servicing	South	Integrated Water Services ***
3	Reactive/Planned Repair and Maintenance (Electrical & Mechanical)	North	Spies UK, formerly known as Trios /Middleton Maintenance Services Limited ** ***
4	Reactive/Planned Repair and Maintenance (Electrical & Mechanical)	South	Spies UK, formerly known as Trios/ Middleton Maintenance Services Limited **
7	Capital Projects Framework, Major Construction Projects and Major Programmes of Work of £500k upwards		<ul style="list-style-type: none"> <li>Willmott Dixon</li> <li>Community Solutions West Midlands</li> <li>Balfour Beatty Regional Construction Services UK formerly Mansell Construction Services Ltd *</li> <li>Thomas Vale **** Construction PLC</li> </ul>

\*Mansell Construction Services Ltd was appointed to the Lot 7 framework; subsequently the name of this company was changed to Balfour Beatty Regional Construction Limited.

\*\* Middleton Maintenance Services Ltd was appointed to the Lot 4 framework; subsequently the name of this company was changed to Trios and then further changed to Spie UK.

\*\*\* As a result of Carillion going into Administration, Lot 2 was negotiated with Integrated Water Services and Lot 3 was negotiated with Spie UK.

\*\*\*\* Thomas Vale Construction PLC were appointed to Lot 7 Framework; subsequently they were taken over and the name changed to Bouygues (UK) Limited.

2.2 Notes that the individual call-off contracts under the CWM Framework will be awarded in accordance with the CWM Framework terms and conditions, and in accordance with the Council's governance arrangements.

2.3 Authorises the City Solicitor (or their delegate) to execute and complete all necessary legal documents to give effect to above.

### **3 Background**

3.1 On 25th July 2017, Cabinet approved to outsource Design Construction and Facilities Management (DCFM) Services which included the DCFM services which are currently provided exclusively to the Council by Acivico.

3.2 A project team and plan was put in place to ensure this outsourcing exercise was to be concluded and mobilised prior to 30<sup>th</sup> September 2019 when the existing CWM Framework expires.

3.3 Following a further detailed analysis of this July decision, Cabinet approved on 11th December 2018 under the report entitled 'Acivico – Options for the Future', to extend the Council's services contract with Acivico for a further period of 3 years. The Acivico contract extension resulted in the abandonment of the outsourcing exercise which, had it gone ahead, would have obviated the need to extend the CWM Framework when it ends in September 2019.

3.4 Following the December decision, there is a need to extend the CWM Framework by up to 12 months to align with the re-procurement programme detailed below.

<b>Activities</b>	<b>Capital Projects Framework (previously CWM Framework Lot 7)</b>	<b>Repair and Maintenance Framework ( previously CWM Framework Lots 1-6)</b>
Prior Information Notice	25/06/19	16/05/19
Selection Questionnaire Release	01/10/19	09/07/19
Invitation to Tender	13/12/19	20/09/19
Contract Commencement	16/07/20	22/04/20

The future operating model will include similar lotting structure as the current CWM Framework; this will continue to provide a comprehensive delivery vehicle for capital works, repair and maintenance and statutory testing.

## **4 Options considered and Recommended Proposal**

4.1 The Council could elect not to extend The CWM Framework and explore the possibility of accessing another nationally available framework. This option was rejected for the following reasons:

- Officers are developing the longer term CWM Future Operating Model (FOM) in accordance with the timeline set out in paragraph 3.4 above, and as such, the time and effort required to access and mobilise alternative frameworks during the period of extension would not be either beneficial, cost effective or deliver value for money.
- The income the Council currently receives from external clients in the form of the CWM Framework access fee would be lost.
- Utilisation of other national frameworks could mean a lack of compliance with the Birmingham Business Charter for Social Responsibility and potentially increased costs due to the impact of associated access / management fees under current operating arrangements.

4.2 It is recommended that the Council develop the new FOM for the reasons set out in 4.1 above.

## **5 Consultation**

### **5.1 External**

Officers from Acivico have been consulted on the proposed extension of the existing CWM Framework and the future operating model.

The existing Contractors on the CWM Framework have been consulted and agree to continue to be measured against their contractual performance standards to ensure compliance. Any areas of underperformance will be actively managed to ensure compliance with the contractual terms.

### **5.2 Internal**

Officers from Education Infrastructure Team, Birmingham Property Services, Economy, Finance and Legal Services have been consulted on the contents of this report and in respect of the proposed re-procurement of the CWM Framework.

## **6 Risk Management**

- 6.1 The continued delivery of maintenance and statutory testing is essential to ensure the Council is not exposed to the risks associated with the non-delivery of these services.

## **7 Compliance Issues:**

### **7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?**

- 7.1.1 The Council approved and adopted the Council Plan 2018-2020, which identifies strategic outcomes for change in Birmingham (Children, Housing, Jobs and Skills and Health). This decision supports the priorities as follows:

- *We want Birmingham to be a great City to live in.* This decision directly affects investment in and maintenance of the Council's property portfolio and other future major developments within the City.
- *Birmingham is an aspirational City to grow up in:* This decision will support the development and enhancement of educational establishments and schools helping to provide additional school placements for the children of Birmingham.

- 7.1.2 Compliance with the Birmingham Business Charter for Social Responsibility (BBC4SR) will be a mandatory requirement for extending the Framework and will also form part of the conditions of those contracts called off it. The BBC4SR Action Plan of the Framework Providers will be implemented and monitored during the period of the agreement.

### **7.2 Legal Implications**

- 7.2.1 Under S.120 and 132 of the Local Government Act 1972, the Council has power to acquire land and provide buildings in order to exercise their functions.

- 7.2.2 Under S111 of the Local Government Act 1972, the Council has powers to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

### **7.3 Financial Implications**

- 7.3.1 Extending Lots 1-4 & 7 as the CWM Framework Agreement is non-exclusive with zero commitment to volume or spend. Therefore, we can reduce / cease the allocation of work via any Lot, as required (as part of a managed process), throughout the extension period.

- 7.3.2 The cost of works delivered under this extension will be met from Directorates' approved budgets and schools revenue service budgets for repairs and maintenance, and capital budgets for construction projects.
- 7.3.3 It is estimated that the total value of spend throughout the 12 month extension is £46.9m. The forecast total spend is based on 2017/18 outturn and current year projections.
- 7.3.4 The CWM Framework Contractors have all agreed to the existing terms and conditions of the Framework Agreement.
- 7.3.5 Commercially sensitive financial implications are considered in Appendix 1 – Exempt Information.

#### **7.4 Procurement Implications (if required)**

- 7.4.1 Procurement implications are considered in Appendix 1 – Exempt Information.

#### **7.5 Human Resources Implications (if required)**

- 7.5.1 N/A

#### **7.6 Property Implications:**

- 7.6.1 Refer to paragraph 1.5 above.

#### **7.7 Public Sector Equality Duty**

- 7.7.1 An initial Equalities Assessment has been completed In March 2019 to decide whether the extensions of these Framework Agreements have any relevance to the equality duty contained in Section 149 of the Equality Act 2010. The initial screening identified that there was no requirement to assess it further at this stage. The requirements of Standing Order No. 9 in respect of the Council's Equal Opportunities Policy and the Equality Act 2010 will be included in the terms of the extended Framework Agreements.

### **8 Background Documents**

- 8.1 Cabinet Report dated 11<sup>th</sup> December 2018 entitled 'Acivico – Options for the Future'.
- 8.2 Cabinet Report signed 20<sup>th</sup> September 2016 entitled Constructing West Midlands Framework Extension approved the extension of the CWM Framework from 1<sup>st</sup> October 2017 to 30<sup>th</sup> September 2019.

## **9 Appendices**

### **9.1 List of appendices accompanying this report**

- Appendix 1 – Exempt information
- Appendix 2 – Risk Register