

Report of: Acting Head of Highways Infrastructure**Report to: Chief Officer Highways and Transportation****Date: 07 April 2021****Subject: Approval to waive Contract Procedure Rules (CPR's) 8.1 and 8.2 and award a new contract for Support & Maintenance of Kaarbontech GullySMART.**

Are specific electoral wards affected?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, name(s) of ward(s):	
Has consultation been carried out?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If relevant, access to information procedure rule number:	
Appendix number:	

Summary

1. Main issues

- The Council awarded a contract (DN197059) to Kaarbon Technology Ltd on 24th March 2016 for KaarbonTech GullySMART, a Gully Cleansing Management System. This contract expires on 23rd March 2021 with no further options to extend.
- KaarbonTech GullySMART is used by the Council's Service Delivery Section, namely the Gully Cleansing Team to enable asset information to be collected, managed and made available to support a risk-based approach to gully cleansing.
- At the present time the assets within the KaarbonTech systems include almost 147,000 gullies.
- The Council is currently in the process of tendering for a new Highways and Engineering Digital Information Management System as part of the Highways Enterprise Architecture (HEA) project. The new system is intended to replace four existing main business systems (including KaarbonTech GullySMART) plus thirteen Access databases. This project is planned to be delivered within the next two years. If the HEA project were not to be implemented, the Council's Service Delivery

Section would need to carry out a full formal procurement exercise to replace KaarbonTech GullySMART.

- Until such time as the formal procurement exercise for a new Highways and Engineering Digital Information System is concluded, the Council is seeking to award a new support & maintenance contract for KaarbonTech GullySMART, for a period of 14 months, from 24th March 2021 to 31st May 2022. This will align the contract end date with other contracts in place for software applications being used by the Highways and Transportation Service and in the scope of the HEA project.

2. Best Council Plan Implications (click here for the [latest version of the Best Council Plan](#))

- The award of this contract will support and contribute to the delivery of the following Council policies and priorities:
 - a. Improving the city's transport infrastructure and tackling climate change risks.
 - b. Keeping people safe from harm.

3. Resource implications

- There are no resource implications associated with the award of a new contract to Kaarbon Technology Ltd for the support & maintenance of KaarbonTech GullySMART.

Recommendations

- a) The Chief Officer Highways and Transportation is recommended to approve a waiver of CPR's 8.1 & 8.2 and award a new contract to Kaarbon Technology Ltd for support & maintenance of the KaarbonTech GullySMART for the period 24th March 2021 to 31st May 2022.

1. Purpose of this report

- 1.1 The purpose of this report is to set out the reasons for seeking approval to waive CPR's 8.1 & 8.2 and award a new contract to Kaarbon Technology Ltd for support & maintenance of the KaarbonTech GullySMART for the period 24th March 2021 to 31st May 2022.

2. Background information

- 2.1 KaarbonTech GullySMART has been used by the Council's Service Delivery Section since 2016.
- 2.2 KaarbonTech GullySMART provides the Service Delivery Section, Gully Cleansing Team with the necessary tools to manage the Council's assets and produce information for forward planning to support a risk based asset management process. It provides the ability to schedule and record details of all inspections, capture asset condition, record defects and prioritise works for short and longer term Asset Management Planning.

- 2.3 The use of KaarbonTech GullySMART provides accurate and up to date asset information which is accessible across the Highways and Transportation Service.

3. Main issues

- 3.1 The Council awarded a contract (DN197059) to Kaarbon Technology Ltd on 24th March 2016 for KaarbonTech GullySMART, a Gullies Cleansing Management System. This contract expires on 23rd March 2021 with no further options to extend.
- 3.2 KaarbonTech GullySMART is used by the Council's Service Delivery Section, namely the Gully Cleansing Team to enable asset information to be collected, managed and made available to support a risk-based approach to gully cleansing.
- 3.3 To ensure service continuity, it is recommended that a support & maintenance contract is awarded to the current provider, Kaarbon Technology Ltd, for a period of 14 months, from 24th March 2021 to 31st May 2022, on the grounds that KaarbonTech GullySMART is proprietary to KaarbonTech, and as such, only they are able to provide the necessary upgrades, fixes and technical support for the system.
- 3.4 The award of a new contract to Kaarbon Technology Ltd for the period 24th March 2021 to 31st May 2022 will also align the contract end date with other systems currently in use within the Highways and Transportation Service that are within the scope of the HEA project, and will therefore allow time for the current tender exercise for a new Highways and Engineering Digital Information System to be concluded. The procurement of the new Highways system will also include for the functionality currently provided by KaarbonTech GullySMART.

3.5 Consequences if the proposed action is not approved

- 3.5.1 If a new contract for the support and maintenance of KaarbonTech GullySMART is not awarded, the Council will no longer be able to use this system to manage and maintain almost 148,000 gullies. This would have immediate significant disruptive impacts on a number of key business processes within the Highways and Transportation Service, with likely consequential economic impacts.
- 3.5.2 There would be a need to carry out a full procurement exercise which would take up considerable Council time and resources to implement new systems.
- 3.5.3 Alternatively, the Council's Highways and Transportation Service would need to revert to using a more time-consuming, extensive manual paper-based system to manage its infrastructure assets, which would have serious operational and reputational consequences in relation to the provision of services across the city.
- 3.5.4 Neither of the options set out in 3.5.2 and 3.5.3 would represent best use of Council resources or money at this point in time.

3.6 Advertising

- 3.6.1 This requirement has not been advertised. KaarbonTech GullySMART is proprietary to Kaarbon Technology Ltd and as such, only they are able to provide the necessary technical support, maintenance and updates to the system.
- 3.6.2 The award of a new contract to Kaarbon Technology Ltd is a short term contractual measure as the functionality provided by this system will likely be replaced as part

of the procurement of the new Highways and Engineering Digital Information Management System.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 Key Stakeholders in the Highways and Transportation Service as well as members of the Council's Digital and Information Service have been consulted and support the decision to award a new support and maintenance contract to Kaarbon Technology Ltd.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 There are no specific issues relating to equality and diversity or cohesion and integration identified through the award of this contract.

4.3 Council policies and the Best Council Plan

- 4.3.1 The award of this contract will support and contribute to the delivery of the following Council policies and priorities:
- Improving transport connections, safety, reliability and affordability - by supporting a risk based approach to highways asset management; and
 - Becoming an efficient and enterprising organisation - through effective data management in a centralised, accessible and re-usable way, and efficient document storage and retrieval.

Climate Emergency

- 4.3.2 This report relates to the procurement of a software system, its impact on climate change initiatives is mainly through the support it gives those services using it. The use of KaarbonTech GullySMART directly contributes by facilitating digital working, enabling the Council's Highways and Transportation Service to manage and maintain the Council's infrastructure assets using a digital platform, removing the need for extensive paper based systems. The system also helps minimise dead running and unnecessary journeys through the use of GIS based asset locations.

4.4 Resources, procurement and value for money

- 4.4.1 KaarbonTech GullySMART is currently in use within the Council's Highways and Transportation Service, and is fully embedded in the Council's IT infrastructure and business processes. There are no resource implications related to the award of a new contract for support and maintenance of this system.
- 4.4.2 To carry out a full procurement exercise to replace this system at this point in time would not represent best use of Council funds or resources as it falls within the scope of the tender exercise currently being carried out to procure a new Highways and Engineering Digital Information Management System.
- 4.4.3 There are many benefits to the KaarbonTech system. One of the most fundamental is that all gully locations are recorded and mapped via GPS so all are easy to find

on site. The ambiguity as to where a gully is has gone and this allows the crews to minimise lost time through abortive trips and searching for individual locations. It also allows for the recording of gully functionality and details of each cleanse are retained on the system with date, silt levels and any residual problems recorded. Those with blocked connections can easily be identified, city-wide, and it was through the use of such information that a bid was made for DFT Challenge Fund Monies in 2017, to help target blocked gullies on principal and distributor roads. The bid was successful, with the authority receiving £336,000, which allowed additional resources to be targeted on those problem locations.

- 4.4.4 The financial benefits of this work is difficult to quantify, though a reduced number of blockages reduces the Council's risk of third party claims, particularly in winter months from ice formation, reduced instances of surface water flooding and a reduction in complaints to the Council. The overall outturn with regard to blocked gullies has seen a reduction from in excess of 20% in 2016, to there currently being less than 2% which are non-runners.
- 4.4.5 The decision to award a new contract to Kaarbon Technology Ltd for support and maintenance of KaarbonTech GullySMART for the period 24th March 2021 to 31st May 2022 represents both value for money and best use of Council funds and resources at this time.
- 4.4.6 The total cost of the contract for the period 24th March 2021 to 31st May 2022 is £40,988.33.

4.5 Legal implications, access to information, and call-in

- 4.5.1 The award of a new contract to Kaarbon Technology Ltd for support and maintenance of the KaarbonTech GullySMART at a total value of £40,988.33 is a Significant Operational Decision and is not subject to call in. There are no grounds for keeping the contents of this report confidential under the Access to Information Rules.
- 4.5.2 The value of the direct award detailed within this report is below the threshold for the application of the Public Contracts Regulations 2015 for the procurement of public services contracts and therefore it is not subject to the full EU procurement rules. However, the Council's Contracts Procedure Rules 8.1 and 8.2 require competition for procurements valued between £25K and £100K and the invitation of at least three written tenders. A waiver of these Contracts Procedure Rules is required to award a contract direct to Kaarbon Technology Ltd.
- 4.5.3 Awarding a contract direct to Kaarbon Technology Ltd without competition could leave the Council open to a potential claim from other providers, to whom this contract could be of interest, that it has not been wholly transparent. In terms of transparency, it should be noted that Council's Contracts Procedure Rules suggests that contracts of this value should be subject to a degree of advertising. It is up to the Council to decide what degree of advertising is appropriate. In particular, consideration should be given to the subject-matter of the contract, its estimated value, the specifics of the sector concerned (size and structure of the market, commercial practices etc.) and the geographical location of the place of performance. The Chief Officer Highways and Transportation is requested to consider this and, due to the nature of the services being delivered, the systems being proprietary to Kaarbon Technology Ltd, and the relatively low value and

length of the contract, approve that the scope and nature of the services is such that it would not be of interest to contractors in other EU member states. In awarding the contract to Kaarbon Technology Ltd without competition, there is a potential risk of challenge from other providers who have not been given the chance to tender for this opportunity, although this risk is considered low due the reasons set out in this report.

- 4.5.4 Whilst there is no legal obstacle preventing the waiver of Contract Procedure Rules 8.1 and 8.2, the above comments should be noted by the Chief Officer Highways and Transportation and in making the final decision should be satisfied that doing so represents best value for the Council.

4.6 Risk management

- 4.6.1 There are low risks associated with awarding a new contract to Kaarbon Technology Ltd for support and maintenance of the KaarbonTech GullySMART system. The decision will ensure that Highways and Transportation Service continue to receive updates, fixes and technical support from 24th March 2021.
- 4.6.2 There is a risk of an Ombudsman investigation arising from a complaint that the Council has not followed reasonable procedures, resulting in a loss of opportunity. The complainant would have to establish maladministration. It is not considered that such an investigation would necessarily result in a finding of maladministration; however such investigations are by their nature more subjective than legal proceedings.
- 4.6.3 Any risks which are highlighted during the term of the new contract will be managed and mitigated through regular account management/supplier review meetings.

5 Conclusions

- 5.1 The award of a new contract to Kaarbon Technology Ltd for support and maintenance of the KaarbonTech GullySMART for the period 24th March 2021 to 31st May 2022 will ensure that the Council's Highways and Transportation Service can continue to manage and maintain the Council's infrastructure assets, and represents best use of Council funds and resources at this time.
- 5.2 The decision to seek approval to waive CPR's 8.1 and 8.2 and award a new contract to Kaarbon Technology Ltd is:
- 5.2.1 on technical grounds - as the system is fully embedded into the Council's IT infrastructure and is proprietary to Kaarbon Technology Ltd, such that only they can provide the necessary upgrades, fixes and support for the system.
- 5.2.2 a short term contractual measure – the functionality provided by the system will likely be replaced as part of the procurement of the new Highways and Engineering Digital Information Management System.

6 Recommendations

- 6.1 The Chief Officer Highways and Transportation is requested to approve a waiver of CPR's 8.1 and 8.2 and award a new contract to Kaarbon Technology Ltd for support and maintenance of KaarbonTech GullySMART for the period 24th March 2021 to 31st May 2022.

6.2 Total cost of the contract is £40,988.33.

7 Background documents¹

7.1 None

¹ The background documents listed in this section are available to download from the council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

What is your reason for waiving CPRs?

There is a genuine, unforeseeable emergency meaning there is no time to go through a procurement process e.g. to deal with the consequences of extreme weather.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
To purchase supplies or services on particularly advantageous terms due to liquidation/administration.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Requirement to put a contract in place with a current provider whilst a review of the services is completed.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Ran out of time to undertake a new procurement exercise	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Other (please provide summary here)	<input type="checkbox"/> Yes	<input type="checkbox"/> No