

**Report to** Cabinet  
08 July 2020  
**Report of** Director of place  
**Subject** Landscape services agreement with County highways

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**Item**

10

### **Purpose**

To seek approval to enter into a five-year agreement with the County Council to provide fee-earning landscape services on highways projects.

### **Recommendation**

To approve entering into a five-year agreement with the County Council to provide fee-earning landscape services on highways projects.

### **Corporate and service priorities**

The report helps to meet the corporate priority inclusive economy.

### **Financial implications**

The agreement provides the framework for the City Council to provide landscape services to the County Council on transport and highway projects thereby earning fees on capital projects and mitigating the expenditure on salaries in the general fund. The level of fees earned each year fluctuates and cannot be accurately predicted but the amount for 2017/18 was £86k and 2018/19 was £151k.

**Ward/s:** Multiple Wards

**Cabinet member:** Councillor Stonard - Sustainable and inclusive growth

### **Contact officers**

Ben Webster, Design conservation and landscape manager 07741 103253

Graham Nelson, Director of Place 07979 516835

### **Background documents**

None

# Report

## Background

1. The City Council's design, conservation and landscape team provides a range of income earning services on highways and transport schemes covering:
  - The production of feasibility reports
  - Landscape appraisal and Visual Impact Assessments (LVIA)
  - Design, specification and procurement of landscape schemes.
  - Contract management services, both independently and as part of extended design teams.
  - Applying a comprehensive and thorough knowledge of the delivery of highways schemes that recognises the constraints and opportunities of works within the highways land ownership.
  - The production of a range of graphic, cartographic and consultation material to assist scheme delivery
  - GIS based mapping
  - Scheme visualisation imagery
  - Graphic, desktop publishing and cartographic support for funding reports and documentation including the recent Transforming Cities application
  - AutoCAD, KeyScape, KeySigns and KeyLines, Adobe suite and GIS software applications.
  - Integration of infrastructure schemes with land use planning and the built heritage of the city at briefing stage and through commentary on emerging designs.
  - Writing and presentation of funding applications, including managing the graphic contribution of the technicians.
  - Developing the cycle network.
- 2 The provision of these services has resulted in many millions of pounds of investment in sustainable transport and public realm improvements in the city over the last decade and considerable fee income (£86k in 2017/18 and £151k in 2018/19).
- 3 The staff providing these services were not working under the highways agency agreement and have remained City Council employees. However, the ending of the agency on 31 March 2020 introduced a risk that our services would not be used, reducing our ability to enhance the landscape and design quality of schemes and earn income.
- 4 It was agreed with the County that a legal arrangement was needed that would allow them to use our services. The agreement in appendix 1 provides the legal framework under the Local Government Act 1972 and the Local Government Act 2000. It does not oblige us to provide the service or for the County to instruct us to work on a specified number of schemes. County are currently arranging for an initial one-year agreement to be signed and sealed under delegated powers. The agreement is currently framed as a one year agreement but our Cabinet's approval is required for the agreement to last five years, due to the financial value involved, which is what both parties want.
- 5 The agreement requires both parties to develop a work programme for the forthcoming year to enable resource planning. This will be done in July and will primarily focussed on assisting with the implementation of schemes in the

Transforming Cities Fund programme once a funding decision has been made by the Department for Transport.

## Integrated impact assessment



**NORWICH**  
City Council

The IIA should assess **the impact of the recommendation** being made by the report

Detailed guidance to help with the completion of the assessment can be found [here](#). Delete this row after completion

### Report author to complete

|                                   |   |
|-----------------------------------|---|
| <b>Committee:</b>                 | Cabinet   |
| <b>Committee date:</b>            | 8 July 2020                                       |
| <b>Director / Head of service</b> | Graham Nelson                                     |
| <b>Report subject:</b>            | Landscape services agreement with County highways |
| <b>Date assessed:</b>             | 25.06.20  |

|  | Impact                              |                                     |                          |  |
|--|-------------------------------------|-------------------------------------|--------------------------|--|
| Economic<br>(please add an 'x' as appropriate)                             | Neutral                             | Positive                            | Negative                 | Comments   |
| Finance (value for money)  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Considerable income is earned for the council from charging fees to externally funded capital projects.  |
| Other departments and services<br>e.g. office facilities, customer contact | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |  |
| ICT services   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |  |
| Economic development   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Improving the quality of public spaces through good landscape design benefits economic development.  |
| Financial inclusion  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |  |
|  |                                     |                                     |                          |  |
| Social<br>(please add an 'x' as appropriate)                               | Neutral                             | Positive                            | Negative                 | Comments   |
| Safeguarding children and adults   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |  |
| <u>S17 crime and disorder act 1998</u>                                     | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |  |
| Human Rights Act 1998  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |  |
| Health and well being  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Improving the quality of public spaces through good landscape design benefits health and wellbeing through encouraging people to walk and cycle and enjoy more vegetation. |
|  |                                     |                                     |                          |  |

|  | Impact                              |                                     |                          |  |
|--|-------------------------------------|-------------------------------------|--------------------------|--|
| Equality and diversity<br>(please add an 'x' as appropriate) | Neutral                             | Positive                            | Negative                 | Comments   |
| Relations between groups<br>(cohesion)                       | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |  |
| Eliminating discrimination & harassment                      | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |  |
| Advancing equality of opportunity                            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Good landscape design helps to overcome physical obstacles to movement and access to buildings and spaces.                               |
|  |                                     |                                     |                          |  |
| Environmental<br>(please add an 'x' as appropriate)          | Neutral                             | Positive                            | Negative                 | Comments   |
| Transportation   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Maintains a team with the capacity and capability to influence the development of transport schemes and seek funding for infrastructure. |
| Natural and built environment                                | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Improving the integration of transport schemes with the natural and built environment in a more sensitive way.                           |
| Waste minimisation & resource use                            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Creating environments that encourage walking and cycling.  |
| Pollution  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Reducing the use of cars and encouraging tree planting reduces pollution.  |
| Sustainable procurement                                      | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | The team follows the council's procurement rules.  |
| Energy and climate change                                    | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Active travel mitigates global heating.  |

|                                    |                          |                                     |                          |  |
|------------------------------------|--------------------------|-------------------------------------|--------------------------|--|
|                                    | Impact                   |                                     |                          |  |
|                                    |                          |                                     |                          |  |
| (Please add an 'x' as appropriate) | Neutral                  | Positive                            | Negative                 | Comments   |
| Risk management                    | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Maintaining and diversifying income sources help the financial risk to the council. Income estimates regularly under-review to ensure performance against budgets. |

|   |  |
|---|--|
| <b>Recommendations from impact assessment</b> |  |
| <b>Positive</b>                               |  |
|   |  |
| <b>Negative</b>                               |  |
|   |  |
| <b>Neutral</b>                                |  |
|   |  |
| <b>Issues</b>                                 |  |
|   |  |

DATED      /      / 2020

THE CITY COUNCIL OF NORWICH

- and -

NORFOLK COUNTY COUNCIL

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LANDSCAPING WORKS AGREEMENT



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Head of Law  
Norfolk County Council  
County Hall  
Norwich  
NR1 2DH

THIS AGREEMENT is made the \_\_\_\_ day of \_\_\_\_ 2020

## **BETWEEN**

1. Norfolk County Council (the "County Council") of County Hall Martineau Lane Norwich NR1 2DH; and
2. the City Council of Norwich (the "City Council") of City Hall Norwich NR2 1NH;

## **WHEREAS:-**

1. The City Council and the County Council are local authorities constituted by the Local Government Act 1972 (the '1972 Act').
2. The County Council and the City Council have agreed to enter into this agreement for the carrying out of works for the County Council pursuant to Section 111 of the 1972 Act and the Local Government Act 2000 section 2(4).

IT IS NOW AGREED as follows:

## **LEGAL STRUCTURE**

### **1. Delegation of certain Functions to the County Council**

- 1.1 The County Council hereby appoints the City Council as its agent on the terms and conditions set out in this Agreement to carry out works within the scope of the Partnership Agreement (the 'Works') as set out in then Schedule.

- 1.2 The Works shall be discharged by the City Council from time to time in accordance with the directions of the County Council and the parties shall nominate officers for the purpose of giving and receiving such directions provided that the City Council shall not be obliged to comply with any direction or otherwise act in any way which is contrary to the terms of the Partnership Agreement.

## **2. FINANCE**

### **County Council to pay for Works**

- 2.1 The County Council shall reimburse the City Council for the expenditure it reasonably and properly incurs in carrying out the Works including officer time and overheads and the Appendix shall apply for the ascertainment of the sums due.

## **3. TERMS OF AGREEMENT**

### **Term of Agreement**

- 3.1 Subject to clause 6: -
- a. this agreement will commence on 1 April 2020 and expire on 31 March 2021.
  - b. The Parties may agree to extend this agreement by a further four years with the final expiry date being 31<sup>st</sup> March 2025.
- 3.2 The City Council shall indemnify the County Council against all cost claims damages and demands arising from any failure by the City Council to properly carry out the duties of employer in the letting and supervision of contracts for the carrying out of the Works.

- 3.3 The County Council shall indemnify the City Council against all cost claims damages and demands arising from the carrying out of the Works other than those the subject of clause 3.2 hereof.
- 3.4 If requested the City Council shall at the cost of the County Council use reasonable endeavours to procure collateral warranties from Subcontractors in favour of the County Council with respect to the Works.
- 3.5 The City Council shall at the request and cost of the County Council take such legal action as the County Council reasonably requires in relation to any costs claims damages or demands made against the County Council and arising out of the carrying out of the Works.

#### **4. Review of Agreement**

- 4.1 The County Council and City Council shall in each year of the Agreement jointly monitor its operation with a view to agreeing any necessary or desirable amendments to be made to it.

#### **5. Variation of Agreement**

- 5.1 This Agreement may be varied by agreement in writing between the County Council and City Council any variations or determination taking effect at such time as may be agreed.

#### **6. Determination of Agreement**

- 6.1 This agreement may be determined by either party upon service on the other party of not less than 12 months written notice to expire at any time.

### **OTHER MATTERS**

#### **7. Service of Notices**

- 7.1 Any formal notice arising under this Agreement shall be addressed in the case of the County Council to the Head of Law and in the case of

the City Council to the Director of Resources (or in either case such other officer of the County Council or City Council as they notify in writing to the other party for the purpose of receiving such notices).

## **8. Dispute Resolution**

- 8.1 The County Council and City Council must attempt in good faith to resolve any dispute or claim arising out of or relating to this Agreement promptly through negotiations between their respective officers who have authority to settle the same.
- 8.2 If the matter is not resolved promptly through negotiation the County Council and City Council shall attempt in good faith to resolve the dispute or claim through an Alternative Dispute Resolution ("ADR") procedure as recommended to the parties by the Centre for Dispute Resolution.
- 8.3 If the matter has not been resolved by an ADR procedure within 56 days of the initiation of such procedure or if either party does not participate in an ADR procedure the dispute shall be referred to arbitration for decision by a person appointed by agreement between the parties or in default of agreement by the President for the time being of the Institute of Arbitrators who will act as an expert and not as an arbitrator and whose decision will be final and binding upon the parties.

## **9. Interpretation**

- 9.1 A reference to any Act of Parliament includes a reference to any re-enactment of it and to any Order or Instrument made thereunder.

IN WITNESS whereof the County Council and City Council have caused their respective Common and Corporate Seals to be hereunto affixed the day and year first above written

**FINANCIAL ARRANGEMENTS**

1. The County Council shall reimburse the City Council its reasonable and proper costs of carrying out the Works and in establishing the City Council's reasonable and proper costs the parties shall have regard to the cost to the City Council of carrying out the Works under the Partnership Agreement including but not limited to the sums payable to any subcontractors in accordance with it. The pricing table in this Appendix ("Pricing Table") shall apply to the cost of carrying out the Works.
2. The parties shall make and send to each other estimates of costs and expenditure likely to be incurred in carrying out the Works from time to time including an estimated breakdown of costs by day rate contained in the Pricing Table. The parties shall meet each year to form an outline plan for the Works that maybe required in that year. Both parties acknowledge and agree that such outline plan shall not be binding on either party and the County Council shall not be required to pay any recompense or monies for Works in the outline plan that are not so ordered by the County Council.
3. The City Council shall notify the County Council as soon as it is aware of any event or factor likely to have a substantial effect on the costs to be incurred in carrying out the Works.
4. A direction given by the County Council under paragraph 1.2 of this Agreement may include a direction as to the cost of carrying out any of the Works including without limitation, the capping or limiting of such cost.
5. Indexation shall apply to the hourly rates ("the Prices") contained in the Pricing Table of this annex as follows: -.

5.1 The indices that apply are Highways Term Maintenance Indices (HTMI)  
work category WC10/3 Professional Services as published by BCIS

5.2 The Base Date is the 1<sup>st</sup> April 2020 (“Starting Date”) and the Prices are first adjusted on the anniversary of the Starting Date and annually thereafter.

5.3 The Latest Index (L) is the latest available firm index before the date of the annual adjustment

5.4 The Prices in the Pricing Table are fixed until 31<sup>st</sup> March 2021.

The County Council shall review the Prices in the Pricing Table on 1 April 2021 and annually on each 1 April thereafter during the Service Period.

The Prices are adjusted using the following formula and the adjusted Prices are used for the subsequent year:

$$\text{New Price} = \text{tendered initial Price} \times (1 + \text{PAF})$$

Where PAF (Price Adjustment Formula) =  $(L - B) / B$ .

For the avoidance of doubt, if PAF is negative, the Prices are reduced.

5.5 The adjusted Pricing Table is used only for orders issued after the annual adjustment. The Pricing Table in force at the time of the issue of an order for Works will be used to assess the Prices for that order

6. If any dispute arises between the parties as to the amounts due under paragraph 1. Above, then the parties shall resolve such dispute within the Dispute Resolution Procedure contained in the agreement.

Pricing Table

| Grade                                     | Hourly Rate |
|---|-------------|
| Landscape Architects                      | £55.00      |
| Planning and Landscape Technical          | £42.16      |
| Design Conservation and Landscape Manager | £78.50      |

## SCHEDULE

The functions to be delegated:

- The production of feasibility reports
- Landscape appraisal and Visual Impact Assessments (LVIA)
- Design, specification and procurement of landscape schemes.
- Contract management services, both independently and as part of extended design teams.
- Applying a comprehensive and thorough knowledge of the delivery of highways schemes that recognises the constraints and opportunities of works within the highways land ownership.
- The production of a range of graphic, cartographic and consultation material to assist scheme delivery
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- Graphic, desktop publishing and cartographic support for funding reports and documentation including the recent Transforming Cities application
- AutoCAD, KeyScape, KeySigns and KeyLines, Adobe suite and GIS software applications.
- Integration of infrastructure schemes with land use planning and the built heritage of the city at briefing stage and through commentary on emerging designs.
- Writing and presentation of funding applications, including managing the graphic contribution of the technicians.
- Developing the cycle network.



THE COMMON SEAL of

THE NORFOLK COUNTY COUNCIL

was hereunto affixed

in the presence of:-

HEAD OF LAW

Executed as a Deed by affixing the Corporate  
Seal of

**THE CITY COUNCIL OF NORWICH**

in the presence of:

.....

Authorised Signatory