

**AGENCY AGREEMENT FOR THE DELIVERY OF HIGHWAYS RELATED FUNCTIONS IN
CAMBRIDGE**

To: Cabinet

Date: 27th April 2010

From: Acting Executive Director: Environment Services

Electoral division(s): Cambridge divisions

Forward Plan ref: 2010 / 028 **Key Decision:** Yes

Purpose: To consider:

- i) The future of the agency agreement with Cambridge City Council for the delivery of highway functions; and
- ii) A City Council Motion requesting the County Council to adopt a protocol for highway tree management.

Recommendation: Cabinet is recommended to:

- i) Resolve to terminate the current highways function agency agreement with Cambridge City Council on 31st March, 2011;
- ii) Delegate the Acting Executive Director: Environment Services to negotiate a new highways function agency agreement with Cambridge City Council, in consultation with the Cabinet Member for Highways and Access; and
- iii) Support the preparation of a Countywide protocol for tree management for future consideration.

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1. BACKGROUND

Scope of the agreement

- 1.1 The agreement provides for each authority to provide various highways related functions for the other such as maintenance functions. It also allows Cambridge City Council to undertake improvements on the highway network in the city, subject to highway policy and health and safety requirements.
- 1.2 The City Council undertakes the maintenance of highway verges, ditches and trees in the city as well as highway weed kill operations. The County Council undertakes the maintenance of street name plates and City Council footways and provides highway advice and a design capability as and when required.

Costs

- 1.3 The costs incurred by each party are monitored and managed on a quarterly basis and reconciled at year end.

Current status

- 1.4 The agreement with Cambridge City Council for the delivery of highway functions terminates on 31st March this year. However, the agreement allows for its extension on an annual basis, subject to the agreement of both parties.
- 1.5 With the support of the Cabinet member for Highways and Access, the agreement has been extended for a further year until 31st March 2011. It has been indicated to the City Council that Cabinet may decide to formally terminate the agreement at the end of that period.

2. THE FUTURE OF THE AGREEMENT

- 2.1 From the County perspective, some aspects of the agreement are considered to be cost effective such as the City Council undertaking verge and ditch maintenance and it may be beneficial to continue these arrangements under a new agreement. Other aspects such as tree management may be better managed directly given that capability now exists within the Network Management Service for the management of highway trees in all other areas of the county. If this function were to be taken back, there could be Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) implications for City Council staff.
- 2.2 The City Council uses the agreement to develop various highway environmental improvements using its own contractor. Under any new arrangement clearer protocols need to be established to ensure that these schemes comply with all the processes that County highway schemes are subject to.

- 2.3 The current policy on third party funding allows for external bodies such as parish councils to fund highway works but they also have to take on maintenance liabilities through commuted sums or through agreed maintenance regimes with no cost to the County Council. It is questionable whether some of the City Council's schemes meet key County transport objectives although they are probably valued by the local community but they do represent an increased maintenance burden on the County Council. For example, the City Council has constructed various traffic calming schemes at sites where no improvement in the injury accident record is likely to be achieved, which are now a county maintenance liability. A similar issue exists with other district councils that fund environmental improvements on the highway that do not necessarily meet County transport objectives.
- 2.4 A key issue for consideration is whether all third party funded highway works should be subject to commuted sums to cover future maintenance liabilities for the life time of the highway measure. This might be limited to measures that cannot demonstrate a contribution to safety, accessibility or congestion objectives. Future negotiations with the City Council on a new agreement will give an opportunity to explore this issue.

3. TREE PROTOCOL

- 3.1 The City Council has adopted a protocol for the management of the trees in its public open spaces and it has requested, by Motion, that the County Council adopts this protocol for the management of highway trees in Cambridge, currently managed through the highways function agreement (see **Appendix A**). The protocol sets out a regime for consultation and advertisement when significant work is to be carried out on trees and provides for objections to be considered by members.
- 3.2 The City Council is intending to use the protocol when managing highway trees under the current agreement and there seems no reason to challenge this whilst the agreement is in place.
- 3.3 Whilst some aspects of the protocol are worth adopting, there are concerns over any formal adoption of the whole protocol by the County Council at this time as it is considered quite burdensome on staff resource and bureaucratic. As such, it is recommended that the protocol is not formally adopted and that consideration is given to the development of a countywide protocol for highway trees to achieve a consistent and equitable approach across the whole county, taking into account staff resource issues.

4. SIGNIFICANT IMPLICATIONS

Resources and Performance

Finance

- 4.1 Any new agency agreement needs to demonstrate cost effective service delivery from a county perspective. The issue of future maintenance liabilities also has financial implications.

Performance

- 4.2 Any new agreement needs to include appropriate arrangements to demonstrate effective performance.

Best Practice

- 4.3 With respect to highway schemes, a new agreement will give the opportunity to ensure that schemes are developed in accordance with county policy and delivery requirements.

Key Risks

- 4.4 Failure to agree a new agency agreement carries the key risks shown below:
- a) The potential for an reduction in service levels in respect of verge maintenance where the City Council undertakes additional grass cutting
 - b) Damage to the relationship with the City Council if it proves impossible to agree a suitable new agreement
- 4.5 These risks will need to be managed through the negotiation process.

Human resources

- 4.6 Termination of the agreement may result in some city council staff transferring to the county under the TUPE regulations.

Other main implications headings

- 4.7 No significant implications have been identified in respect of the following:
- **Climate change**
 - **Statutory Duties / Requirements and partnership working**
 - **Engagement and consultation**
 - **Access and Inclusion**

Source Documents	Location
Agency agreement for the delivery of highway related functions	ET 1028 Castle Court Shire Hall

CITY COUNCIL MOTION: TREE PROTOCOL

Resolved (unanimously) that

The City Council acknowledges the understandable concerns of residents about trees which have been felled recently in the City or which are due to be felled under planning consents, and acknowledges residents' concerns as to whether felling is justified.

The Council recognises that trees are living organisms that have to be managed and that this can involve felling them. But the Council is very keen to ensure that decisions about felling trees are fully publicised and, where they are sensitive decisions, they are made by Councillors in public meetings.

It therefore will make changes to its procedures as follows:

Trees on the City Council's own land: a new protocol for tree works will be presented to Community Services Scrutiny Committee for endorsement on 25 June. It includes full public consultation procedures and has been trialled in relation to recommendations to fell trees at Midsummer Common.

Trees owned by the County Council on the public highway: the County Council has responsibility for trees on the public highway and it subcontracts this responsibility to the City Council, with the exception of works to implement the Guided Bus. The City Council will request that the above protocol is agreed by the County Council for trees on the public highway.

Trees on private land: where these are subject to permission for tree works, whether they be protected by Tree Preservation Orders or in Conservation Areas, the enhanced public consultation procedures in the new protocol for tree works will be applied. In addition the delegation procedures will be reviewed in order that sensitive proposals are made in committee by Councillors.

Procedures for all tree works will be published on the City Council website and in a leaflet, and seminars will be offered to concerned parties. Opportunities will also be taken to explain those procedures at meetings of Area Committees.

The Council notes that its policy towards tree works is set out in its Arboricultural Strategy of July 2004 and in the Cambridge Local Plan of July 2006, Policy 4/4.