

# Report

Report to:	<b>Community and Enterprise Resources Committee</b>
Date of Meeting:	<b>30 May 2023</b>
Report by:	<b>Executive Director (Community and Enterprise Resources)</b>

Subject:	<b>Contract Award: Tanker Applied Roads Surface Coatings to Scottish Borders Council</b>
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## 1. Purpose of Report

1.1 The purpose of the report is to:-

- ◆ advise on action taken, in terms of Standing Order No 37(c) because of the timescales involved, by the Executive Director (Community and Enterprise Resources), in consultation with the Chair and an ex officio member, to award a contract to Scottish Borders Council for Tanker applied Roads Surface Coatings under Regulation 13 of the Public Contracts (Scotland) Regulations 2015

## 2. Recommendation(s)

2.1 The Committee is asked to approve the following recommendation(s):-

- (1) the following action taken, in terms of Standing Order 37(c), by the Executive Director (Community and Enterprise Resources), in consultation with the Chair and an ex officio member, be noted:-
  - ◆ that the contract for Tanker applied Roads Surface Coatings was awarded to Scottish Borders Council for the period 1 May 2023 to 30 April 2028.

## 3. Background

- 3.1. The Council's Roads, Transportation and Fleet Services has a requirement for the supply and application of liquid bitumen emulsion to carriageways to support maintenance operations.
- 3.2. There are 2 operations supported by this service: the supply and application of Bond Coat for carriageway resurfacing and Binder for surface dressing operations. Both operations are similar in nature and require specialised vehicles, which the Council does not operate. It is considered uneconomical for the Council to purchase or lease these vehicles due to the number of projects and limitation of use to summer months.
- 3.3. The Council's contract for this service has been with Scottish Borders Council since 2014, with the most recent contract having expired on 31 March 2023.

## 4 Public Contracts (Scotland) Regulations 2015

- 4.1. The regulations govern how public bodies in Scotland procure goods, works and services. Regulation 13(8) states that the Regulations will not apply to procurements for the award of a contract between contracting authorities. This is known as the "Hamburg exemption" and is subject to the following requirements:-

- ◆ the purpose of the contract is to ensure that public services, which each of the contracting authorities have to deliver, are provided within their common objectives
- ◆ the co-operation is governed solely by considerations relating to the public interest
- ◆ the contracting authorities perform less than 20% of the activities concerned on the open market. The percentage of activities is determined by reference to the contracting authority's average turnover for the 3 years prior to the date of proposed contract award

4.2. All of the above requirements are met by the contractual arrangement and Scottish Borders Council have the capacity to undertake these works.

4.3. The Council's Standing Orders on Contracts section 3.7(b) sets out the arrangements to award a contract under Regulation 13(8), which requires authorisation from the Community and Enterprise Resources Committee. As the next meeting of the Committee was 30 May 2023, approval was sought under Standing Order 37(c) to award the contract from 1 May 2023.

## **5. Employee Implications**

5.1. There are no employee implications regarding the proposal.

## **6. Financial Implications**

6.1. The estimated value of the contract is £2 million which will be met from Roads, Transportation and Fleet Services revenue budget.

## **7. Climate Change and Sustainability and Environmental Implications**

7.1. There are no climate change and sustainability and environmental implications associated with this proposal.

## **8. Other Implications**

8.1. There are no other implications associated with the proposal.

## **9. Equality Impact Assessment and Consultation Arrangements**

9.1. There is no requirement to carry out an impact assessment in terms of the proposals contained within this report.

**David Booth**

**Executive Director (Community and Enterprise Resources)**

10 May 2023

## **Link(s) to Council Values/Priorities/Outcomes**

- ◆ Accountable, effective, efficient and transparent

## **Previous References**

- ◆ None

**List of Background Papers**

- ◆ Stage 1 Standing Order 37(c) Contract award: Tanker applied Roads Surface Coatings to Scottish Borders Council

**Contact for Further Information**

If you would like to inspect the background papers or want further information, please contact:-

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