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<b>Report to:</b>	Cabinet	<b>Date of Meeting:</b>	Thursday 14 January 2016
<b>Subject:</b>	M58 Junction 1 - Procurement Strategy	<b>Wards Affected:</b>	Molyneux;
<b>Report of:</b>	Head of Locality Services - Commissioned		
<b>Is this a Key Decision?</b>	Yes	<b>Is it included in the Forward Plan?</b>	Yes
<b>Exempt/Confidential</b>	No		

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### Purpose/Summary

To seek members approval for the procurement strategy aimed at securing a Contractor to complete the design and construction of the proposed new slip roads at the M58 Junction 1.

### Recommendation(s)

1. That approval be given to the Procurement Strategy for the appointment of a Contractor with appropriate design experience to deliver the scheme to deliver new slip roads at the M58 Junction 1.
2. That the Cabinet Member Locality Services be given delegate authority to approve the appointment of the Contractor.
3. That the Cabinet Member Locality Services be given delegate authority to approve the appropriate agreement with Highway England to enable the works to be completed on the motorway network.

### How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		x	
2	Jobs and Prosperity	x		
3	Environmental Sustainability	x		
4	Health and Well-Being		x	
5	Children and Young People		x	
6	Creating Safe Communities		x	
7	Creating Inclusive Communities		x	
8	Improving the Quality of Council		x	

	Services and Strengthening Local Democracy			
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**Reasons for the Recommendation:**

The recommendation is needed to enable officers to appoint the Contractor to complete the design and construction of the approved scheme to meet the timescale for Growth Fund money.

**Alternative Options Considered and Rejected:**

A number of options have been discussed and considered;

The use of the Use of Highways England Asset Support Framework has been considered but rejected as a viable option following advice from highways England on the basis that the scheme is not of sufficient size to attract interest from the Framework contractors

The use of the Highways England Asset Support Contractor has been similarly rejected due to the timing of the end of the current contract coinciding the proposed start on site.

Separate Procurement Exercises for design and construction could be completed; however it was considered that this option reduced the scope for innovation or flexibility in the approach and that Early Contractor Involvement was favoured by the Department of Transport and Highways England for this type of project.

**What will it cost and how will it be financed?**

**(A) Revenue Costs**

None

**(B) Capital Costs**

The current scheme estimate for the preferred option is £6.7m. This includes the estimated works, fees and land acquisition costs.

The estimate includes an Optimism Bias (OB) of 44% which effectively is the contingency recommended by the Department for Transport for inclusion in estimates provided for the OBC submission. It is hoped, due to the straightforward nature of the project that the final scheme costs should be below this figure.

The scheme will receive an indicative allocation from The Liverpool City Region Growth Plan of £5.5m towards the project costs. Provision for the net cost of the scheme (estimated at £1.2m) The Council have approved the inclusion of this scheme in the Capital Programme 2016/17 as a priority against available resources

**Implications:**

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

<b>Financial</b> None	
<b>Legal</b> The Head of Regulation and Compliance will seal the Contract with the successful contractor.	
<b>Human Resources</b>	
<b>Equality</b>	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>

**Impact of the Proposals on Service Delivery:**

None

**What consultations have taken place on the proposals and when?**

The Chief Finance Officer (FD.3955/15) has been consulted and comments that the scheme was approved by Cabinet in September 2015 for inclusion in the Capital Programme.

The Head of Regulation and Compliance (LD.3234/15) have been consulted and any comments have been incorporated into the report.

**Implementation Date for the Decision**

Following the expiry of the “call-in” period for the Minutes of the Cabinet Meeting

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**Background Papers:**

None

**1. Introduction/Background**

- 1.1 Members will recall a report to Cabinet in September 2015 in which the details of the proposed M58 Junction 1 New Slip Roads scheme were set out. The report sought Members approval for the preferred layout, a recommendation that a financial contribution be included in the Capital Programme 2016/17 as a priority against available resources and approval to begin negotiations with affected landowners.
- 1.2 The report also sought approval for officers to develop a Memorandum of Understanding with Highways England for the procurement and delivery of the scheme. This was on the understanding that Highways England would lead on the procurement process.
- 1.3 Since the approval of the report, the Outline Business Case has been submitted to the City Region and is now undergoing an appraisal process. Subject to a successful review it is anticipated that the Full Business Case will be submitted early in the New Year with the hope that the funding will be secured in the Spring 2016.

## **2. Procurement Proposals**

- 2.1 As the project involves works to the Motorway Network, it was considered critical to agree a Procurement Strategy with Highways England which was consistent with Sefton Council's own Contract Procedure Rules. It was originally envisaged that the Council would take advantage of Highway England's Framework and the relationship between Sefton Council and Highways England would be set out in a Memorandum of Understanding between the two parties.
- 2.2 In discussions with Highways England it was agreed that the Asset Support Framework that HE operate would not be an appropriate delivery mechanism for this project. Highways England advised that the Framework was set up for larger Contracts and therefore the Framework contractors would be unlikely to be interested. They also advised that that the Asset Support Contract with Balfour Beatty Mott MacDonald is likely to come to an end before the target date for the works begin on site. No alternative equivalent contract is currently being established which the Council could use. Highways England encouraged the Council to use its own procurement process on the understanding that a Section 6 agreement of the Highways Act 1980 be entered into. This agreement grants powers to the applicant, in this case Sefton Council, to carry out works on highway managed and owned by Highways England.
- 2.3 As a general principle, therefore, it is the proposed procurement strategy is for the Council to appoint a contractor who will develop the scheme design and undertake the construction of the scheme through a process of Early Contractor Involvement (ECI). This is recognised by both the Department for Transport and the Highways England as the most appropriate method of procurement in order to bring about greater certainty of outturn costs and to allow construction of the scheme to proceed as soon as all the statutory processes have been completed and funding confirmed. ECI has been successfully used in the recently completed Brooms Cross Road.
- 2.4 It is proposed that the works will be procured on a Design and Build basis using the NEC3 Engineering and Construction Form of Contract which provides flexible contractual options. It is to be noted that the Office of Government Commerce

(OGC) recommends the use of the NEC3 contracts for the delivery of public sector construction projects.

- 2.5 It is recommended that the project be procured using a restricted tender process, involving two stages. An OJEU notice will be published seeking expressions of interest from suitably qualified and experienced contractors with design expertise. Interested parties will be directed, through the Notice, to The Chest where a Pre-Qualification Questionnaire documents will be available for download. The questions in the PQQ will aim to evaluate and determine the experience and approach of prospective contractors and will involve an assessment of references. Some of questions will determine the Contractors proposals to use local labour and local businesses in the delivery stage.
- 2.6 A panel made up of suitably experienced officers will assess and score the responses. From the responses received, a shortlist of 5 contractors will be developed. This approach conforms to the Public Contracts Regulations and SMBC's own financial and contract procedure rules.
- 2.7 The tenders invited to the 5 Contractors will be assessed on a 70% Price: 30% Quality basis. A formal risk appraisal has been completed, with input from the Council's Central Procurement team, to determine the appropriate level of quality to be included in the assessment. The quality questions will be aiming to understand the prospective tenderers approach to the delivery of the project. These responses will be assessed by the same Evaluation Panel which reviewed the PQQs.
- 2.8 A score will be allocated to each Contractor which will reflect the price and quality score. Further discussion will be held with the highest scoring tenderer to discuss any issues arising from the tendering exercise, to discuss and refine the delivery programme as appropriate.
- 2.9 The securing of land and any necessary permissions, including Planning Consent and Highways England Agreement will be managed and delivered by Sefton Council. To assist in this process a number of specialist consultants are being procured either through a competitive quotation process or by using specialist frameworks.

These include the following;

- Land Reference company – to assess land ownership implications
- Land Agents – to negotiate the acquisition of any necessary land
- Environmental Consultants – to undertake surveys in early 2016 to influence the design process
- Lawyers with CPO experience – to guide the Council through the CPO process (if necessary)

The appointed Contractor will also assist in the completion of all the statutory processes.

- 2.10 The project will be subject to an ongoing assurance process. This will determine the degree of risk appropriate to each stage in the process and confirm the

predicted costs at each stage. These costs will be carefully assessed and appropriate changes made to the scope if necessary to ensure the scheme is maintained within the budget.