



Highways PFI

Tuesday 12 October 2004

Report to City Council

Highways Management and Maintenance PFI



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1: Preface

By Councillor Michael Wilkes
Chair, Co-ordinating Overview and Scrutiny Committee



I will keep this short - the substance is in the report. I would like to thank Members of the Committee for their input and the Scrutiny team for their support, professionalism and commitment both to this important exercise and to the role of Scrutiny where this Council is to the fore. I am pleased to say that the printing of Scrutiny reports is now in-house and I commend the quality of the work.

Michael Wilkes



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2: Summary

- 2.1.1 The proposed Highways Maintenance PFI is a hugely significant issue for the City Council involving a 25 year contract and expenditure which could over that period, at outturn prices, exceed £2 billion. It is therefore highly desirable that the Council as a whole has ownership of the decision as to how to proceed.
- 2.1.2 The PFI involves complex judgements on service transfer/retention and risk assessment; the financial modelling and methodology and the interface with other Council policies such as localisation, conservation and human resource issues. We have, therefore, spent a lot of time familiarising ourselves with the details contained in the Outline Business Case, its accompanying appendices and a range of background papers. At our evidence gathering sessions we raised a large number of specific points and we appreciate the way in which many of these matters have now been clarified.
- 2.1.3 But at the heart of the PFI proposal we believe are essentially 4 sets of quite straight forward questions which need to be answered.
- 2.1.4 The first questions are inevitably around the financing. Is the PFI the best way to deliver the additional resources required to bring the highways network up to scratch? In terms of the money, is the PFI the "only show in town"? If it is not, is it still the best way of raising the additional £379 million needed, at current prices, without adversely affecting other services or requiring a significant increase in Council tax?
- 2.1.5 The second group of questions is around service delivery. If the PFI is felt to be the best financial option with which to go forward, what should be its scope? What services, not just because they are needed to secure the PFI credit but because they are best delivered in this way, should be included? What services because of their complementarity with other locally provided services and on a range of other grounds are better excluded from the PFI contract?
- 2.1.6 The third set of questions relates to the impact a PFI would have on service users and democratic representatives. Would the introduction of a Highways Maintenance and Management PFI secure more coherent delivery for service users? In the context of the City Council's major localisation initiative, will service users have an increased or diminished influence over how these services are provided? Would Elected Members be able to represent fully the interests of their constituents?



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- 2.1.7 The fourth set of questions concern the future of staff under any PFI and the impact on local employment. Would the PFI respect the reasonable interests of our staff in their new work environment? And would there still be a strong enough retained client role to ensure proper monitoring and enforcement?
- 2.1.8 Whilst finance, as always, is critical to what can and cannot be done, it needs to be taken alongside other considerations. We are talking about significant services which impinge daily on the lives of Birmingham residents and workers and which shape their quality of life. Also, if decentralisation and devolution is to mean anything to local residents, they must have the confidence to know that their concerns and wishes regarding services included within the PFI can be addressed by their democratically Elected Members.
- 2.1.9 We have, therefore, deliberately widened the aperture of our original deliberations to ensure that considerations such as democratic control, impact on localities, interface with other City Council policies and services and environmental impacts are fully taken into account.
- 2.1.10 Because of this range of issues and the amount of supporting paperwork we discovered to be available, we requested the following 6 relatively succinct issue papers in order to provide a structured framework for our deliberations
- The current Highways Management and Maintenance Service provision;
 - Alternative options for Highways Management and Maintenance;
 - Financial options;
 - Employment and Human Resources issues;
 - Local Services provision and environmental considerations;
 - Timetable implications.
- 2.1.11 We were grateful for these papers which we felt, possibly for the first time, brought together the various financial and non-financial considerations. In taking evidence we raised a number of issues, some of which were able to be dealt with at the meeting and others to which we have subsequently received responses.
- 2.1.12 Our broad conclusions on the 4 sets of questions, identified earlier, are as follows:
- 2.1.13 To provide the necessary injection of resources to bring the highways network up to an acceptable standard, without diverting resources from other City Council services or requiring a significant increase in the Council Tax, the PFI option is the best available at this time.
- 2.1.14 The PFI should focus on what was always originally seen, following on from the Best Value Review, as the core highway services and exclude some other services which have subsequently become included within



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the project framework. Specifically, this means that the PFI should include the complete highway network but exclude certain other services. A grid showing our views on proposed inclusions and exclusions is shown in para 5.2.1 of our report.

- 2.1.15 These decisions concerning the modified scope of the PFI will ensure that a range of services delivered in the Districts are able to be directed from the local level. We were told, however, that how this influence will be achieved was, at this stage, still to be defined. This work must now be done urgently.
- 2.1.16 We recognise that proper arrangements can be made for the transfer of staff to the PFI provider through TUPE/TUPE Plus or staff remaining directly employed by the City Council through either secondment or sub-contract arrangements. Whilst we also recognise that these are never going to be easy discussions between Management and Trade Unions, we were concerned to hear from the Unions of their view that there has been a dearth of consultation. This is in stark contrast to the information we have received from officers that the trade unions have not availed themselves of the many provided opportunities for consultation. This stand-off is in no one's interest.
- 2.1.17 We want a "whole Council" feel to these very important decisions. Using our report and our conclusions we hope that the full Council will agree a way forward which can then be central to the formal decision by Cabinet.



3: Terms of Reference

3.1 The Reasons for the Review

- 3.1.1 The proposed PFI is a huge watershed for the Council, involving a 25 year contract and expenditure over that time exceeding £2bn. The prospect of such a sum being devoted to highways maintenance in Birmingham must be attractive. At the same time, Members are well aware of the profound implications of such a commitment and of the problems that other City Council maintenance services are facing. A change of this magnitude merits informed consideration by the wider membership of the Council and preferably its agreement on the course of action to be undertaken.
- 3.1.2 At its meeting on Monday 3 November 2003, the Cabinet took a series of decisions relating to this Initiative. The fundamental decision was to accept in principle the award of PFI credits; the following 8 decisions set out a framework for moving the project forward. A request for call in was lodged on Thursday 6 November, and the Co-ordinating O&S Committee met on Tuesday 18 November to consider the issue.
- 3.1.3 The O&S Committee agreed unanimously that the decisions should be referred back to the Cabinet for further consideration. A major reason for this was the strongly held view of the need for further consideration at City Council. On a matter of this magnitude a wider briefing should have been arranged.
- 3.1.4 This was followed by a debate in full Council on 2 December 2003 when Council resolved to ask the Executive to cease any further non-scrutiny work on the PFI until a full scrutiny report had been considered by the Council. The Cabinet met on 8 December 2003 to reconsider its decisions in the light of both the call in and the City Council's resolution. However, the Cabinet was mindful that a considerable amount of work needed to be done before the Government's deadline for contractual close on 31 March 2006. It decided to go ahead with work on the PFI scheme but indicated that as proposals were developed it would work with O&S.



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3.2 The Terms of Reference

- 3.2.1 In order to provide a mechanism to channel that work, Co-ordinating O&S Committee agreed on 12 December 2003 the terms of reference for a scrutiny exercise. The objectives were:
- to achieve wider understanding amongst City Council Members of the revised business plan;
 - to identify the implications of the PFI for the Council's policy priority of localisation and devolution;
 - to work with the Cabinet Committee in bringing the detailed proposals forward.
- 3.2.2 The full terms of reference can be found at Appendix A1.1 to this report. In the event, the scrutiny exercise has been carried out in two phases either side of this year's Annual Council Meeting. The first phase was carried out by the Co-ordinating O&S Committee for 2003-4, chaired by Cllr Len Gregory. The second phase, including the production of this report, has been undertaken by the current Committee, chaired by Cllr Michael Wilkes.

3.3 First Phase: February 2003 to June 2004

- 3.3.1 Co-ordinating O&S Committee on 6 February 2004 looked at the outline business case and decided that the first stage of the review should concentrate on the financial elements of the proposals.
- 3.3.2 It did this on 5 March and 16 April, when the issues were discussed with senior officers and the Council's adviser consultants. The O&S Committee was also advised by Dr. Peter Watt of INLOGOV.

3.4 Second Phase: July – October 2004

- 3.4.1 Following the Annual Council Meeting on 29 June 2004, the newly-appointed Co-ordinating O&S Committee agreed to continue the investigation. Whilst there were still financial issues it wished to pursue, the new Committee also recognised that finance was not the sole consideration.
- 3.4.2 For the second phase, therefore, we deliberately adopted a wider aperture for our scrutiny to ensure that proper consideration was also given to other issues of importance to Council Members and the Birmingham public – issues such as democratic control, the impact on localities, the interface with other City Council policies and services, and environmental considerations.



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- 3.4.3 We commissioned papers on these matters from the appropriate Strategic Directors and Service Heads. These are reproduced in the appendices to this report.
- 3.4.4 Issues arising from those papers were discussed by the Committee with the officers concerned on 10 September.



4: Findings

4.1 The History of the Proposal

- 4.1.1 The proposal to look at a PFI mechanism to fund the highways maintenance service has been under consideration within the City Council for some considerable time. It originated in the Best Value Review of the highways maintenance service carried out in 2000/2001.
- 4.1.2 The first political approval to work which could lead to a PFI was given by the then Executive committee on 23 March 2001, which accepted the following recommendation:
- “As a result of the Highways Maintenance Best Value Service Review, agree that preliminary market consultation be undertaken to inform an Outline Business Case (OBC), suitable for the application of a Private Finance Initiative (PFI) or similar Design Build Finance and Operate (DBFO) type arrangement, depending on the result of market soundings and further evaluation.”
- 4.1.3 On 20 July 2001, the Executive Committee approved the submission of the Outline Business Case (OBC) for the Highways Maintenance and Management Service to the Government “to seek funding through a Private Finance Initiative”.
- 4.1.4 In November 2001, the Audit Commission reported on an inspection of the Highways Maintenance Service. Their assessment was that the Council was providing a “fair”, 1 star service that was unlikely to make step change improvement. It recommended that project plans be developed for both the implementation of the PFI and for delivery of essential improvements should PFI funding not be achieved, with decisions taken on procurement options by May 2002 and implemented by April 2003.
- 4.1.5 Interestingly, the five-year Best Value Review Service Improvement Plan itself was not approved until Cabinet did so on 22 July 2002. In his report, the Strategic Director of Development informed the Cabinet:

“A 5-Year Highways Maintenance Service Improvement Plan was prepared for approval by both Best Value Advisory Team and Street Services Advisory Team. However, due to differences in political focus between members, the Best Value Advisory Team only approved Year 1 Key Improvements in April 2001. Street



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Services Advisory Team then accepted the recommendations of the Best Value Advisory Team and also only approved the Year 1 Key Improvements."

- 4.1.6 At this stage there was a pause in public reporting on the issues. It was clearly not the case that work had ceased – the Executive's Forward Plan contained an item expecting a decision on the Highways Maintenance and Management PFI every month since the very first issue in December 2001. Despite that, however, and despite the recommendation of the Audit Commission that decisions on procurement options should be taken by May 2002, no report came forward to a public political forum for some considerable time.
- 4.1.7 When this long period without public reporting came to an end, it did so suddenly. In Cabinet on 27 October 2003 the then Leader referred to a Government announcement that day, and the Department for Transport issued its decision letter on 28 October. The report was issued on Thursday 30 October under "Supplementary Reports 2" and taken by Cabinet under the urgent items provisions on Monday 3 November.
- 4.1.8 It was then that Cabinet decided formally to accept the award by the Department of Transport of PFI credits for a future Highways Maintenance and Management Service – the decision which was followed by the call in, the City Council debate referred to in section 3 of this report, and indeed by this scrutiny exercise.
- 4.1.9 It is clear that a major initiative is required to renew Birmingham's highways. City Council officers have confirmed to us that:
- the road network in its current condition cannot provide an acceptable service; it needs a major cash injection in a core investment period to remove the backlog of highway infrastructure works that have accumulated over the past 20 or so years;
 - rehabilitating the road network to a reasonable condition is expected to need £50m in the core investment period;
 - maintenance on bridges and other structures is expected to need £47m;
 - upgrading street lighting to current standards is expected to need £75m;
 - rehabilitating the road drainage network is expected to need £5m.



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4.2 Financial Options

- 4.2.1 Gaining an understanding of the PFI proposals and what alternative financial options might be available has been central to much of our considerations.
- 4.2.2 During the first stage of our review we asked Dr Peter Watt, INLOGOV, University of Birmingham to give us some advice. We had 2 meetings with Dr Watt whose view was that whilst he felt that the PFI looked the most advantageous to the City Council we should also make sure that the new availability of prudential borrowing was thoroughly explored.
- 4.2.3 For our most recent meeting we received a helpful paper from the Strategic Director of Resources which carefully looked at other possible sources of funding.

In-house delivery through supported borrowing

- 4.2.4 The Government gives each local authority an annual allocation to support capital expenditure, either by way of supported borrowing or by capital grant. This is known as the Single Capital Pot which in the current financial year amounts to £87.856 million. It is allocated as follows:

	£'000
Education	23,940
Housing	33,789
Transport	16,082
Social Services	528
Flourishing Neighbourhoods	13,517
Total	87,856

If additional resources were to be directed to Transport (Highways) then funding would need to be taken from other policy priorities. This "robbing Peter to pay Paul" in part accounts for the position in which we now find ourselves and would not work. We therefore discounted this option.

In-house delivery through unsupported borrowing under the prudential borrowing arrangements

- 4.2.5 The City Council is no longer restricted to the amount it may borrow provided that it can demonstrate that it is able to service the debt.
- 4.2.6 We have had some concerns about the way some of the figures have been presented - we have, for example, found it much more helpful to see the impact of the borrowing requirements in terms of current day prices rather than outturn prices which builds in automatic inflation



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assumptions.

- 4.2.7 However, whichever way you cut the cloth, resources would have to be diverted from other sources and/or for there to be a significant increase in the Council Tax.
- 4.2.8 When there is another financial option available which avoids these serious service/tax implications, that must clearly have the advantage. We therefore have not pursued further this option.

A joint venture partnership

- 4.2.9 Joint ventures are usually appropriate for the delivery of services where there is an externally funded income stream, something that is lacking in this project.
- 4.2.10 Furthermore, if a partner or financial institution was to provide the finance the cost would be greater than what the City Council could borrow under the prudential borrowing regime. This penalises this option.

Financing through issuing bonds

- 4.2.11 Local Authorities do have powers to issue bonds and this received much publicity a few years back with the issue of how to fund the improvements necessary on the London Underground. However, the cost of borrowing from the Public Works Loan Board (PWLB) is cheaper and the cost of administration would also be higher. While there are some advantages for smaller projects (for example, an increased and secure income for Birmingham citizens purchasing the bonds) for a project on this scale this method of financing has to be rejected.

The originally proposed PFI

- 4.2.12 This project as originally proposed would bring guaranteed additional investment to the City Council roads of £778m, at out-turn prices over 25 years. This is detailed in Fig. 1 on the following page.



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	£m
Inner Capital	
Highway Drainage	5.927
Skid Resistance	1.858
Recovery of road and footway backlog	53.877
Street lighting	80.816
Structures - bridges, culverts, etc	47.248
	189.726
Whole Cycle	
Resurfacing	272.006
Reconstruction	155.425
Urban Traffic Control	28.718
Street lighting	70.023
Tree replacement	7.002
	533.174
Client costs	52.518
Procurement	2.563
Total	777.981

Fig. 1: PFI Capital Investment at outturn prices

- 4.2.13 The net present value of this £778m is £379m which is the PFI credit which would be awarded to this project.
- 4.2.14 Of this £778m, some £280m represents the amount of local transport plan capital funding that might be available over the same period if the Government gave a commitment to continue the current allocation of 8m per annum for the whole 25 year period. The amount of new investment (i.e. over and above the current LTP sum of £8m pa) would therefore be around £500m.
- 4.2.15 Any affordability gap between the cost of the specified level of service under the PFI contracts and current levels has been covered by the Government's confirmation of grant determined by the PFI credit. With effect from the commencement of the project the City Council will receive a guaranteed grant which, under current rules, will amount to £40m in the first year. This will reduce by 4% per year meaning that excess grant is payable in the early years with grant continuing after the conclusion of the project.
- 4.2.16 Given the particular need for an early injection of funding to improve the state of the highways network, this front-loading has particular attractions. Taken together with the very significant credit award, we believe that the PFI is the only realistic financial vehicle available to the City Council.



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Configuring the PFI

- 4.2.17 With the consideration of certain exclusions of services from the current scope of the PFI, attention has been given to what this would mean to the Outline Business Case and the award of PFI credit.
- 4.2.18 The PFI credit implications of excluding certain services are shown in Fig 2. This identifies the implications of the various elements of the current scope proposed for removal from the contract. Values are cash over the duration of the PFI contract (25 years).

Activity	Lost PFI Credit £m
Street Cleansing	0.00
Horticulture (excl trees)	0.00
Highway Tree replacement (& maintenance)	*8.00
Winter Maintenance	0.00
Signs	0.00
Seats	0.00
Emergency Response	0.00
Temporary Event Management	0.00
Road Markings	0.00
Footway Crossings	0.00
Public Place Management	0.00
Total	8.00

Fig. 2: Impact of reconfiguration

*This £8m figure is the additional PFI credit (cash not discounted value) that the £7.002m investment (referred to in Fig 1) would attract out of the total £778m; i.e. it represents the affordability gap created by the inclusion/omission of the activity. The difference between the 2 values (i.e. £8m and £7.002m) represents the additional costs that a PFI contractor would include in their price e.g. cost of risk, cost of borrowing/financing, etc less any contractor efficiency savings arising.

- 4.2.19 We are advised that the exclusion of these services would not result in the Outline Business Case having to be reconsidered from scratch. It would, however, in the case of highway trees result in a reduction of PFI credit. It may, however, be possible to retrieve the credit via other approved engineering works (such as the relief of suburban residential parking problems).

A localised PFI body

- 4.2.20 We have been advised that if this option was followed PFI grant would not be payable and if the project was to proceed funding would need to be raised by the City Council with similar considerations as with earlier options.
- 4.2.21 More detail on this option is also provided in Appendix A1.4.



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4.3 Highways Management and Maintenance PFI Options

- 4.3.1 Whilst the PFI might be the only available way of raising the necessary finance it does not necessarily mean that all the services originally included are best delivered that way. For us the question was, all things considered, 'what services are best delivered from the service users perspective within the PFI rather than just to secure the PFI credit?'
- 4.3.2 We were informed that the proposed PFI had evolved into a 'back of footpath to back of footpath' proposal. But it was acknowledged, as already evidenced by the concept of mandatory variant bids included in the OJEU notice published earlier in the summer, that there are a number of persuasive arguments for maintaining certain services within direct Council control. We have looked in detail at the case for services being inside or outside the PFI tent.
- 4.3.3 In taking this evidence we also asked a number of detailed questions and the responses have helped considerably in the drafting of this report.

Network coverage

- 4.3.4 The current PFI proposes that the whole of the network is transferred to the PFI provider to achieve consistent high service levels. Anything less would produce a fragmented approach which would cause confusion. We take the view that the case for including the whole network prevails.

Other services included

- 4.3.5 We have discussed in detail with officers the range of services included within the PFI and are of the opinion that the following services should be excluded:
- Street cleansing
 - Highway horticulture including trees
 - Emergency repairs
 - Temporary event management
 - Public places management
 - Street seats
- 4.3.6 Whilst keeping footway crossings, road markings and signage in, there are localised exceptions and we have also made certain qualifications. The detailed list of those services we see within a PFI, with our comments, are shown in paragraph 5.2.1 of the Conclusions section of this report.



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- 4.3.7 Reasons for exclusion include: lack of material impact on PFI, environmental considerations, strong linkages with other Council services, the role of Members and contribution to the major City Council priority of localisation.
- 4.3.8 We have been advised that to exclude these services should neither put the PFI in jeopardy nor risk the contracting consortia losing interest.
- 4.3.9 One of the exclusions, highway trees, while resulting in a loss of PFI credit, we believe is important for many environmental reasons and not least in sustaining an essential characteristic of our City. We believe there are ways that additional funding could be made up, one particular option we favour is looking at the longstanding issue of local car parking problems.

4.4 Human Resource Issues

Employment Options

- 4.4.1 If the City Council chooses to adopt a PFI, in any form, the employment issues for the services included would remain to be resolved. There would seem to be four possibilities:

TUPE

- 4.4.2 Whether or not the Transfer of Undertakings Provision (TUPE) applies is ultimately a matter of law. When a group of employees spend the greater part of their time in a labour intensive undertaking or use a significant amount of assets and these are taken on by the PFI service provider from the City Council, it is likely that TUPE will apply. Any proposed transfer of undertaking is then subject to the normal consultation machinery.

TUPE Plus

- 4.4.3 TUPE Plus agreements build upon TUPE rights, aiming to ensure that there is no deterioration in pay and conditions during the life of a contract. In particular, they extend protection to groups of employees not covered by TUPE, including those employed after transfer.

Secondment

- 4.4.4 Here staff would still be directly employed by the City Council (although under the direct control of the service provider). This means that it would be difficult to transfer to the service provider responsibility for the quality of work performed. The service provider would not have the right to discipline or the ultimate sanction of



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dismissal and would therefore likely be reluctant to be bound by performance indicators. There is also the possibility that a secondment arrangement may, in legal terms, amount to a TUPE transfer.

Sub Contracts

- 4.4.5 The Council's DLO could sub-contract to the service provider to provide a range of highway services. However, the City Council would need to be able to demonstrate that this amounted to a sufficient risk transfer to the provider to permit the PFI to proceed. Further exploration of the possibilities of sub-contracting should be undertaken.

Client Arrangements

- 4.4.6 Having only last year completed a scrutiny review of the housing repairs service we are very aware of the problems caused by a weak client function. In our meetings officers assured us that lessons had been learnt and that there will be a strong retained client function to ensure that the City Council's policy control is not diminished.

Local Employment

- 4.4.7 We regard it as most important that the specification to the PFI provider goes as far as possible to secure maximum employment for the citizens of Birmingham. See also paragraph 5.4.5

4.5 District Committees and Locality Considerations

- 4.5.1 Throughout the review the O&S Committee was aware that financial issues, and the provider arrangements, are very important but not the only considerations. This is why in the second phase of our work we broadened the aperture to look at a range of other related and important issues.
- 4.5.2 The various services under consideration for the PFI have a considerable impact on localities and also interface with other City Council policies and services. Examples include parks and nature conservation; cleansing of land beyond the highway; refuse collection; and heritage and conservation issues. Related environmental factors are exemplified by noise, local air quality, bio-diversity and water quality; in addition there are impacts on safety and crime.
- 4.5.3 Finally there is the important question of the influence Members of the Council and local residents can have on the planning and delivery of highway and related services in their local areas – and in particular the future role of the City Council's relatively new District Committees.



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- 4.5.4 We commissioned a paper from the Strategic Director of Local Services which addressed local service provision and environmental considerations. This is included in the Appendix.
- 4.5.5 On the one hand, the PFI proposals have been developed on the basis of a "back of footway to back of footway" concept, and from some perspectives there is a logic in all services affecting the highway being totally and solely the responsibility of one provider.
- 4.5.6 On the other, the Strategic Director's paper pointed out various operational difficulties involved. The current Horticultural Maintenance service is totally integrated across all Council owned land; the transfer of some of this work to other contractual and operational arrangements would require reorganisation, re-tendering and potential loss of economies of scale. The Strategic Director's report particularly highlighted issues arising from including the Tree service within the PFI. Overall his conclusion was:

"Whilst it could be stated that inclusion of Grounds Maintenance and Trees within highway corridors is in the best interest of the street scene, all other Council owned areas will suffer as a consequence, which, when taken across the Parks and Nature Conservation Service as a whole, is not necessarily in the best interest of those who live and work in Birmingham."

- 4.5.7 Similarly the same report also highlighted the synergies between street cleansing, waste collection, recycling and waste disposal. The Strategic Director stated that there were likely to be "significant annual costs associated with disaggregating refuse collection from street cleansing." Under the "You Are Your City – Clean and Safe" campaign, street cleaning teams have been cleaning up land off the highway. We were informed that over 10,000 tonnes of rubbish have so far been cleared from over 2,800 such sites; further initiatives are planned to deal with a range of local environmental problems.
- 4.5.8 The Strategic Director's report identified one activity currently undertaken by the street cleansing service which should logically and practically be included within the PFI – the removal of weeds from the footway and the highway.
- 4.5.9 In the conclusion to this part of his report, the Strategic Director made an important and telling point about public perceptions and the role of the City Council:

"Street cleansing, along with refuse collection, is a basic, high level service which is readily identified with the Local Authority and is, as such, used as a measure of the Authority's performance. It is a service which, by its very nature, is in continual change and one that having been localised should reflect the needs, priorities and changes that local communities wish to address. It is, therefore, important that local accountability and influence are maintained."



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- 4.5.10 Accordingly, we were interested to see evidence as to how such accountability and influence could be maintained over highways services under a PFI.
- 4.5.11 We understand that the basis of the PFI proposal is to deliver a consistent and reasonable base line standard across the city. Enhancement would be possible in the words of the Strategic Director "where additional local funding is made available".
- 4.5.12 The Strategic Director's report pointed out that:
- "Processes will need to be put in place whereby the District team and Engineer can identify local priorities with Local Strategic partners, Users and Elected Members, and feed them into the HMM PFI programming and planning process."*
- 4.5.13 During our investigation, no specific mechanism has been put before us to demonstrate clearly how District Committees could exercise an ongoing role of setting priorities for services included within the PFI.
- 4.5.14 Similarly with respect to those services which could be delivered outside a PFI arrangement, the exact role of District Committees and the mechanism through which they could exercise local influence was not fully spelt out. Trees and street cleansing are prime examples here. We heard views both in favour of their inclusion in the PFI and in favour of their exclusion. The evidence of their importance to the local environment, and indeed to whether a neighbourhood could be described as "flourishing", was striking. But equally it would have been useful to have received clearer statements as to how precisely District Committees (as distinct from district managers) could influence policy and operational priorities for these services whether delivered through a highways maintenance PFI or not.
- 4.5.15 Keeping with the issue of trees, we have seen the City Council's tree policy statement. This contains statements such as: "The Council will do all it can to care for its trees to ensure our tree stock thrives for the benefit of the people and the wildlife of Birmingham." And "The Council recognises the value of trees in the community because we see them as part of our everyday lives. They may line the streets where we live or work and the importance of these trees in enhancing our quality of life is acknowledged by the City Council." These are precisely the reasons why it would be inappropriate just to address trees as an obstruction that happened to grow beside the highway and where the highway alone should be the sole determinant of their management and maintenance.

Other pertinent considerations

- 4.5.16 The phrase "the devil is in the detail" is particularly apposite in relation to the PFI. It is very important that in taking the broad policy decisions the City Council is fully aware of issues which come in their wake. We flag 4 such issues.



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(i) Tariff Mechanism

- 4.5.17 The papers we have seen advised that a payment mechanism is currently being produced. Twelve performance standards will form the core of this mechanism. Deductions from the unitary charge will then be made where the performance standards are not met.
- 4.5.18 In considering these performance standards the Committee noted that, at this stage, several were imprecise. Furthermore, we were concerned that a number of them related to the speed or volume of PSVs and HGVs using City roads. If retained, these need to be extended and revised to include benefits to all road users including motorists and cyclists. Bearing in mind environmental and aesthetic considerations, the criteria should not give incentives to any PFI contractor to maximise the gain for particular categories of vehicles at the expense of other road users, the environment and the quality of life of local residents.

(ii) Third party revenues

- 4.5.19 We noted that it was suggested that the PFI contractor might generate income via the location of mobile 'phone masts on the highway or the sale of advertising on lamp columns. We have taken the view that such matters, if allowed at all, must be under the direct control of the City Council.

(iii) Congestion Charging

- 4.5.20 We take the view that in the event of any future scheme of congestion charging, or other means of restricting traffic flow to central areas of the City, being implemented nationally, regionally or locally, such a scheme should be under the direct control of the City Council.

(iv) Ordering of Work

- 4.5.21 Under any PFI, the order in which the works are performed throughout the City, or the means by which the order is determined, should be agreed by the Districts.



5: Conclusions

5.1 Should we proceed with a PFI?

5.1.1 We have looked in detail at possible alternative sources of finance, namely:

- Supported borrowing
- Unsupported borrowing under the new prudential borrowing arrangements
- A joint venture partnership
- Financing through issuing bonds

Our CONCLUSION is that a PFI scheme with its attendant "PFI credits" - which generate additional grant - is the only option currently available that will bring the additional resources to the City Council at the level needed to bring about the major maintenance and restoration of the highway network. No other options that we have been able to identify produce Government support for investment on this scale which means that the work would need to be funded from the City Council's resources, with consequent effects on other service revenue or capital programmes, or the level of the Council Tax.



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5.2 What Services Should be Included?

5.2.1 We have carefully considered which services, not just because they might secure a PFI credit, but because they are best delivered in this way, should be included. Discussion began around a list of possible exclusions on which Member and officer opinion was sought. As a result of the advice and discussion, this list is provided, in which an asterisk indicates a qualified inclusion.

Our CONCLUSIONS are shown in the grid below:

GRID ON SERVICES FOR INCLUSION/EXCLUSION IN PFI

Service	In/Out of PFI	Comments
Rehabilitation & Maintenance of whole Highway Network	In	The core of the PFI.
Traffic Signals	In	Management and maintenance of signals is an integral part of the highway service. Removal would also result in significant loss of PFI credit.
Winter Maintenance	In*	On balance persuaded that better to include to ensure co-ordinated approach to highway service. HOWEVER, grit bin provision excluded and extent decided by Districts.
Signage	In*	Signage acknowledged as integral part of highway maintenance BUT road name plates should be excluded.
Seats	Out	Minimal impact on PFI should be responsive to local needs.
Road Markings	In*	Classified roads included BUT unclassified roads should be picked up by District Committees.
Footway Crossings	In*	On the basis that PFI contractor was NOT given the monopoly for this work within the contract but would be responsible for the maintenance of the crossing once installed.
Street Cleansing	Out	Originally identified as a mandatory variant bid, there is no capital investment required. Indication from the Bidders Conference also suggested that likely to be sub-contracted by the principal contractor to a third party.



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Street Column Replacement / Maintenance	In*	Subject to confirming that local considerations on desirability, location (i.e. front or back of footpath) and design can be determined by Districts.
Highways Horticulture (excluding trees)	Out	The retention of highways horticulture would keep the current "holistic" approach to the maintenance of the City's green environment.
Highway Trees	Out	The PFI Officer Project Team did not have a uniformity of view. The engineering opinion prevailed that this should be included in the PFI. But it is recognised that the "handing over" of this service area could have a negative environmental impact. It is also accepted that this service, with significant District level influence, may be incompatible with the PFI.
Emergency Response	Out	It is considered important to keep direct control of these functions.
Temporary Event Management	Out	Again, it is considered important to keep direct control of this function.
Public Place Management	Out	Ensure better co-ordination with related Council services.

5.2.2 Of the services which it is now proposed to exclude from the PFI, only highways trees replacement (and maintenance) will result in a loss of PFI credits. This amounts over the 25 year period to £8 million. In the best judgement of the officers who have advised us they do not believe that taking out this service would put in jeopardy the PFI or that contracting consortia would lose interest. This will, however, need to be confirmed with Government and the City Council will, in any case, need their agreement to the revised programme.

5.3 Client Arrangements

5.3.1 Whilst much of our attention has focussed on the financing and scope of the services that a PFI might provide, the role of the City Council as client will be just as important to the success of the project.

5.3.2 Policy control remains with the City Council. The City Council will remain as the Highway Authority and the Service Provider will act as the agent for the City Council. There remain important questions of compliance with policy and the resources necessary to ensure this. For example, we understand that there are insufficient tree officers for essential monitoring if highway trees were to be included in the PFI.



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- 5.3.3 Having last year completed a scrutiny review of the housing repair service, we are very conscious of the problems that a weak retained client function can cause. Throughout the Districts, Elected Members and Housing officers were faced with the situation where they had very little day to day influence over the management of the service. As an example of large scale externalisation it has left much to be desired.
- 5.3.4 We have been assured that there is no risk of this situation being repeated. We have been told there is a determination to give detailed attention to the specification and to secure a strong client function with the Development Directorate.

Our CONCLUSION is that for the Highways PFI to deliver the improvement in standards needed for users it is absolutely essential that there be a strong, effective and adequately staffed retained client function.

5.4 Employment Matters

Employment Options

- 5.4.1 The Committee were advised that the employment options for a PFI are fourfold
- TUPE
 - TUPE plus
 - Secondment
 - Sub-contract
- 5.4.2 We were advised that there might be legal or procedural problems to be overcome if sub-contracting or secondment were to be used. Appropriate use of sub-contracting, however, could reduce the impact of a PFI on existing employees and in one or other of its forms it may be more appropriate for maintenance as distinct from capital work. While there is no automatic legal barrier to DLOs being sub-contractors, the existence of such a relationship would be taken into account in assessing consistency with the risk transfer required for a PFI.
- 5.4.3 Secondment has fewer attractions and it would also diminish the expertise available to the Council for the monitoring of policy compliance by a PFI contractor. In practical terms there would also be the need to ensure both a sound client/contractor split and the contractor having the necessary control to manage performance.
- 5.4.4 Further work is necessary in respect of these employment options, particularly the variants of sub-contracting and this should most certainly be carried out without delay.



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- 5.4.5 We were concerned to hear from the BCC Joint Trades' Unions of their concerns at the lack of consultation around the PFI. Yet we are also aware that during 2003 there were extensive consultations between Council officers and the recognised non-teaching Trades Unions on the drafting of a TUPE protocol. This protocol has been a separate piece of work that has been undertaken outside of the PFI consultation with the Trade Unions but will allow a clear framework within which to facilitate any TUPE transfer of staff to the PFI Service Provider.

Our CONCLUSION is that the City Council must take every reasonable step to ensure that there is full engagement in discussions with Trades Unions and that the decisions that are made are informed by these consultations.

Local Employment

- 5.4.6 There is concern that the award of the PFI to a major national or international contractor has the potential to harm local contractors and local employment.
- 5.4.7 An additional factor influencing local employment is the 'multiplier' effect of major financial inputs to the local economy. The more work that is carried out by local firms with local employees the more amplified will be the beneficial impact on employment and, as these employees spend, on local businesses. Clearly, if as much work as possible is carried out by existing employees of the City Council, this effect is maximised.

Our CONCLUSION is that any PFI specification and implementation must go as far as possible in securing maximum local employment.

5.5 Locality and Democratic Implications

- 5.5.1 Whilst we did not begin the scrutiny with rigid preconceptions about what services should be retained in-house or what were best externalised, as our review progressed we were increasingly of the view that the linkages between certain services and, the City Council's other policies, one of which is localisation, pointed some services firmly in the direction of being able to be controlled at District level.
- 5.5.2 Strong cases were made to us, for example, of street cleansing and horticultural work being locally sensitive.
- 5.5.3 When, however, we asked what mechanisms were in place to ensure that local Elected Members and residents were able to influence these services we were told that in many cases these arrangements were still being worked up.



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5.5.4 Turning to the PFI itself, we were told that there would be tight specification and control of services. Specifications will, as a minimum, be at national standard or above if the City Council currently provides a higher level of service. The Service Provider will then need to:

- Engage with District Committees as well as local communities; and
- Respond to local priorities and needs in accordance with this key Council policy.

Our CONCLUSION is that, at a similar pace to the proposals now being taken forward for a possible PFI, complementary work is done to ensure that District Committees can shape those services within the PFI and direct those now excluded.



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Appendices



Highways PFI

A1.1 Pro-forma for the Review

Proposed Scrutiny Review

A	Subject of review	Highways Maintenance and Management PFI
	Overview and Scrutiny Committee	Co-ordinating O&S Committee
B	Reason for review	The PFI involves a 25 year contract and expenditure of over £2bn. There is widespread agreement, including by the Cabinet, that rigorous scrutiny is required. This review is being undertaken to provide a firm basis for understanding the detailed proposals as they come forward.
C	Objectives of review, including outcomes	<ul style="list-style-type: none"> to achieve wider understanding amongst City Council Members of the revised business plan to identify the implications of the PFI for the Council's policy priority of localisation and devolution to work with the Cabinet Committee in bringing the detailed proposals forward
D	Lead Member(s)	Cllr Gregory (Chairman); all Co-ordinating O&S Committee Members.
E	Lead Review Officer	Nick Partridge (supported by Bob Harrison, external consultant in the initial phase).
F	Relevant Cabinet Member(s)	The Leader Cabinet Member for Transportation and Street Services Cabinet Member for Local Services and Community Safety Cabinet Member for Equalities and Human Resources
G	Council departments expected to contribute	<ul style="list-style-type: none"> Highways Resources Legal Services Local Services
H	External organisations expected to contribute	
I	Anticipated date of report to Overview and Scrutiny Committee	Interim reports will be made to the Cabinet Committee on the PFI at times determined by the Cabinet Committee's timetable. This will also determine the timing of any overall report to the City Council.



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J	Estimated Number of Working Days to Conduct Review	It is envisaged that there will need to be an initial intensive phase, which might require additional meetings of the Committee. Thereafter it is anticipated that the work will be undertaken in the Committee's regular monthly cycle.
	Per Member Officers	
		5 officer preparatory working days per meeting
K	Anticipated call on Scrutiny Budget	costs of employing external consultant

Approved:
(Chairman, Co-ordinating Overview and Scrutiny Committee)

Date Approved:
(By Co-ordinating Overview and Scrutiny Committee)

Friday 12 December 2003



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A1.2 A Framework provided by the Chair, Co-ordinating O&S Committee

The Scrutiny of the Proposed Highways Management and Maintenance PFI - a framework provided by the Chair, Co-ordinating O&S Committee

1. Context and Overall Timescale

- A1.2.1 The new administration of the City Council is reviewing the PFI in order to ensure that it not only serves as a vehicle to provide finance to bring the highways up to a satisfactory standard, but, is also, on a broad range of grounds, in the best interests of those who live and work in Birmingham.
- A1.2.2 This is to take place quickly, leading to a conclusion at the City Council on Tuesday 12 October. The intention is for this debate to be informed by views both from the Executive and from the Co-ordinating O&S Committee on the best way forward.
- A1.2.3 This timescale is necessary because, should the decision be to proceed with a PFI, the current overall PFI timeframe can then be utilised.
- A1.2.4 The Cabinet Member and the Chair of the O&S Committee have agreed on the scope of the work each will oversee. This allows the linked exercises to draw on a common information base but to avoid duplication. For its part, the Co-ordinating O&S Committee intends to devote a substantial part of its planned meeting on Friday 10 September to the issue. It is then likely to hold a further meeting round about 24 September to agree its report.

2. The Focus of the Scrutiny Exercise

- A1.2.5 An initial pro-forma was agreed by the Co-ordinating O&S Committee in December 2004. On 6 February 2004 the Committee decided that the initial phase would concentrate on the financial elements of the PFI proposals. That phase has largely been completed.
- A1.2.6 What the Committee wishes to be able to do is to present the City Council with a clear exposition of each option and an evaluation of each. That evaluation will be less from the service provider's point of view, concentrating instead on what each option would bring to the service users and their democratic representatives.
- A1.2.7 To help the Committee carry out this evaluation, it has asked for a set of issues papers to be produced and circulated in advance of the 10 September meeting. At the meeting itself, it is proposed that



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there should be a series of presentations lasting around 15 minutes each, highlighting the key issues from the papers.

- A1.2.8 The first paper should be a statement of the current position, including:
- the state of the highway in Birmingham
 - the level of service
 - the spend – revenue and capital
 - how the service is organised, managed and delivered
 - how the maintenance programme is decided
 - how service users and elected Members currently influence service delivery.
 -
 - This will provide a benchmark against which options for service delivery in the future can be judged.
 -
- A1.2.9 The other papers need to set out clearly the possible options, together with their implications. These should include anticipated benefits, likely disbenefits, and areas of uncertainty.
- A1.2.10 The first of this set of papers should concern highways issues, with the aim of describing as clearly as possible the outcome of each option in terms of the future standard of the highway. It should also highlight any organisational, management and service delivery issues, and the degree of flexibility retained by the City Council. The options here fall into three categories:
- network coverage – e.g. Principal Road Network only; classified network; whole network
 - services included – e.g. all services as defined in the Outline Business Case; or a smaller number, as specified in paragraph 2.7 below
 - service specification and control – e.g. a single city-wide specification; degrees of locality-based specification.
- A1.2.11 The material on the services included should be presented in a way which corresponds to a “maxi PFI” (i.e. the currently proposed, comprehensive model) and to a “mini PFI”. The section on the latter should lay out the implications of the City Council retaining a wider range of services and excluding from the PFI the following functions:
- highway tree replacement
 - street cleansing
 - horticulture



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- traffic signals
 - winter maintenance
 - signage and seats
 - emergency response
 - event management
 - road markings
 - provision of footway crossings
 - public place management
 - and should also vary the lighting column replacement requirements so as to allow district discretion over which roads to include or exclude and also over retaining the position at the front of the footway.
- A1.2.12 This highways paper should also set out any implications which may arise from the form of any contractor body, focussing here on the "maxi-PFI", the "mini-PFI" and a "localised PFI body" which has been separately suggested by Cllr Olley. The Appendix to this note outlines the "localised PFI body" proposal.
- A1.2.13 It is envisaged that this paper would be produced by the Chief Highway Engineer.
- A1.2.14 The second of the options and implications papers should concern financial matters, and which would need to be prepared by the Strategic Director of Resources. It needs to cover the following financial options:
- in house delivery through supported borrowing
 - in house delivery through unsupported borrowing under the prudential borrowing arrangements
 - a joint venture partnership
 - financing through issuing bonds (with the identification of any possible income stream)
 - the currently proposed PFI (i.e. "maxi PFI")
 - a less comprehensive PFI (i.e. the "mini PFI")
 - the "localised PFI body" as outlined in the Appendix
 - any other option which officers consider should be brought to Members' attention.
- A1.2.15 Material on the "mini PFI" should cross-refer to the options considered in the highways paper.
- A1.2.16 The finance paper should also clarify the consequences of contractor default, renegotiation arrangements, and the question of residual value. It should also spell out the effects of changes to the tariff mechanism, such as removing from the payment scheme the



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adjustment for the average speed of Public Service Vehicles, and indeed the effect of an introduction of congestion charging.

- A1.2.17 Next, a paper on employment and human resources issues is required. It is envisaged that this would be prepared by the Strategic Director of Resources in conjunction with the Director of Corporate Human Resources. Where the various highways and financial options require differing employment vehicles, this paper needs to describe them briefly but clearly and set out the implications. It should also detail the extent of consultations with the trades unions to date.
- A1.2.18 The final paper in this set needs to address the impact on the wider locality. The various services under consideration have a considerable impact on localities and also interface with other City Council policies and services. So this paper needs to set out implications for services such as parks and nature conservation; cleansing of land beyond the highway; refuse collection; and other heritage and conservation issues, such as the control of the appearance of conservation areas. The effect on other environmental factors such as noise, local air quality, bio-diversity and water should also be noted, as should the impact of various options on safety and crime. The paper also needs to cover the impact on the ability of service users and elected Members to influence the delivery of highways maintenance services in their locality.
- A1.2.19 It is suggested that this paper be put together by the Strategic Director of Local Services.
- A1.2.20 Finally, the Committee also wishes to be informed of the timetable required for the letting of a PFI contract, with an explanation of which dates are at present fixed, and which are desirable but have some flexibility.

3. Scrutiny Office Contact

- A1.2.21 From Wednesday 4 August until Friday 21 August inclusive, Nick Partridge will be the main contact for clarification and advice. John Cade will resume this role from Monday 24 August, including any advice needed in preparing for the O&S Committee's meeting on 10 September.



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APPENDIX 1

BIRMINGHAM HIGHWAY MAINTENANCE WORKS

LOCALISED PFI BODY

OUTLINE PROPOSAL – MARCH 2004

The City Council are investigating ways to provide better value with regard to the maintenance of its highway network. The PFI in effect will ring-fence money earmarked for roads, so that it can only be spent on the roads.

Current PFI schemes in operation such as can be witnessed in operation with Severn Trent and the Highways Agency are not working as they promised. If the City adopts a model, which is currently available, then we as elected members run the real risk of having no say on what happens on our roads over the next twenty-five years. To many this is not acceptable.

We believe that we can develop a model, which protects the interests of local councillors to have a say, our workforce (both blue and white collar) and local contractors both of whom have served this City for many years.

At present a PFI scheme is being considered. The scale of this and more particularly the cost of bidding will preclude local contractors who have traditionally carried out this work with the result that bids will only be made by national contractors.

The likely role of local contractors (who tend to employ local people) would only be as subcontractors to the chosen tenderer. Even this may be in doubt, as experience with other similar schemes has been that it has been difficult for local contractors to establish an ongoing relationship in these circumstances which allows them to secure a recurring workload with economic levels of return. The consequence of this is that there is a likelihood of locally based contractors ceasing to trade or at best scaling down their Birmingham operations. The future of the Council's Direct Services and its employees is even more uncertain.

A possible alternative scenario would involve developing a localised PFI body, which would be a joint venture company owned and controlled by locally based stakeholders set up specifically to manage and co-ordinate works on the highway network.



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The preferred make up of a localised PFI body would be COB Direct Services, three or more principal local contractors, a design consultant and, if the model required by the client dictated, a financial organisation. Each principal would hold a single share and the localised PFI would be run on a "not-for-profit" basis.

The work would be allocated via the localised PFI body to the principal and other local contractors and suppliers on an equitable basis based on either a cost reimbursable contract with pre-agreed levels of overheads and profit (as laid out in the New Engineering Contract Option C for example) or on a competitively tendered schedule of rates (similar to the present system operated by the City Engineers Department).

It is important that the length of these contracts is sufficient (say 5 years) to allow a relationship to develop and give the appointed contractors confidence to invest in the equipment and training required to ensure improvement in the level of service provided. There would need however to be agreed reviews at annual intervals to assess the performance of all parties in the delivery of their part of the contract – this would be based on pre-agreed Key Performance Indicators.

The financial arrangements of the localised PFI body would need to be tailored to ensure that the City Council gained maximum benefit from any funding (by way of grants, loans or credits) available from Central Government or other sources. It may be necessary to have within the localised PFI body a financial institution to act as "banker". (This may be an "arms-length" division of the existing Council Finance Department or an outside financial institution).

The spending profile currently proposed envisages that there should be an initial "big-hit" to renew most of the highway assets followed by a period of pure maintenance.

The disadvantage of this proposal is that the initial "big-hit" would inevitably require a large element of imported labour and materials to supplement locally available resources in order to achieve the out-turn required. There would also be a significant cost implication due to the supply and demand principal. Following this "big-hit" the low level of maintenance required would be insufficient to support the local contractors, which would therefore have a detrimental effect on the local economy.

There is also the consideration that during the "big-hit", assets with considerable remaining economic working life would be replaced.



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The localised PFI body would have less of a vested interest in the “big-hit” option than a national FM provider as the localised PFI body would be more concerned with the longer term workload, service levels and effect on the local economy than the national provider who would be more interested in the short term maximisation of profits.

The next step would be to “flesh out” the proposals for the localised PFI body and instruct solicitors to draw up a draft head of agreement. This would obviously involve some expenditure by the localised PFI body partners who would therefore need some indication that the proposal may be favourably received.

The actual formal drawing up of a bid to the City Council would involve considerable costs, which would be beyond the means of any local contractor and therefore could only be undertaken on the understanding that bid preparation costs would be supported by the City Council.



A1.3 Alternative Options for Highways Management and Maintenance Service Provision

BIRMINGHAM CITY COUNCIL PROPOSED HIGHWAYS MANAGEMENT AND MAINTENANCE PFI PAPER 2 - ALTERNATIVE OPTIONS

1 INTRODUCTION

- 1.1 The Co-ordinating Overview and Scrutiny Committee have requested a paper to consider alternative options to the current HMMPFI proposal. The alternative options consider the network coverage (i.e. the scale of the project), the services included and the service specification & control. The detailed brief is given at Appendix 1 for ease of reference.

2 NETWORK COVERAGE – SCALE OF THE PROJECT

2.1 Aims and Objectives

- 2.1.1 The following aims and objectives have been developed for the highway maintenance and management project. These were used in the business planning process (i.e. the Outline Business Case (OBC)), and will be used in the procurement process to ensure the agreed objectives are met.

Aims

- To provide for the future prosperity of the area
- To focus and manage travel to reduce effects on the environment
- To provide greater transport choice
- To improve transport facilities and services
- To prevent social exclusion

Objectives

- Rehabilitation of the road network such that it is capable of carrying existing and projected future capacities without parts of it being restricted due to weak structural condition or the condition of its surface
- Implementation of an affordable and sustainable maintenance regime
- Policy flexibility
- Flexibility to meet the changing demands on the highway
- Implementation of best value regimes to deliver long term value for money



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- Optimisation of lane availability to traffic and improved accessibility to public transport
- Safe passage (including public and personal safety)
- Reduction in the number and value of liability claims against the City Council

2.1.2 The full analysis on the scale (i.e. Principal Road Network (PRN), Classified Network or Whole Network) can be found in Sections 5 and 6 of the Outline Business Case (August 2003). Should Members wish to consider any other permutation than the whole network this may well require a new Business Case consideration by the Department for Transport (DfT) and their advisors.

2.2 Principal Road Network (PRN) Only (approx. 200 carriageway km)

- 2.2.1 Under this option, all capital maintenance works, routine and response maintenance and management (as defined in Appendix 2) within the PRN corridor are included within the project. Thus, the project objectives are achieved for this part of the network only. The remaining roads would be managed by the City Council under the existing arrangements. This option does not deal with the structural, bridges or street lighting backlog on the secondary network.
- 2.2.2 Partial ring-fencing of the City Council's budget would be required. The rate of decay on the secondary network will accelerate to a perceived level which may be unacceptable to service users and the public at large. Rehabilitation of infrastructure particularly street lighting may become more of an issue in the short term as experienced currently in some of the local districts.
- 2.2.3 The public may question the different standards between the two networks and already have the perception that particularly footways on the remaining network have been neglected. This option does not achieve Best Value objectives for the whole network
- 2.2.4 The City Council has a higher degree of flexibility on the rest of the network but with insufficient funding to deliver proper asset management turning the current reactive service into a more pre-planned proactive regime.

2.3 Classified Network

(approx. 440 carriageway km (including 200 carriageway km of PRN))

- 2.3.1 Under this option, all capital maintenance works, routine and response maintenance and management (as defined in Appendix 1) within the PRN and other classified network corridors are included within the project. The Classified network amounts to only 440 carriageway



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kilometres (approx.) out of a total network of 2,490 carriageway kilometres. Thus the project objectives would only be achieved for these parts of the network.

- 2.3.2 The unclassified road network would be managed by the City Council under the existing arrangements. This option does not deal with the structural backlog on the unclassified network.
- 2.3.3 The implications, benefits, delivery issues and flexibility are the same as given above for the PRN but for increased network coverage.

2.4 Whole Network

(approx. 2490 carriageway km)

- 2.4.1 Under this option, the whole network is transferred to the HMMPFI Service Provider to achieve service levels consistent with the project objectives. The service users would experience an improvement in the condition of the network as a result of rehabilitation works. In addition there would be a consistent and improved level of service delivery on the scope of services agreed by Members. As discussed, Members may feel less democratic control exercising this option. However, quality control should be maintained or improved by the use of revised output and/or outcome specifications. Service specifications will be set at least at national standards or where the City Council is currently above that standard on some elements of the service. These will be at the risk of the Service Provider.
- 2.4.2 Organisational, management and service delivery issues relating to the whole network are expanded upon in Section 3.1.

3 SERVICES INCLUDED – SCOPE OF THE PROJECT

3.1 Current Scope of Services as contained in the Outline Business Case

- 3.1.1 Appendix 2 identifies the current scope services included in the Outline Business Case for a sustainable highways maintenance and management service dated August 2001 (final revision dated August 2003) together with the rationale behind inclusion of these services.
- 3.1.2 There is a need to raise the current level of service to return the city's infrastructure to an acceptable 'fair and reasonable' base level by major upfront capital investment. The service will then be sustained at this level at least throughout the HMMPFI contract.
- 3.1.3 The project will include the refurbishment and operation of the roads, footways, street lighting, bridges, traffic signals and street furniture over a 25-year period. Improvements to the quality of the City Council's road network will assist the Council in delivering its key strategies, and will address the specific objectives in the Best Value Review of its Highway Maintenance Service and included in the Local Transport Plan.



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- 3.1.4 Improvements to the current street lighting service will involve the upgrade/replacement of the city's street lighting columns. The improved highway and better and brighter street lighting will benefit all users, helping to improve road safety and reduce crime and/or the fear of crime.
- 3.1.5 It will be essential to consider how Localisation and the proposed HMMPFI contract would dovetail together. This is addressed in more detail in Paper 5 – Local Service Provision.
- 3.1.6 Policy control will remain with the City Council. The City Council remain as Highway Authority and the HMMPFI Service Provider will act as an agent for the City Council. The Service Provider will be authorised to manage and control the highway in order to meet the policy direction of the City Council. The City Council has the flexibility to modify or change policy as a result for example of Best Value Service Reviews held at 5-year intervals. As policy changes, this will be covered by a change mechanism in the contract. Depending on the change of policy impact to the contract, this may well determine the financial consequences.
- 3.1.7 In determining a revised scope it will be necessary to confirm the level of delegations given to the HMMPFI Service Provider. The initial analysis of the possible list of delegations can be found in Appendix H of the OBC.
- 3.1.8 The Traffic Management Act 2004 has now come into being, with the implications yet to be understood at a national level.

3.2 Reduced Scope of Services as specified in Co-ordinating O & S Committee HMMPFI Framework Document

- 3.2.1 The following services have been considered for retention by the City Council:
 - ❖ highway tree replacement
 - ❖ street cleansing
 - ❖ horticulture
 - ❖ traffic signals
 - ❖ winter maintenance
 - ❖ signage and seats
 - ❖ emergency response
 - ❖ event management
 - ❖ road markings
 - ❖ provision of footway crossings
 - ❖ public place management
- 3.2.2 In order to assess each service area, it is necessary for clarity to identify the different elements within the general headings as follows:



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Service Description	Element of Service
Highway Tree Replacement	Tree Replacement
Street Cleansing	Street Cleansing
Horticulture	Tree Maintenance Grass Cutting Shrub Maintenance Soft Landscape Maintenance within Highway Weed Control
Traffic Signals	Traffic Signal Maintenance Traffic Signal Management (Urban Traffic Control Centre)
Winter Maintenance	Pre-salting of pre-defined routes Reactive Ploughing and salting during snow Grit Bin Maintenance
Signage and Seats	Non illuminated Signs Sign Poles & Lighting Units Illuminated Bollards Seats
Emergency Response	Removal of immediate danger from highway
Event Management	Managing the effects of Temporary Events on the highway
Road Markings	Replacement markings following resurfacing Renewal of worn out and missing markings Ad hoc markings e.g. disabled bay markings Traffic Regulation Waiting Restrictions Road Studs
Provision of Footway Crossings	Provision as part of planned footway works Individual requests for crossings
Public Place Management	Maintenance of City Centre Pedestrianised Areas



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- 3.2.2 Each service has been fully assessed in line with the brief detailed in Section 1 of this paper. Detailed analysis of the services being considered for retention by the City Council is contained in Appendix 3.

4 SERVICE SPECIFICATION AND CONTROL

- 4.1 Irrespective of the scale or scope of the project, quality control will be achieved by the use of well structured specifications. Currently, the City Council use input specifications outlining how to do the work. The opportunity is given by the HMMPFI project to change the specifications to become what is to be achieved i.e. the output or outcome. This will allow the skill / experience and expertise of the proposed Service Provider to manage and arrange work under the City Council's policy direction.
- 4.2 Specifications need to be written to provide continuous improvement and mirror general upgrades as national standards change with time. It has to be recognised that the specifications must be demonstrably affordable within available funding.
- 4.3 Specifications will be as a minimum at national standard or above if the City Council currently provides a higher level of service. Should Members wish to enhance city-wide standardised specifications at a local level, this may only be achieved by additional financial resources being made available outside the 'ring fenced' budgets.
- 4.4 The HMMPFI Service Provider will need to:
- engage with the district management teams and committees as well as local communities; and
 - respond to local priorities and needs in accordance with this key Council policy.
- 4.5 Whilst the Development Directorate will manage and administer the HMMPFI Contract and will have service level agreements with the 11 districts, it will be a requirement of the Service Provider to put into place one, two and five year service plans for the primary, secondary and tertiary network.
- 4.6 Evolution of the plans will be delivered by a combination of strategic control (Cabinet / Cabinet Member) and local influence and priorities from District Committees. Plans will be produced with sufficient time before implementation to allow for full and meaningful consultation.

5 DELIVERY MECHANISM – IMPLICATIONS ON THE FORM OF THE SERVICE PROVIDER

5.1 Current Scope of Services as contained in the Outline Business Case - 'Maxi HMMPFI'

- 5.1.1 The current scope of services is shown in Appendix 1. The delivery mechanism for this scope would use an output specification to which the HMMPFI Service Provider shall comply. In addition, there would be



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a sufficiently robust Client function to ensure that quality services are delivered. How the interface between the City Council as Client and the HMMPFI Service Provider works will to a large extent depend on what employment solutions are decided. These are outlined in Paper 4 – Employment and Human Resources Provision.

5.2 Reduced Scope of Services as specified in Co-ordinating O & S Committee HMMPFI Framework Document - 'Mini HMMPFI'

5.2.1 The reduced scope of services (i.e. taking out those services as identified in section 2.2) will have the same delivery mechanism as in section 4.1. However, those services taken out may require restructuring in order to obtain the best interface with the Service Provider.

5.3 Localised HMMPFI Body

5.3.1 There are many issues to be addressed should this option be pursued e.g. whether this option would satisfy the requirements of FRS5 (Financial Reporting Standard 5: Reporting the Substance of Transactions: Private Finance Initiative and Similar Contracts) and therefore give the City Council a HMMPFI project. This matter is dealt with in Paper 3 – Financial Considerations. The delivery mechanism in utilising such a body, if deemed acceptable, would have the City Council still planning and ordering the works utilising shorter term contracts.

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Appendix 1

Proposed Highways Management and Maintenance PFI Paper 2 – Alternative Options

Brief

- To consider the following alternative option categories:
 1. **network coverage** - e.g. Principal Road Network only; classified network; whole network
 2. **services included** - e.g. all services as defined in the Outline Business Case; or a smaller number, as specified in Co-ordinating O & S Committee HMMPFI Framework Document
 3. **service specification and control** - e.g. a single city-wide specification; degrees of locality-based specification,
- To produce a clear exposition of each option and an evaluation of each
- To concentrate on what each option would bring to the service users and their democratic representatives
- To set out clearly the possible options, together with their implications, including anticipated benefits, likely disbenefits, and areas of uncertainty
- To describe as clearly as possible the outcome of each option in terms of the future standard of the highway.
- To highlight any organisational, management and service delivery issues, and the degree of flexibility retained by the City Council
- To present material on the services included in a way which corresponds to a “maxi HMMPFI” (i.e., the currently proposed, comprehensive model) and to a “mini HMMPFI”
- To lay out the implications of the City Council retaining a wider range of services and excluding from the HMMPFI the following functions:
 - ❖ highway tree replacement
 - ❖ street cleansing
 - ❖ horticulture
 - ❖ traffic signals
 - ❖ winter maintenance
 - ❖ signage and seats
 - ❖ emergency response
 - ❖ event management



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- ❖ road markings
- ❖ provision of footway crossings
- ❖ public place management
- To vary the lighting column replacement requirements so as to allow district discretion over which roads to include or exclude and also over retaining the position at the front of the footway.
- To set out any implications, which may arise from the form of any contractor body, focussing here on the "maxi-HMMPFI", the "mini-HMMPFI" and a "localised HMMPFI body".
- To highlight the key issues from the paper in the form of a 15 minute presentation
- To cross reference Paper 2 - Alternative Options paper to Paper 3 – Financial Considerations



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Appendix 2

Scope of Services included in the Outline Business Case for a Sustainable Highways Maintenance and Management Service dated August 2001 (final revision dated August 2003)

Functions	Examples Of Services
1	<p>Rehabilitation of the Highway Network</p> <p>These services are at the heart of removing the backlog of work and need significant capital injection within the core investment period of the first 5 to 7 years. Improvement of the network will significantly enhance the City Council's ability to sustain the network's condition year on year in a cost effective and affordable way.</p>
1.1	<p>Rehabilitation of Pavements & Footways</p> <p>Overlays Inlays Reconstruction</p>
1.2	<p>Strengthening of Structures</p> <p>Strengthening and/or removal of sub-standard structures</p>
1.3	<p>Tree Replacement Programme</p> <p>Removal of intrusive, diseased and decaying trees and replacement with suitable types</p>
1.4	<p>Road Drainage Rehabilitation</p> <p>Replacement and upgrading of road drainage infrastructure to current standards</p>
1.5	<p>Road Lighting Rehabilitation</p> <p>Renewal and Improvement of Street Lighting Stock to current BS Standards</p>
2	<p>Highway Management</p> <p>This group of activities concerns the management of safety, condition of the network and traffic movement. Liability for asset performance and condition of the network would be the responsibility of the Service Provider. Under the HMMPFI contract the Council would transfer this risk to the Service Provider and be indemnified accordingly. These functions aim to give the Service Provider not only the responsibility but also the freedom and flexibility to deliver asset management.</p>
2.1	<p>Inspections and Assessments</p> <p>Bridge Inspections (Superficial, General and Principal) Bridge assessments : assessment of structures to current loading standards Safety Inspections Coarse and Detailed Visual Inspections</p>



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2.2	New Roads & Street Works Act 1991	Programming of openings Supervision and monitoring of Undertaker
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Functions	Examples Of Services
2.3 Event Temporary Traffic Management	Signing and Barricades, etc.
2.4 Third Party Claims and Damage to Council Property	Investigation and repair of accident damage Dealing with loss or injury claims as a result of highway condition
2.5 Traffic Signal Management	Operation and maintenance of the Urban Traffic Control System for the City
2.6 Highway Electrical Energy	Purchase of energy for street lighting, traffic signs and traffic signals

3	<p>On-going Maintenance Requirements</p> <p>In addition to the major capital investment there will need to be a higher level of continuing maintenance. The aim will be to shift maintenance and management from a reactive to a proactive regime. On going maintenance will be output driven and the Service Provider will need to co-ordinate on going maintenance activities with planned maintenance work along clear lines of control.</p>	
3.1	Maintenance of Pavements and Footways	Patching and Potholing
3.2	Routine & Cyclic Maintenance	
3.3	Carriageway Resurfacing	
3.4	Street Nameplates	
3.5	Maintenance of Seats	
3.6	Horticultural Maintenance	Grass Cutting Weed Control Noxious Weeds Maintenance of trees and shrubs Maintenance of soft landscaping within highway
3.7	Road Markings	Road Markings Traffic Regulation Waiting Restrictions Road Studs



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3.8	Safety Barriers & Fences	Safety guard-rail Pedestrian Barriers Noise Barriers Boundary fences where appropriate
3.9	Road Signing	Signs Sign Poles & lighting units Illuminated Bollards

Functions		Examples Of Services
3.10	Maintenance of Traffic Signals	Cleansing of equipment, Lamp Changing
3.11	Drainage	Gully & Gratings Subway Pumps French Drains Kerb Drains Repair and maintenance of defective drainage
3.12	Maintenance of Bridges and other structures	Cyclic maintenance to ensure safety and integrity
3.13	Road Lighting Maintenance	Maintenance of lighting columns, high masts, subways and tunnel lighting
3.14	Public Place (Highways) Maintenance	Maintenance of City Centre Pedestrianised Areas
3.15	Street Sweeping and Cleansing	Mechanical and hand sweeping Litter picking Footway and subway washing Removal of fly tipped materials Removal of leaves and blossom fall Removal of dead animals from the highway Maintenance of Local Shopping Areas



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4	Operational Responsiveness So that the HMMPFI Service Provider will be able to discharge its obligations to maintain a safe and serviceable network, responsibility for winter maintenance and emergency response are included in the current proposal.	
4.1	Winter Maintenance	Pre-salting of pre-defined routes Reactive ploughing and salting during snow periods Grit bin maintenance
4.2	Emergencies	Removal of immediate danger on highways e.g. deep potholes, debris on carriageway



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Appendix 3

Analysis of Services being considered for Retention by the City Council

The following services have been considered for retention by the City Council:

- ❖ highway tree replacement
- ❖ street cleansing
- ❖ horticulture
- ❖ traffic signals
- ❖ winter maintenance
- ❖ signage and seats
- ❖ emergency response
- ❖ event management
- ❖ road markings
- ❖ provision of footway crossings
- ❖ public place management

There is an introduction given for each service giving the rationale for current inclusion in the maximum scope.

Each service listed will be evaluated against the criteria below on the basis that it is partially or totally removed from the scope of the project:

- Implications for Service Users and their Democratic Representatives

Benefits, Disbenefits and Areas of Uncertainty, which will contain implications to the current PFI credit offer and the Council's financial resources. These are contained in a tabular format shown in Appendix 1 to the Financial Considerations paper

- Impact on Future Standard of Highway
- Organisational, Management and Service Delivery Issues

Degree of Flexibility retained by the City Council



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3.1 Highway Tree Replacement

3.1.1 Current Scope and Rationale

The HMMPFI project leaves tree replacement policy with the City Council.

The rationale for including tree replacement within the HMMPFI is that it provides clarity over the management of service performance risks. For example:

- the condition of roads and pavements where tree roots cause structural and drainage problems.
- the visibility of street signs and the achievement of lighting standards
- liability for defects or consequences of these defects
- co-ordination of tree replacement with over street works to minimise disruption to road users
- responsibility for the condition of the tree stock throughout the period of the contract including handback

Currently, the HMMPFI project requires the Service Provider to:

- develop a method statement during the tender period to demonstrate how he intends to implement Council Policy during the delivery for the service. This method statement would include details of the proposed locations, replacement types etc and once agreed would be bound in the legal agreement.
- put in place a programme which would be agreed annually with the Council through consultation with District Committees to replace trees which are unsuitable, unsafe or causing damage to the highway
- maintain trees to ensure that they are safe, don't present trip hazards, don't block light unnecessarily from street lighting or cause damage and don't block sight lines in relation to street signs or safety hazards

3.1.2 Implications for Service Users and their Democratic Representatives of Service Removal

There would be minimal impact on service users whether or not the service is removed from the scope of the project. Policy is maintained in either case, although there may be uncertainty of operational responsibility should the service be excluded from the contract.

3.1.3 Benefits, Disbenefits of Service Removal and Areas of Uncertainty

Removing Tree Replacement from the scope of the HMMPFI contract will lead to a possible loss of PFI Credit (grant) but with no loss of operational efficiencies within the HMMPFI contract. In combination these may lead to an affordability issue. The interface risk arising will



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be priced into the HMMPFI contract.

The financial implications are outlined in Paragraph 1.6 of the Financial Implications Paper 3.

Whilst Tree Maintenance is considered in paragraph 3.3 (Horticultural Maintenance) operationally these two activities should be treated as a single service.

The HMMPFI Service Provider may add an interface risk premium as well as insist upon an increased amount of relief from obligations under the contract (relief events) such as:

- Where roots cause damage to carriageways and / or footways
- Claims resulting from the above
- Trees or parts of trees causing damage or injury
- Claims resulting from the foregoing
- Roots causing damage to drainage system and consequential damage to highway infrastructure and its performance.

Benefits of removing the service

- No impact on the current City Council Grounds Maintenance Contracts and working arrangements
- No duplication of management and contract arrangements
- Commonality of standard and approach with the broader City Council Grounds Maintenance Contracts

Disbenefits of removing the service

- Loss of money (£200k per annum) to start a sensitive but meaningful tree replacement programme.
- Possible duplication of contract management and procurement and a potential risk of customer confusion.
- No transfer of liability of Tree Condition and Third Party Claims.
- Not able to minimise contract and work interface(s) and associated risk.
- Would not have single responsibility for achieving and maintaining the required standards of street lighting *and* countering the deteriorating effects of light obscuration by trees.
- There would not be a single responsibility for achieving and maintaining the required standards for highway surfaces *and* countering the related deteriorating consequences of tree root growth.
- Third party liability and insurance claims would not pass to the HMMPFI Service Provider to administer and deal with.



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3.1.4 Impact on Future Standard of Highway of Service Removal

There would be relief events for the HMMPFI Service Provider adjacent to trees where such trees have or are likely to have an effect on the Service Provider activity. This may lead in time to a noticeable differing standard.

3.1.5 Organisational, Management and Service Delivery Issues of Service Removal

Retention of Highway Tree Replacement by the City Council will present the following issues / challenges:

Managing the costs of road / pavement damage	Where surfaces for which the contractor is responsible are considered to be below the standard required in the specification, the contractor will be able to disclaim responsibility where he can argue that the damage is a consequence of tree roots. In such cases, the Council will not be able to make a deduction under the payment mechanism. Indeed in some circumstances, the Service Provider may be able to claim compensation for the damage done.
Managing performance in relation to street lighting, traffic signs and signals	Where lighting output on the ground does not meet the specified standard or the visibility of signs is obscured by trees, the Service Provider will be able to claim relief from payment deductions
Managing claims related to falling trees	Any damage or liabilities arising from a falling tree will fall on the Council unless it can prove that this was a result of the action or omission of the Service Provider
Potential reduction in PFI Credit support	An element of the capital costs (£200k per annum) included in the project relates to the cost of replacing more trees than would be possible within existing Council budgets. If this element is removed from the HMMPFI scope, then it is likely that the HMMPFI credit support by government would be reduced accordingly. As this would be part of the cash grant to the City Council, the City would have to otherwise find the money from its own financial resources.

In essence BCC would retain all direct and associated risks.



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3.1.6 Degree of Flexibility retained by the City Council due to Service Removal

Retention of Tree Replacement Policy by the City Council (e.g. type / location) will ensure that members remain involved in tree decisions. This is because such decisions often have to be made on a local and day-to-day basis to meet the requirements of Birmingham's residents. However, the HMMPFI Service Provider will be required to work with the 11 District Committees in developing 1, 2 and 5-year programmes

In that context members would remain involved in decisions about:

- Which trees are replaced and what type of trees are used to replace them
- The timing, positioning and management of replacements



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3.2 Street Cleansing

3.2.1 Current Scope and Rationale

The HMMPFI project leaves policy with respect to Street Cleaning with the City Council.

The rationale for including Street Cleansing within the HMMPFI is that it provides clarity over the management of service performance risks. For example:

- co-ordinated approach to street scene service
- responsibility for service performance to HMMPFI Service Provider
- Removal of interface risks and liabilities e.g. drainage system affected by litter, leaves etc , leaf fall contributing to unsafe road conditions and accidents
- optimise economies of scale

Currently, the HMMPFI project requires the Service Provider to:

- Develop a method statement during the tender period to demonstrate how he intends to implement Council Policy during the delivery of the service.
- This method statement would include details of the manning arrangements, frequencies etc and once agreed would be bound in the legal agreement.
- put in place a programme for replacement of litter bids and other receptacles

3.2.2 Implications for Service Users and their Democratic Representatives of Service Removal

Service users

No discernible impact providing the same service level specification is met.

Democratic Representatives

Implications with flexibility may mean some reduction in other areas or aspects of

Service.

The perception / reality of flexibility and responsiveness being maintained or increased.

3.2.3 Benefits, Disbenefits of Service Removal and Areas of Uncertainty

Removing street cleansing from the HMMPFI Service Provider does not affect the PFI Credit or operational efficiencies within the contract. The interface risk arising will be priced into the HMMPFI contract.

The financial implications are outlined in Paragraph 1.6 of the Financial Implications Paper 3.



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This nil effect does not take into account the cost of risk transferred back to the City Council or the cost of Council management and supervision of this element of the service

However, the HMMPFI Service Provider may attach their own risk premium to the interface risk associated with litter and fallen leaves blocking the drainage system and the consequential damage to the structure of the highway caused by water in the sub-structure. He will also look for relief from claims resulting from ice and or slippery condition resulting from blocked drainage system or fallen leaves on the carriageway / footways.

Benefits of removing the service from the scope

- No Impact on current contractual/working arrangements
- Neither litter nor rubbish recognises boundaries of responsibility whether they are Departmental or Ward. A significant amount of Street Cleansing work is carried out on land that extends beyond the highway and is undertaken in a co-ordinated way on behalf of other Departments, agencies and owners to provide a seamless service. This would not be affected should the service be retained by the City Council.
- The indiscriminate placing of sacks on the footway on days other than the scheduled day of collection can and does cause inconvenience and litter. By operating a combined refuse collection and Street Cleansing service such problems remain one organisations responsibility.
- Vehicle repair and maintenance is carried out at Depots by specialist workshop technicians who look after the combined fleet. Downtime and costs are kept to a minimum by sharing facilities, equipment and vehicles.
- There would be no loss of financial efficiencies in respect of the current integrated Waste Management service.
- A new Best Performance Indicator (BVP199) has been introduced with effect from 1st April 2003. This measures the cleanliness of the local environment as a member of the public would perceive it. The Indicator requires standards of cleanliness in 10 different land use types over all Wards in the City on a phased basis. To satisfy targets all identified land areas both highway and non-highway will need to be cleansed. There is an advantage by one organisation having responsibility for maintaining these standards.



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Disbenefits of removing the service from the scope

- HMMPFI Service Delivery interfaces not minimised
- Loss of financial Street Scene efficiencies
- Less “Joined-up service delivery image” on the street
- DfT and Audit Commission see strong synergy between routine highway maintenance and Street Cleansing, which compliments a “street scene” philosophy.
- The HMMPFI Service Provider will not be able to multitask and optimise resource and plant within the HMMPFI.

Areas of Uncertainty

- Dealing with interface issues (e.g. drainage systems affected by grit, litter and leaf fall)
- Dealing with slippery condition resulting from leaf fall

3.2.4 Impact on Future Standard of Highway of Service Removal

There would be relief events for HMMPFI Service Provider where blockage to drainage systems caused by litter and/or leaf fall are likely to have an effect on the Service Provider activity.

3.2.5 Organisational, Management and Service Delivery Issues of Service Removal

Retention of Street Cleansing by the City Council will present the following issues / challenges:

Provision of the same level of service, at the same cost, than that, which would have been provided by the HMMPFI Service Provider.

Managing the costs of road / pavement damage	Where the highway infrastructure is damaged and the Service Provider can suggest the damage was caused by cleansing operations, e.g. broken paving slabs or removal of sand bedding by sweeping machines, he is likely to argue for relief from performance payment deductions and make claims for compensation.
Managing highway availability performance	Where the performance of the highway is reduced by the failure of the Council to undertake cleansing operations effectively, the contractor will claim relief from deductions under the payment mechanism (Litter, leaf blocking)
Ineffective co-ordination of street scene management	Effective presentation of highways requires close co-operation between those maintaining the infrastructure, refuse, cleansing and grounds maintenance operations.

3.2.6 Degree of Flexibility retained by the City Council due to Service Removal

There would be flexibility in allocating resources, allowing for at least a minimum standard, in accordance with local influence and choice.



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3.3 Horticulture

3.3.1 Current Scope and Rationale

The HMMPFI project leaves policy with respect to horticulture with the City Council.

The rationale for including Horticulture within the HMMPFI is that it provides clarity over the management of service performance risks. For example:

- co-ordinated approach to street scene service
- responsibility for service performance to HMMPFI Service Provider
- Removal of interface risks and liabilities e.g. drainage system affected by leaves etc , leaf fall contributing to unsafe road conditions and accidents
- Provision of core work load to improve economies of scale

Currently, the HMMPFI project requires the Service Provider to:

- develop a method statement during the tender period to demonstrate how he intends to implement Council Policy during the delivery of the service.
- set out how he intends to implement Council Policy, his proposed frequency and standard of grass cutting, shrub maintenance and replacement programme, tree maintenance, location and maintenance / replacement of planters, and frequency and method of weed control etc and once agreed would be bound in the legal agreement.

3.3.2 Implications for Service Users and their Democratic Representatives of Service Removal

There would be no discernible difference to the service users providing the same level of service (e.g. specification) is being provided.

Democratic Representatives would need to review the current level of service and place the limited budget in the areas of most need.

3.3.3 Benefits, Disbenefits of Service Removal and Areas of Uncertainty

Removing grass cutting and shrub maintenance from the HMMPFI Service Provider does not affect the PFI Credit or operational efficiencies within the contract. The interface risk arising will be priced into the HMMPFI contract.

Removing tree maintenance from the HMMPFI Service Provider does not affect the PFI Credit but will affect operational efficiencies within the contract. The interface risk arising will be priced into the HMMPFI contract.

The financial implications are outlined in Paragraph 1.6 of the Financial Implications Paper 3.



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Benefits of removing the service from the scope

- The retention of Highways Horticulture would keep the integrated horticultural maintenance regime and the "holistic" approach to the maintenance of the City's green environment.

Disbenefits of removing the service from the scope

- Reduction in the overall co-ordinated street scene approach with single responsibility for delivery and performance

Areas of Uncertainty

- Overlapping vegetation to highways
- Sight lines to meet road safety standards
- Indeterminate boundaries on current contracts (e.g. housing land)

3.3.4 Impact on Future Standard of Highway of Service Removal

There is a possibility of relief event to HMMPFI Service Provider should other contracts impinge on the ability to provide all necessary operational standards

3.3.5 Organisational, Management and Service Delivery Issues of Service Removal

Retention of Horticulture by the City Council will present the following issues / challenges:

Tree Management and Weed Control should be seen as an integral part of the tree replacement programme and integrated footway and street lighting service
--

An arrangement will be required with HMMPFI Service Provider on the placement of planters, floral baskets and other artefacts on the highway
--

City Council to ensure that it meets all safety and cleanliness requirements in relation to shrubs, grass, trees, etc.
--

3.3.6 Degree of Flexibility retained by the City Council due to Service Removal

- More able to link to the wider green agenda outlined in the Best Value Service Improvement Plan
- No change in flexibility for the same level of service



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3.4 Traffic Signals

3.4.1 Current Scope and Rationale

The current HMMPFI proposal includes for both Traffic Signal Maintenance and Traffic Signal Management (including management of the Urban Traffic Control Centre). Therefore the service needs to be considered for retention by the City Council in 2 distinct areas:

On street Maintenance of the Traffic Signal Equipment

Day to Day management and control of the Urban Traffic Control Centre

The HMMPFI project leaves policy with respect to traffic signals with the City Council.

The rationale for including Traffic Signals Maintenance and Management of the UTC within the HMMPFI is that it provides clarity over the management of service performance risks. For example:

- co-ordinated approach to street scene service
- responsibility for service performance to HMMPFI Service Provider
- responsibility for HMMPFI Service Provider to fund technological and equipment upgrades
- co-ordination and optimisation of lane use and availability

Currently, the HMMPFI project requires the Service Provider to:

- develop a method statement for the on-street maintenance of traffic equipment during the tender period to demonstrate how he intends to implement Council Policy during the delivery of the service. This method statement would be bound in the legal agreement.
- develop a method statement to demonstrate how he proposes to assist in the management of the UTC and the level of that involvement during the tender period and to demonstrate how he intends to implement Council Policy during the delivery of the service. This method statement would be bound in the legal agreement.

The City Council will continue to install new equipment but HMMPFI Service Provider would take over maintenance once installed.

3.4.2 Implications for Service Users and their Democratic Representatives of Service Removal

It is important that Service Users can feel confident that traffic signal installations are being properly and safely managed. In addition they need to feel that the efficiency of the network in relation to signal timings and delay minimisation is being continually monitored and improved where practical.

3.4.3 Benefits, Disbenefits of Service Removal and Areas of Uncertainty

Removing Traffic Signal Maintenance from the scope of the HMMPFI



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contract will lead to a loss of operational efficiencies within the contract. This may lead to an affordability issue. The interface risk arising will be priced into the HMMPFI contract.

Removing Traffic Signal Management (UTC) from the scope of the HMMPFI contract will lead to a possible loss of PFI Credit (grant) and a loss of operational efficiencies within the HMMPFI contract. In combination these may lead to an affordability issue. The interface risk arising will be priced into the HMMPFI contract.

The financial implications are outlined in Paragraph 1.6 of the Financial Implications Paper 3.

Disbenefits of excluding Traffic Signal Management & Traffic Signal Maintenance from the HMMPFI arrangement.

Maintenance

- The risk of peak requirements for replacement of traffic signal equipment by the Authority is removed and a positive planned replacement programme can be implemented.
- There is the potential to deploy new technology for traffic signal heads as an investment, to reduce overall costs.
- The deployment of UTMC will require new communication services. It may be a prudent capital investment to install new communication networks as highways are refurbished. Use some of the network for highway management and market the remainder to other Service Providers. Partnership may be an option.

Management

- The system's function is management of the Highway network, which is one of the aims of the HMMPFI to aid maintenance operations.
- The deployment of UTMC and additional services will require significant capital. This would be securitised in a HMMPFI arrangement. There will also be cyclical replacement capital costs as systems reach the end of their service life, approximately every 15 years.

Benefits of excluding Traffic Signal Management & Traffic Signal Maintenance from the HMMPFI arrangement.

- Management of the Highway Network becomes direct. This may have specific implications when emergencies occur.
- There is a need for an "Intelligent Client". Nationally there is a serious (50% plus) shortage of people with the necessary skills. The skills are very specialist and development of them requires a "hands on" methods. The HMMPFI may create a barrier to the development of these skills.



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3.4.4 Impact on Future Standard of Highway of Service Removal

There would be no significant impact on Traffic Signal Equipment maintenance should the service be removed from the project. However, the City Council would need to ensure that sufficient budget is allocated to cover the increasing pressure to replace ageing equipment.

It will be necessary to clearly define the level of traffic signal management input required from the HMM PFI Service Provider to have management input to ensure sufficient integration between HMM works and traffic control in a strategic context.

Removal would remove any doubt of HMM PFI Service Provider using the contract to do HMM works to the detriment of free flow of traffic on other areas of the network.

3.4.5 Organisational, Management and Service Delivery Issues of Service Removal

The service needs to be considered both in local and regional terms. At a regional level there is pressure to develop a regional centre of excellence to ensure that the limited available expertise is best utilised for the common good. In addition the movement towards an integrated approach to Urban Traffic Management and Control (UTMC) is underway which will effectively link information transfer between transport related bodies such as Car Park management Systems, Real Time Passenger Information for Buses, Mattisse Traffic and Travel information.

Retention of Traffic Signal Maintenance by the City Council will present the following issues / challenges:

Provision of the same level of service, at the same cost, than that which would have been provided by the HMM PFI Service Provider.

Provision of inspection regime

3.4.6 Degree of Flexibility retained by the City Council due to Service Removal

Removal of Traffic Signal Management will give greater direct control over the operation and efficiency of the traffic signal network operation.



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3.5 Winter Maintenance

3.5.1 Current Scope and Rationale

The HMMPFI project leaves policy with the City Council with respect to winter maintenance and operation with the HMMPFI Service Provider.

The rationale for including Winter Maintenance within the HMMPFI is that it provides clarity over the management of service performance risks. For example:

- co-ordinated approach to street scene service
- responsibility and liability for service performance to HMMPFI Service Provider
- responsibility for HMMPFI Service Provider to fund plant, equipment and technological upgrades
- HMMPFI Service Provider in control of what is on the highway
- provision of core work load and therefore economies of scale
- damage to the network structure due to the use of inappropriate materials

Currently, the HMMPFI project requires the Service Provider to develop a method statement during the tender period to demonstrate how he intends to implement Council Policy during the delivery of the service.

This method statement would cover the Service Providers proposals in respect of timing and frequency of response, weather forecasts and other tools, reporting, route hierarchy, resources, back up facilities etc and once agreed would be bound in the legal agreement.

3.5.2 Implications for Service Users and their Democratic Representatives of Service Removal

Risk retained by the City Council. Control remains with the City Council together with the responsibility.

3.5.3 Benefits, Disbenefits of Service Removal and Areas of Uncertainty

Removing Winter Maintenance from the scope of the HMMPFI contract will lead to a loss of operational efficiencies within the contract. This may lead to an affordability issue. The interface risk arising will be priced into the HMMPFI contract.

The financial implications are outlined in Paragraph 1.6 of the Financial Implications Paper 3.

Benefits

- Allows for Member consultation and involvement in the continual development of the Winter Service.
- City Council retains the ability to dictate exact coverage and service flexibility as required by service users within the city.



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Disbenefits

- Possible retention of existing working conditions and associated high costs.
- Limited resources and funding available.
- Adds Risk to the Authority with regard to liability and potential media criticism.
- Currently vehicles and depots are shared to provide a winter maintenance service

Uncertainty

- The availability of future funding for investment to ensure the continual development of the Winter Service in line with the requirements of the City and relevant legislation.

3.5.4 Impact on Future Standard of Highway of Service Removal

Continual development of the Winter Service should lead to a more sustainable and environmentally responsible service that will benefit the future highway standard.

3.5.5 Organisational, Management and Service Delivery Issues of Service Removal

Retention of Winter Maintenance by the City Council will present the following issues / challenges:

Provision of the same level of service, at the same cost, than that which would have been provided by the HMMPFI Service Provider.

A level of funding is required to retain the Winter Service and existing infrastructure, plant and experienced personnel at current standards or above.

Manpower resources may be required from various functions of the City Council which would involve significant planning and organisation.

3.5.6 Degree of Flexibility retained by the City Council due to Service Removal

Total flexibility is maintained by the City Council within the available resources.

HMMPFI shared liability



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3.6 Signage and Seats

3.6.1 Current Scope and Rationale

Signage within the current scope of the HMMPFI includes for the following:

- Maintenance and replacement (as necessary) of Direction Signs
- Maintenance and replacement (as necessary) of Street Name Plates

Seats refer to the maintenance of existing seats within the highway. It does not include resources for the provision of new seats. The HMMPFI project leaves policy with respect to Signage and Seats with the City Council.

The rationale for including Signage and Seats within the HMMPFI is that it provides clarity over the management of service performance risks. For example:

- co-ordinated approach to street scene service
- responsibility and liability for service performance to HMMPFI Service Provider

Currently, the HMMPFI project requires the Service Provider to develop a method statement during the tender period to demonstrate how he intends to implement Council Policy during the delivery of the service. This method statement would be bound in the legal agreement.

3.6.2 Implications for Service Users and their Democratic Representatives of Service Removal

There would be minimal impact on these services whether or not they are included or excluded from the contract.

3.6.3 Benefits, Disbenefits of Service Removal and Areas of Uncertainty

Removing Signage and Seats from the scope of the HMMPFI contract will lead to a loss of operational efficiencies within the contract. This may lead to an affordability issue. The interface risk arising will be priced into the HMMPFI contract.

The financial implications are outlined in Paragraph 1.6 of the Financial Implications Paper 3.

Disbenefits:

- Performance and liability for sign condition and performance would lie with the Council. The HMMPFI Service Provider would seek relief from consequential events resulting from poor or missing signage.
- Loss of economies of scale and utilisation of labour and other resources.
- Public perception of responsibility



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3.6.4 Impact on Future Standard of Highway of Service Removal

Provided that the same level of service is being provided through compliance with the various standards and the Best Value Code of Practice, there would be minimal or no impact on the Highway.

3.6.5 Organisational, Management and Service Delivery Issues of Service Removal

Retention of Signage by the City Council will present the following issues / challenges:

Provision of the same level of service, at the same cost, than that which would have been provided by the HMMPFI Service Provider.

Maximisation of the existing sign shop. The HMMPFI Service Provider would not use the Sign Shop unless it is competitive.

Coordination with the HMMPFI Service Provider to ensure that signing is erected / replaced / taken down with minimum inconvenience to the public.

Inspection regime would be required

3.6.6 Degree of Flexibility retained by the City Council due to Service Removal

Similar to the flexibility installed in the HMMPFI Contract but without the responsibility or liability



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3.7 Emergency Response

3.7.1 Current Scope and Rationale

The HMMPFI project leaves policy with respect to Emergency Response with the City Council.

The rationale for including Emergency response within the HMMPFI is that it provides clarity over the management of service performance risks. For example:

- co-ordinated approach to street scene service
- responsibility and liability for service performance to HMMPFI Service Provider
- direct linkage between make making safe , temporary and permanent repairs
- provision of 24 hour response service

Scope of service with HMMPFI

- Currently, the HMMPFI project requires the Service Provider to develop a method statement during the tender period to demonstrate how he intends to implement Council Policy during the delivery of the service.
- This method statement would set out the Service Providers proposals in respect of response times, attendance at incidents, resources, back up resources, interfaces with other emergency plans etc and once agreed would be bound in the legal agreement.
- The HMMPFI Service Provider provides 24 hour, 365 day cover to respond to all emergencies within 15 minutes and make safe within 1 hour. Depending upon the circumstances, the permanent repair would normally be covered by the HMMPFI Contract or where it is a relief event, paid for through the Schedule of Rates.

3.7.2 Implications for Service Users and their Democratic Representatives of Service Removal

Provided that the same level of service is being provided through compliance with the various standards and the Best Value Code of Practice, there would be minimal impact on service users whether or not the service is removed from the scope of the project. Policy is maintained in either case, although there may be uncertainty of operational responsibility should the service be excluded from the contract.

3.7.3 Benefits, Disbenefits of Service Removal and Areas of Uncertainty

Removing Emergency Response from the scope of the HMMPFI contract will lead to a loss of operational efficiencies within the contract. This may lead to an affordability issue. The interface risk arising will be priced into the HMMPFI contract.



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The financial implications are outlined in Paragraph 1.6 of the Financial Implications Paper 3.

3.7.4 Impact on Future Standard of Highway of Service Removal

Provided that the same level of service is being provided through compliance with the various standards and the Best Value Code of Practice, there would be minimal impact on the standard of the highway.

3.7.5 Organisational, Management and Service Delivery Issues of Service Removal

Retention of Emergency Response by the City Council will present the following issues / challenges:

Provision of the same level of service, at the same cost, than that which would have been provided by the HMMPFI Service Provider.

Resource availability, both manpower & equipment to deal with incidents

3.7.6 Degree of Flexibility retained by the City Council due to Service Removal

Similar to the flexibility installed in the HMMPFI Contract but without the responsibility or liability



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3.8 Temporary Event Management

3.8.1 Current Scope and Rationale

The HMMPFI project leaves policy with respect to event temporary management with the City Council.

The rationale for including Temporary Event Management within the HMMPFI is that it provides clarity over the management of service performance risks. For example:

- co-ordinated approach to street scene service
- responsibility and liability for service performance to HMMPFI Service Provider
- optimisation of lane availability during these events

Currently, the HMMPFI project requires the Service Provider to provide at named events; (additional events could be managed against schedule of rates)

- erection of temporary signing
- scavenging and clear up after events
- removal of temporary signing

3.8.2 Implications for Service Users and their Democratic Representatives of Service Removal

Provided that the same level of service is being provided through compliance with the various standards and the Best Value Code of Practice, there would be minimal impact on service users whether or not the service is removed from the scope of the project. Policy is maintained in either case, although there may be uncertainty of operational responsibility should the service be excluded from the contract.

3.8.3 Benefits, Disbenefits of Service Removal and Areas of Uncertainty

Benefits

- None have been identified.

Disbenefits

- Temporary event management may not be as well co-ordinated with all other highway network activity.

3.8.4 Impact on Future Standard of Highway of Service Removal

No impact identified

3.8.5 Organisational, Management and Service Delivery Issues of Service Removal

- Retention of Event Management by the City Council will present the following issues / challenges:



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- Loss of ability to pre-purchase from HMMPFI Service Provider a reasonable amount of Temporary Event Management.

Schedule of Rates could be provided for ad hoc events

3.8.6 Degree of Flexibility retained by the City Council due to Service Removal

Similar to the flexibility installed in the HMMPFI Contract but without the responsibility or liability.



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3.9 Road Markings

3.9.1 Current Scope and Rationale

The HMMPFI project leaves statutory functions and policy with respect to Road Markings with the City Council.

The rationale for including Road Markings within the HMMPFI is that it provides clarity over the management of service performance risks. For example:

- co-ordinated approach to street scene service
- responsibility and liability for service performance to HMMPFI Service Provider
- co-ordination of works and white lining to ensure maximisation of lane availability

Currently, the HMMPFI project requires the Service Provider to develop a method statement during the tender period to demonstrate how he intends to implement Council Policy during the delivery of the service. This method statement would be bound in the legal agreement.

Road Markings divide into the following elements of service:

- Replacement markings following resurfacing
- Renewal of worn out and missing markings
- Ad hoc markings e.g. disabled bay markings
- Traffic Regulation Waiting Restrictions
- Road Studs

3.9.2 Implications for Service Users and their Democratic Representatives of Service Removal

Provided that the same level of service is being provided through compliance with the various standards and the Best Value Code of Practice, there would be minimal impact on service users whether or not the service is removed from the scope of the project. Policy is maintained in either case, although there may be uncertainty of operational responsibility should the service be excluded from the contract.

However, Current arrangements may appear less responsive than a HMMPFI contractual arrangement

3.9.3 Benefits, Disbenefits of Service Removal and Areas of Uncertainty

Removing Road Markings from the scope of the HMMPFI contract will lead to a loss of operational efficiencies within the contract. This may lead to an affordability issue. The interface risk arising will be priced into the HMMPFI contract.

The financial implications are outlined in Paragraph 1.6 of the Financial Implications Paper 3.



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Areas of uncertainty include road markings where contractors undertake patching, overlays and reconstructions etc. If the HMMPFI Service Provider is expected to replace markings in these circumstances, there will be an increase in cost and risk premium due to the small and irregular quantities available.

Loss of economies of scale and flexibility

The in-house provider will be required to operate to the same performance specification as would otherwise have been in the HMMPFI Contract with the same penalties for non-compliance.

3.9.4 Impact on Future Standard of Highway of Service Removal

If the public sector does not perform to the same specification and timescales as the HMMPFI Service Provider would have been required, then the public perception of the level of service would be poor with consequential damage to reputation of both the City Council and the HMMPFI Service Provider.

3.9.5 Organisational, Management and Service Delivery Issues of Service Removal

Increase potential liability if City Council found to be working outside industry good practice

Co-ordination with the HMMPFI Contractor to ensure that road markings are put down expeditiously where and when required so that there are no sections of road without road markings open to traffic. HMMPFI Service Provider will seek relief from the City Council for such failures.

Provision of the same level of service, at the same cost, as that which would have been provided by the HMMPFI Service Provider.

3.9.6 Degree of Flexibility retained by the City Council due to Service Removal

- Similar to the flexibility installed in the HMMPFI Contract but without the responsibility or liability.



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3.10 Provision of Footway Crossings

3.10.1 Current Scope and Rationale

It was anticipated that, although not directly included in the HMMPFI Contract, that the HMMPFI Service Provider would undertake the works on behalf of BCC on a schedule of rates basis.

The rationale for including the ability for undertaking Footways Crossings within the HMMPFI is that it provides clarity over the management of service performance risks. For example:

- co-ordinated approach to street scene service
- responsibility and liability for service performance to HMMPFI Service Provider
- removal of interface risk and liabilities as the HMMPFI Service Provider will be responsible for the long-term performance of the footways including footway crossings.
- the provision of subsidised footway crossings as currently provided within footway improvements can continue
- the schedule of rates for all other footway crossings remains as pre-PFI, however the HMMPFI Service Provider can deliver a seamless service if responsible for the application and installation of the works
- the HMMPFI Service Provider will be responsible for dealing with illegal and/or sub standard footway crossings as part of the service requirements.

3.10.2 Implications for Service Users and their Democratic Representatives of Service Removal

Provided that the same level of service is being provided through compliance with the various standards and the Best Value Code of Practice, there would be minimal impact on service users whether or not the service is removed from the scope of the project. Policy is maintained in either case, although there may be uncertainty of operational responsibility should the service be excluded from the contract.

3.10.3 Benefits, Disbenefits of Service Removal and Areas of Uncertainty

Keeping Footway Crossings out of the scope of the HMMPFI contract will lead to a loss of operational efficiencies within the contract. This may lead to an affordability issue. The interface risk arising will be priced into the HMMPFI contract.

Disbenefits

- Loss of potential third party income to the HMMPFI Service Provider thus helping to reduce the cost of the Contract.
- HMMPFI Service Provider will price in a supervision cost



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and interface risk as he will become responsible for the performance of the footway crossing on completion. He may insist on performance guarantees from the City Council.

- The above costs do not take into account the cost of risk transferred back to the City Council or the cost of Council management and supervision of this element of the service

3.10.4 Impact on Future Standard of Highway of Service Removal

Provided that the same level of service is being provided through compliance with the various standards and the Best Value Code of Practice, there would be minimal impact on future standards whether or not the service is removed from the scope of the project.

3.10.5 Organisational, Management and Service Delivery Issues of Service Removal

Responsibility and liability for the performance of the Footway Crossings Contractor would vest with the City Council and the HMMPFI Service Provider will seek relief.

Co-ordination will be necessary with the HMMPFI Service Provider to ensure better overall delivery of works on the highway

3.10.6 Degree of Flexibility retained by the City Council due to Service Removal

- Similar to the flexibility installed in the HMMPFI Contract but without the responsibility or liability.



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3.11 Public Place Management

This Service Area was included within the scope of the HMMPFI project to cater for public places / areas which were not listed in the list of Highways but where the City Council had a responsibility / duty of care to maintain. It was felt that the City Council could take advantage of the economies of scale by including these areas within HMMPFI as well as transferring operation responsibility and liability to the HMMPFI Service Provider.

The HMMPFI project leaves policy with respect to public place Management with the City Council.

However there would appear to be no such areas that are not already designated part of the highway therefore the need for this service is redundant and can be removed from the scope of the HMMPFI project.



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3.12 Variations to Street Lighting Column Replacement Requirements

3.12.1 Current Scope and Rationale

The HMMPFI project leaves policy with respect to column replacement with the City Council.

The rationale for including the ability for undertaking replacement of Lighting Columns within the HMMPFI is that it provides clarity over the management of service performance risks. For example:

- co-ordinated approach to street scene service
- responsibility and liability for service performance to HMMPFI Service Provider
- removal of interface risk and liabilities as the HMMPFI Service Provider will be responsible for the long terms performance of all aspects of the highway asset
- responsibility for asset performance risk and liability
- responsibility of technological and standard upgrades.

Currently, the HMMPFI project requires the Service Provider to:

- Comply fully with the requirements of BS EN 13201
- Develop a method statement during the tender period to demonstrate how he intends to implement Council Policy during the delivery for the service.
- This method statement sets out the HMMPFI Service Providers proposals for location of columns to be replaced, replacement programme, implementation of BS EN 13201, replacement types and specification, testing, etc and once agreed will be bound in the legal agreement.
- Replace like for like, i.e. heritage for heritage
- Observe the Council's "deemed to comply" list

3.12.2 Implications for Service Users and their Democratic Representatives of Service Modification

Provided that the same level of service is being provided through compliance with BS EN 13201 and the Best Value Code of Practice, there would be minimal impact on service users whether or not the service is removed from the scope of the project. Policy is maintained in either case, although there may be uncertainty of operational responsibility should the service be excluded from the contract.

3.12.3 Benefits, Disbenefits of Service Modification and Areas of Uncertainty

Taking the decision making for column replacement out of the scope of the contract transfer significant risks back to the City Council:

- responsibility for asset performance risk and liability
- responsibility of technological and standard upgrades



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- responsibility and liability for compliance with BS EN 13201 and the Best Value Code of Practice
- risk of uncoordinated approach to the provision of a street scene service and resultant lack of optimisation of lane availability
- interface risk with the HMMPFI Service Providers programmes and working arrangements

The HMMPFI Service Provider will seek an increasing number of relief events

3.12.4 Impact on Future Standard of Highway of Service Modification

Provided that the same level of service is being provided through compliance with BS EN 13201 and the Best Value Code of Practice, there would be minimal impact on the future standard of the Highway and its associated infrastructure.

3.12.5 Organisational, Management and Service Delivery Issues of Service Modification

Retention of Street Lighting Column Replacement Flexibility by the City Council will present the following issues / challenges:

- Co-ordination of replacement programme with the HMMPFI Service Provider to ensure minimisation of disruption and maximisation of lane availability
- Differing levels of service throughout the City with effect on crime, fear of crime, road safety, etc.
- Responsibility for testing
- Compliance with BS EN 13201

3.12.6 Degree of Flexibility retained by the City Council due to Service Modification

Similar to the flexibility installed in the HMMPFI Contract but without the responsibility or liability.

Permutations to be described

e.g. heritage for heritage

option to move and retain the type

must meet EU standards



A1.4 Financial Considerations for Highways Management and Maintenance Options

BIRMINGHAM CITY COUNCIL

PROPOSED HIGHWAYS MANAGEMENT AND MAINTENANCE PFI

PAPER 3- FINANCIAL CONSIDERATIONS

1 OPTIONS FOR DELIVERY OF A HIGHWAYS MANAGEMENT AND MAINTENANCE PROJECT

Options for financing a Highways Maintenance and Management Project are considered in detail in the paragraphs below. The result of the appraisal is that all options apart from the PFI option as currently proposed (option 5) and possibly the less comprehensive PFI (option 6) fail to bring additional resources to the City.

1.1 Option 1 : In house delivery through Supported Borrowing

1.1.1 The Government gives each local authority an annual allocation to support capital expenditure, either by way of supported borrowing or by capital grant. This is known as the Single Capital Pot which in the current financial year amounts to £87.856m and was allocated by the City Council on 24 February as follows:

	£'000
Education	23,940
Housing	33,789
Total	87,856

1.1.2 Of the Transport allocation, £8m is spent on capitalised repairs to the classified road network with the balance being used to undertake minor highways schemes. The £8m relates to the 2004/05 Local Transport Plan settlement, and this value could vary year on year.

1.1.3 If additional resources were to be directed to Transport (Highways), then funding would need to be taken from other policy priorities. This would amount to between £10.600m and £44.069 m per annum in addition to the £8m allocated for the classified network mentioned above. However, the level of supported capital expenditure is such



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that is difficult to see how it could serve as an alternative to the PFI proposal.

- 1.1.4 In addition to this supported borrowing the Government can give approval for specific schemes. In the current financial year the Government has indicated that it will support borrowing of £8.822m for the following:

	£'000
Hagley Road	600
Masshouse	700
Non Principal Roads	500
Total	8,822

The implementation of these schemes does deliver some marginal benefit to the overall condition of the highway but the City Council is unable to divert this resource to finance other activities.

1.2 Option 2 : In house delivery through unsupported borrowing under the Prudential Borrowing arrangements

- 1.2.1 The City Council is no longer restricted on the amount it may borrow provided that it can demonstrate that it is able to service the debt. The Audit Commission will report on this aspect in their annual report. Borrowing from the Public Works Loans Board (PWLB, effectively the Government) over 25 years currently costs around 5%, with the City Council being required to repay 4% of the debt each year on a reducing balance basis.
- 1.2.2 Table 1 below demonstrates the cost if the City Council were to borrow to finance the equivalent of the PFI project, based on two scenarios. The first assumes the same expenditure total and profile as the full PFI proposal, whilst the second assumes that the £8m allocated from the LTP via the City Council's single capital pot for capitalised repairs to the classified highways network will continue throughout the 25 years. LTP resources are currently distributed on the basis of the overall condition of the classified network and therefore would be at risk if significant investment were to bring that part of the network up to standard in the initial period.
- 1.2.3 The figures in Table 1 are at outturn prices, assuming 2.5% per annum inflation.



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Table 1

Year	Based on Full PFI expenditure profile			Based on PFI expenditure profile less LTP allocation currently received .		
	Capital Expenditure	Cost of Servicing Debt	Impact on Band D Council Tax	Capital Expenditure	Cost of Servicing Debt	Impact on Band D Council Tax
	£m	£m	£ p.a.	£m	£m	£ p.a.
2006	43.518	3.917	14.05	35.318	3.179	11.40
2007	42.109	7.550	27.08	33.704	6.085	21.82
2008	43.482	11.161	40.03	34.867	8.979	32.20
2009	48.789	15.106	54.18	39.958	12.217	43.82
2010	53.120	19.282	69.16	44.069	15.694	56.29
2011	33.051	21.486	77.06	23.773	17.206	61.71
2012	33.699	23.659	84.85	24.190	18.695	67.05
2013	20.347	24.544	88.03	10.600	18.901	67.79
2014	20.856	25.439	91.24	10.865	19.123	68.59
2015	21.377	26.346	94.49	11.136	19.360	69.44
2016	21.912	27.264	97.78	11.415	19.613	70.34
2017	22.460	28.195	101.12	11.701	19.882	71.31
2018	23.021	29.139	104.51	11.993	20.166	72.33
2019	30.662	30.733	110.23	19.358	21.101	75.68
2020	24.187	31.680	113.62	12.601	21.391	76.72
2021	24.791	32.644	117.08	12.915	21.698	77.82
2022	25.411	33.625	120.60	13.238	22.022	78.98
2023	26.046	34.625	124.18	13.569	22.362	80.20
2024	26.697	35.642	127.83	13.908	22.719	81.48
2025	27.365	36.680	131.55	14.256	23.093	82.82
2026	28.049	37.737	135.35	14.612	23.485	84.23
2027	28.750	38.815	139.21	14.977	23.893	85.69
2028	47.115	41.503	148.85	32.998	25.907	92.92
2029	30.206	42.561	152.65	15.736	26.287	94.28
2030	30.961	43.645	156.54	16.129	26.688	95.72
2031	0	41.899	150.27	0	25.620	91.89
2032	0	40.223	144.26	0	24.595	88.21
2033	0	38.614	138.49	0	23.611	84.68
2034 to 2043	0	310.614			189.927	
		And reduces by 4% each year thereafter			And reduces by 4% each year thereafter	
Total to 2043	777.981	1,134.328		497.887	743.499	

After 2033 resources will still be required to service and repay outstanding debt relating to the investment carried out, even though no new expenditure on the highway network will take place.



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- 1.2.4 In reality the profile will be slightly different to the PFI solution in that procurement process costs will be spread over the 25 years rather than being incurred up front. It has also been assumed that the profile of client costs will be the same.
- 1.2.5 The resources in either the third or fifth columns would need to be found from the City Council's revenue budget. Members will need to assess where the provision of an improved highway ranks with the provision of other services if this option was pursued and Council Tax was not to increase. Alternatively, if this option for funding were used without any reductions elsewhere, Band D council tax would rise by £3.59 for every £1.0m that is required to service and repay the debt. This amounts to a 0.36% increase. The Government does have reserve powers to limit the increase in Council Tax so it may not be possible to raise the necessary funds in this way.

1.3 Option 3 : A Joint Venture Partnership

- 1.3.1 Joint ventures are usually appropriate for the delivery of services where there is an externally funded income stream available to the Joint Venture Partnership, such as in running a tramway, something lacking in this project unless congestion charging were seen to be appropriate.
- 1.3.2 Without an income stream it would still be possible to set up a joint venture partnership between the City Council and a private sector partner, but finance for capital investment would need to be provided by the City Council or by a financial institution on the City Council's behalf. If the partner or a financial institution were to provide the finance the cost should be around 1% above that charged by the PWLB. In this arrangement it would be more cost effective for the City Council to borrow the money under the prudential borrowing regime. The financial implications will be as set out in Table 1 above.

1.4 Option 4 : Financing through issuing bonds

- 1.4.1 Local authorities do have power to issue bonds and this was once a popular method of raising funds. However, it is very much out of fashion today because the cost of borrowing from the PWLB is cheaper; whereas borrowing from the PWLB is at around 5%, an interest rate of around 6% would be required to attract financing through bonds. Additionally the cost of administration is higher than using the PWLB. This method of financing offers no attraction over borrowing from the PWLB.



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1.5 Option 5 : The currently proposed PFI

- 1.5.1 The project as currently proposed brings guaranteed additional investment to the City Council's roads of £778m over 25 years as follows:

Table 2

	£m
Initial Capital	
Highway Drainage	5.927
Skid resistance	1.858
Recovery of road and footway backlog	53.877
Street lighting	80.816
Structures - bridges, culverts etc.	47.248
	189.726
Whole Cycle	
Resurfacing	272.006
Reconstruction	155.425
Urban Traffic Control	28.718
Street lighting	70.023
Tree replacement	7.002
	533.174
Client costs	52.518
Procurement	2.563
Total	777.981

- 1.5.2 As mentioned in para 1.1.2 above there is currently £8m per annum allocated via the LTP process for capitalised repairs to the classified road network, although this figure is not guaranteed for future years and would probably tail off as the classified network improves. Following initial discussions with the Department for Transport (DfT)



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this annual LTP allocation will now be subsumed into the PFI credit and will become guaranteed; the effect of this change is that an amount equivalent to the LTP funding will be available for investment on the whole of the network including footways. Assuming that this money would be forthcoming from the Government for each of the next 25 years, it will have the impact of reducing the amount of new resources (supported by PFI Grant) by £280m. The amount of new investment will therefore be around £500m.

- 1.5.3 The above figures in Table 2 are at outturn prices assuming 2.5% inflation. The net present value of £778m is £379m, which is the PFI credit awarded to the project.
- 1.5.4 Any affordability gap between the cost of the specified level of service under the PFI contract and current levels has been covered by the Government's confirmation of grant determined by the PFI credit. With effect from the commencement of the project the City Council will receive a guaranteed grant which under current rules will amount to £40.2m in the first year. This will reduce by 4% per year meaning that excess grant is payable in the early years with grant continuing after the conclusion of the project. The Government is currently consulting on ways to address this mismatch which may result in grant being paid on an annuity basis over the life of the project. If this were to be the case grant of around £30m will be paid each year for 25 years. The total award of grant under these 2 methods would be approximately the same but paid under a different profile.

1.6 Option 6 : A less comprehensive PFI

- 1.6.1 A number of specific services within the current mandatory scope of the HMMPFI are to be considered for exclusion from the project. These fall into 4 broad categories
- 1.6.2 Those Services identified for possible exclusion within the mandatory variant bids where no capital investment is envisaged; these services are Horticultural Maintenance (excluding Trees) and Street Cleansing. By identifying these services as mandatory variant bids the DfT will not require a reconsideration of the City Council's Outline Business Case (OBC), and there is no loss of PFI credit should they be withdrawn from the scope. However the PFI Service provider may include interface risk costs within the price.
- 1.6.3 Those Services identified for possible exclusion within the mandatory variant bids where capital investment is envisaged; this service is Horticultural Investment and Maintenance (Trees). By identifying this service as a mandatory variant bid the DfT will not require a



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reconsideration of the City Council's Outline Business Case (OBC). However there is a loss of PFI credit should it be withdrawn from the scope and the PFI Service provider may include interface risk costs within the price and the risk transfer test may be affected.

- 1.6.4 Those Services remaining within the minimum mandatory variant bid scope where capital investment is envisaged; this service is Traffic Signal (Urban Traffic Control). The removal of this service from the scope will be identified by the DfT as a variation to the submitted OBC and carries a small risk of further review by the DfT. There is also a loss of PFI credit, loss of operational efficiency gains and the PFI Service provider may include interface risk costs within the price.
- 1.6.5 Although Street Lighting is a function requiring a capital investment and is within the minimum mandatory variant scope, it is not envisaged that the Street Lighting function is removed from the PFI scope, but that some local discretion is built into the PFI contract.
- 1.6.6 Those Services remaining within the minimum mandatory variant bid scope where capital investment is not envisaged; these services are Traffic Signal (Maintenance), Winter Maintenance, Signage and Seats, Emergency Response, Event Management, Road Markings, Provision of Footway Crossings and Public Place management. The removal of these services from the scope will be identified by the DfT as a larger variation to the submitted OBC and carries a much higher risk of review and challenge. There is no loss of PFI credit however there will be loss of operational efficiencies and the PFI Service provider may include interface risk costs within the price
- 1.6.7 In summary, provided that the capital investment elements of the project were to remain undisturbed (i.e. these items were left within the scope of the mini PFI) there would be no impact upon the PFI credit received. However, there may be financial consequences for the City Council related to contractor perceived interface risks priced into the contract and higher client and operational costs compared with the full PFI option. In addition this option would only proceed provided that the Government was prepared to accept a scaled down project and the FRS5 test for risk transfer was still met.
- 1.6.8 Whilst the City Council's financial advisers will be asked to undertake this risk transfer test once any revised scope has been determined, it is also considered highly likely that the DfT would require a new OBC to be submitted should the scope of the contract reduce significantly. A new OBC submission would put Birmingham at the "back of the queue".



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- 1.6.9 The main elements of current scope that are seen to transfer sufficient risk to the PFI Service Provider (a requirement of FRS5) are likely to be
- All aspects of Carriageway and Footpath Investment and ongoing Maintenance, including management of footway crossing installation. .
 - All aspects of Street Lighting Investment and ongoing Maintenance (the Street Lighting investment element of the scope provides the vast majority of the cost benefit analysis justification for the project overall).
 - All aspects of Highway Structures Investment and ongoing Maintenance.
 - Winter Maintenance
 - Tree investment and maintenance
 - Signage and Road Markings
- 1.6.10 A further consideration in identifying elements of the scope for removal is the mix of work types within current workforce groups e.g. Winter Maintenance is carried out by the same group of staff that deliver carriageway reactive maintenance.
- 1.6.11 To secure the PFI grant it is also essential that the contract be seen as being for the provision of services (e.g. upgrade and ongoing maintenance) rather than just for the procurement of works.
- 1.6.12 A significant reduction in scope may also lead to potential procurement process challenge from consortia who did not consider they could deliver the current mandatory scope(s).
- 1.7 Option 7 : A 'localised' PFI body (the "Cllr Olley option")**
- 1.7.1 The financial implications of this option are dependent on the arrangement meeting the tests for a PFI project, resulting in the payment of PFI grant. The City Council's financial consultants have already commented on the proposal and have come to the conclusion that it fails to meet the requirements for a PFI project in several regards. Full details of the proposal and issues are shown in Appendix 1 to this paper.
- 1.7.2 If this option were followed it would mean that PFI grant would not be payable and if the project were to proceed funding would need to be raised by the City Council with the financial consequences as set out at in the financing options 1 and 2 above.



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1.8 Option 8 : Any other option which officers consider should be brought to Members attention.

- 1.8.1 The only options that will secure the PFI grant are the full scheme currently proposed and, subject to Government approval, a less comprehensive PFI project. Other options do not secure the PFI grant. If the project were to proceed it would mean directing resources from other services or increasing council tax. Raising £30m per annum from Council Tax would involve an extra £107 on a Band D property, a 10.9% increase.

2 CONTRACTOR DEFAULT.

- 2.1 If the PFI scheme proceeds a financial institution will be part of the successful consortium, and will provide the funding for capital investment. The financial institution will service the consortium's debt through the unitary fee paid by the City Council. Should a contractor default in a fundamental way, for example through becoming insolvent and not being able to deliver the service, the City Council would withhold payment, which would have an immediate impact on the financial institution. That funder would have step in rights and in order to secure its income stream would appoint a new contractor. Any less serious defaults would be dealt with under the contract. The City Council will not be responsible for any compensation if a contractor defaults.

3 RENEGOTIATION ARRANGEMENTS.

- 3.1 A traditional PFI contract includes the four elements of design, build, finance and operate. There are risks attached to each of these elements, but they tend to be concentrated in the design and build stages. However these stages tend to cover a short period of the overall contract so that once a building is operational it is possible to exchange high cost risk capital for lower cost bank debt. The saving is traditionally split 50:50 between the contractor and the client, and the City Council has concluded such an arrangement in respect of the first package of schools built under PFI. A similar arrangement could be incorporated into the Highways contract, but the refinancing savings may be proportionately less than with a building because the risk is less concentrated. Any refinancing savings will be covered in contract negotiations.



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4 RESIDUAL VALUE.

4.1 The contract will require that at the end of the contract period all elements of the highway network should be fit for purpose. However, in order that the network does not deteriorate after the contract period it will be necessary for the City Council to continue to invest to avoid the network returning to the position we are today.

5 TARIFF MECHANISM.

5.1 Your officers are preparing a payment mechanism that is currently available in draft form. The 12 performance standards that form the core of the payment mechanism are attached at Appendix 2 to this report. The HMMPFI Cabinet Committee will be asked to endorse the final payment mechanism. Deductions from the unitary charge will be made where the performance standards are not met.

5.2 In addition to the core payment some elements of the contract could be subject to a schedule of rates payment mechanism. This will enable District Committees to invest in the street scene in excess of that delivered by the base service.

.....
STEPHEN HUGHES
STRATEGIC DIRECTOR OF RESOURCES



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Appendix 1

Birmingham HMMPFI – A ‘localised’ PFI body (the “Cllr Olley option”)

Following concerns regarding other PFI contracts nationally, an option to deal with the following issues was proposed by Cllr Olley.

Contract is for many years and elected members will have no say on what happens to our roads over a 25 year period.

The proposal does not protect the in-house workforce and local contractors who have served the City for many years. The local contractors were likely to end up as sub contractors to the PFI Service Provider with a possibility of losing access to this work.

The scale of the proposed contract and the PFI bidding process precludes many small organisations from bidding because of up front costs.

In order to address these issues it was proposed that a localised PFI body be created, which would be a joint venture company owned and controlled by locally based stakeholders in conjunction with Birmingham’s own workforce. It was envisaged that this organisation might be run on “not for profit” basis. Work would be allocated to members of the consortia on an equitable basis on the basis of a cost plus agreed overheads plus agreed profit basis or on a schedule of rates basis. Contracts were envisaged to be for 5 years (say) to allow for a joint working arrangement to develop and for sufficient work to be generated to allow for appropriate investment in plant and staff training etc. Performance would be measured against predefined measures. There was also a recognition that this localised PFI body would not benefit from a big hit investment and would more likely suit a more even contract expenditure profile.

In order for the required BCC scope to be delivered via PFI financing then the following would need to apply: -

- A proper procurement process to award the work.
- Transfer of risk to ensure FRS5 is met.
- Contract to be for ‘services’ and not ‘works’.
- Demonstrate value for money in any proposal.
- Comply with the timescales agreed with DfT.
- Meet the project objectives in the OBC.



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For the 'localised PFI contractor' to be successful in being awarded a PFI financed contract, it would mean:-

- The proposed localised PFI Co would have to 'bid' like all other interested consortia. This would involve substantial upfront costs at risk.
- The localised PFI Co would have to be in place at the appropriate point in the procurement timetable (this point has already passed for the current DfT approved timetable).
- The appropriate risk transfer would have to be demonstrated. This would appear to be unlikely given the proposal to acquire investment via BCC managed contracts.
- The proposal would seem to be a series of contracts for works rather than services
- Investment resources would be required, practically this would be from the other members of the consortia.

The ability to deliver an "immediate peak of work followed by a reduced workload" would have to be overcome. This peak delivers the most cost effective solution to BCC's need but would appear to be problematical for the localised PFI Co

It is therefore considered unlikely that the localised PFI proposal would enable BCC to financially close a contract to secure the award of PFI credits and certainly not within the current approved timetable.

The proposal for a joint venture could however be used with more traditional financing sources as discussed in the main body of this paper. However the main disadvantage here is that the PFI approach brings significant extra resources for investment in the infrastructure and puts in place a long term guaranteed level of investment. This removes the short term opportunity to reduce budgets and specifically secures LTP resources for 25 years.

The award of a traditional PFI contract will however bring the following:

- generate significant multiplier effect in the local economy on the back of the increased work during the Initial Asset Renewal Period of the contract (the first 5 – 7 years).
- will be guaranteed work at a given level over the next 25 years because the Council funding is contractually committed.
- the successful PFI Contractor would almost certainly have to rely on local sub-contractors and labour to a large extent. Given the size of the project and the buoyancy of the construction industry it seems unlikely any big highways contractor will import all of its staff and



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contractors

In addition to work within the scope of the PFI contract there is a large new build capital programme (currently £50m in 2004/05) which could be utilised to provide work for local contractors (subject to satisfactory procurement procedures).

In combination the impacts of the PFI contract award and the use of the "new build" capital programme should enable local contractors to continue to support the City Council.



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Appendix 2

Draft Payment Mechanism : Performance Standards

The following 12 Performance Standards form the core of the Payment Mechanism:

- PS1 Focused on *Network and Infrastructure Condition* so that as this improves during the CIP, the level of deductions reduces until all the minimum condition standards are reached.
- PS2 Focused on *Network and Infrastructure Availability and Performance* so that where availability of the various aspects of the infrastructure are not available for use to the standards specified in the Service Requirements, the payment to the Service Provider is reduced accordingly.
- PS3 Focused on the maintenance of *Environmental Standards* so that (for example) where streets do not meet the specified cleanliness standards appropriate deductions are made from the payment to the Service Provider.
- PS4 Focused on the achievement of *Winter Maintenance* standards so that where maintenance is not undertaken or does not achieve the required network availability a reduction is made in the Service Provider's payment.
- PS5 Focused on *Emergency and Operational Responsiveness* so that on each occasion where the Service Provider does not respond to an event (e.g. a fallen lighting column) within a specified timescale a fixed deduction is made from the payment to the Service Provider
- PS6 Focused on the *Safety of Network* users as measured by road traffic accidents, etc. so that deductions will be made where the Service Provider fails to produce safety reports in accordance with the specification or where accidents can be attributed to Service Provider actions or omissions.
- PS7 Focused on *Network Management* as measured by the Availability of working traffic management systems and working information systems and the provision of specified traffic management reports and information so that where availability and / or reports / information is not available as required the payment to the Service Provider is reduced accordingly.
- PS8 Whilst this will not be part of the Reference Project, PS8 will, if adopted following acceptance of a variant bid, would focus on *Usage* of the network by some or all types of vehicles.
- PS9 Focused on *Contract Management* so that where the Service Provider fails to maintain appropriate databases or to achieve standards related (for example) to responses to complaints or information requests a fixed deduction will be made from the payment to the Service Provider for each such failure.
- PS10 Focused on the provision of *Strategic Partnering and Reporting* e.g. the establishment and effective operation of partnering processes



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to manage the Service Provider's service delivery in consultation with the Council and the support to the Council in its development of Local Transport Planning and delivery of its Best Value obligations, etc. so that where agreed / specified levels of support are not provided in the form and in the timescales required, fixed deductions will be made from the payment to the Service Provider.

- PS11 Focused on *Working Practices* so that where the Service Provider fails to meet contractual and professional best practice obligations such as those related to the Council's "Considerate Contractor" scheme and the safe management of its activities, fixed deductions are made from the payment to the Service Provider commensurate with the failure concerned.
- PS12 Focused on Network Efficiency as measured by the journey times of specifically defined vehicle types, e.g. (but not limited to) public transport vehicles so that where the Service Provider meets specified targets it is able to earn bonus payments subject to an appropriate cap in the amounts paid.



A1.5 Employment and Human Resources Provision for Highways Management and Maintenance Service Provision

BIRMINGHAM CITY COUNCIL PROPOSED HIGHWAYS MAINTENANCE AND MANAGEMENT PFI PAPER 4 - EMPLOYMENT AND HUMAN RESOURCES ISSUES IMPLICATIONS

1 INTRODUCTION

- 1.1 The Co-ordinating Overview and Scrutiny Committee have requested a paper which explains the different employment vehicles that might be used to facilitate the delivery of the HMMPFI in the context of the financial options outlined in the finance paper. These are considered below, and are supported by further detail, in Appendix 1.

This paper also details the extent of consultations with the trade unions to date.

- 1.2 Within the Highways and Maintenance Management Service Area out of 349 full time equivalent staff 176 are employed at Thimble Mill Lane (Highways) Depot and 64 at Spring Lane (Lighting) Depot. In addition street sweeping and cleansing accounts for 242 personnel. The full allocation of the workforce between the different services the subject of the HMMPFI contract is set out in a table in Appendix 2.

2 EMPLOYMENT VEHICLES

There are, in effect, 4 employment vehicles:

2.1 TUPE

- 2.1.1 The conventional approach in a HMMPFI contract is for the workforce to transfer to the HMMPFI service provider under the Transfer of Undertakings (Protection of Employment) Regulations 1981. This results in the contracts of employment of the workforce transferring to the HMMPFI service provider's employment. This means that the terms and conditions of the transferred workforce are unchanged. The overriding purpose of TUPE is to ensure that where there is a transfer of an undertaking, or part of an undertaking, employees working in the undertaking or in the part transferred will transfer on their current terms and conditions of employment. The only terms that do not transfer are Pension rights, however, this has now been dealt with by



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ODPM (Circular O3/2003), which requires contractors to provide a comparable Pension Scheme or to apply for admitted body status to the Local Government Pension Scheme. Further discussion in respect of TUPE and Pension issues is covered in Appendix 1.

Whether or not TUPE applies is a matter of law, which is covered further in the report, and should be considered as the starting baseline position for any PFI contract.

2.2 TUPE Plus

2.2.1 There has, also, been a practice for some local authorities to include "TUPE Plus" conditions in their contracts to give additional protection to the transferred workforce, which Birmingham is considering. TUPE plus agreements build upon TUPE rights, aiming to ensure that there is no deterioration in pay and conditions during the life of a contract. In particular, they extend protection to groups of employees not covered by TUPE, including those employed after transfer i.e. new starters. For example, Newcastle's Schools PFI Project Agreement contained a wide range of clauses on employment matters including a TUPE plus clause which stated that transferring employees and new joiners receive the benefit of changes to rates of pay or terms and conditions of employment determined by the National Joint Council for Local Government Services.

2.3 Secondment

2.3.1 Under a secondment model, the employees remain employees of the Local Authority, whilst the management of their time and activity passes to the Council's service provider. This can be implemented in one of two ways:

(i) Secondment without replacement

Under this approach an identified group of staff would be seconded at the start of the contract. As those people retire or leave the City Council for other reasons the service provider would take on responsibility for replacing them. This has the advantage to the City Council of gradually relieving it of some risks relating to employment. It also has an advantage for the service provider in that it would allow it to avoid obligations under TUPE and the provisions of the Local Government Act 2003. The major disadvantage of the approach is the likelihood that a so called two tier workforce would be created.

(ii) Maintenance of a secondment pool for the term of the contract

Under this variation the City Council would undertake to



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maintain a pool of employees for the term of the contract and so would retain full responsibility for the replacement of leavers. The main advantage of this approach would be the avoidance of the two tier workforce. The service provider would avoid taking on risks relating to employment, which would be retained by the City Council.

An example of a major secondment in local government is the contract between Liverpool City Council and British Telecommunications (BT) for a period of 11 years, valued at £300m. However, this example relates to a Public Private Partnership (PPP) for support services. It is not funded through the use of government PFI credits and as such issues of risk transfer and balance sheet transfer do not apply in the same way as for the receipt of PFI credits.

2.4 Sub-contract

Sub-contracting will involve the Council's workforce continuing to undertake the work carried out by its DLO's through a contract with the Council's chosen service provider. This could be achieved through one of two sub-contracting methodologies:

2.4.1 With regular competition

Under this approach the Council would put itself forward as a potential provider of specified works falling within the scope of the HMMPFI contract. The HMMPFI service provider would be required to seek bids for this work from the Council but would be under no obligation to accept them in a competitive bidding environment. This will ensure that any sub contract arrangement offers value for money. On the other hand it leaves the current workforce open to losing the work to an alternative supplier and this would then probably result in a TUPE transfer of the workforce to the chosen service provider.

2.4.2 Without competition

In this instance the existing DLO would comprise a nominated sub-contractor which the service provider is required to use for the duration of the contract. Whilst this will protect the workforce it undermines the ability to ensure that the service is delivered at best value.



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3 EMPLOYMENT VEHICLES IN THE CONTEXT OF THE FINANCIAL OPTIONS

3.1 If the Council funds the required improvements to its highway infrastructure through the adoption of a non-PFI arrangement, e.g. Prudential borrowing or other methods of supported borrowing or the issuing of bonds, it can continue to do so either through use of an in-house workforce or through contracting with one or more external providers.

3.2 If the Council chooses to adopt either a mini or maxi PFI the employment options for those services included in the PFI package would need to be considered as follows:

3.2.1 TUPE

As stated above whether or not TUPE applies is a matter of law. The Council and the HMMPFI service provider and the affected employees cannot "contract in" or "contract out" of TUPE by labelling the transaction as TUPE or non-TUPE. Therefore where a group of employees spend the greater part of their time either in a labour intensive undertaking or using a significant amount of assets and either they and/or such assets are taken on by the HMMPFI service provider from the City Council, it is likely that TUPE will apply. Any proposed Transfer of Undertaking is subject to the normal consultation machinery.

3.2.2 TUPE Plus

If the City Council was to adopt the TUPE Plus approach, it would need to provide additional protection for the transferred workforce by developing with the HMMPFI service provider a Transferred Workforce Protocol. This could include (for example) requirements that:-

- The HMMPFI service provider consult with the City Council before taking major employment decisions with respect to significant numbers of the transferred workforce;
- The transferred workforce's conditions of employment are not worsened during the core investment period.

During 2003 there has been extensive consultation between Council officers and the recognised non-teaching trade unions on the drafting of a TUPE Protocol. The protocol is being developed so that all parties have a clear framework within which to facilitate the personnel issues associated with transfer.



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3.2.3 Secondment

There is one major legal difficulty and one major practical difficulty with all secondment arrangements. The legal difficulty relates to the application of TUPE and the practical difficulty to the issue of control of the employees.

There is the possibility that a secondment arrangement may, in legal terms, amount to a TUPE transfer – irrespective of being an agreed secondment.

In practical terms, the fact that the staff are directly employed by the authority itself (although under the direct control of the service provider), means that ultimately it is difficult to transfer responsibility for the quality of the work performed or for the productivity of those workers to the service provider. The service provider will not have the right to discipline or the ultimate sanction of dismissal and therefore likely to be reluctant to be bound by performance indicators or a price/payment mechanism, which is dependant on staff performance. General issues of liability, Health and Safety etc would need to be resolved.

Further more in order to progress HMMPFI the Council needs to satisfy the DfT that the contract will be off balance sheet in accordance with FRS5¹. Insofar as secondment would leave much of the employee cost and performance risk with the Council, it is very likely that adopting secondment for core parts of the HMMPFI contract e.g. any part where there is a strong relationship between the capital and on-going maintenance costs, would create difficulties in this respect.

3.2.4 Sub-contract

The Council's DLO could sub-contract to the HMMPFI provider to provide a range of highway and street lighting related services. The Association For Public Service Excellence (APSE) states that there would appear to be no legal impediment to a sub-contracting solution. However, as with secondment the key issue will be to demonstrate that the capital is off balance sheet in accordance with FRS5¹. The difficulties in this respect will depend on the type of services subcontracted e.g. the issue will be less significant for services considered to be 'soft' such as street cleaning and grass cutting but significantly more challenging in areas such as highways and street lighting.

¹ A reference to Financial Reporting Standard No.5, which sets out the



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principle of "substance over form."

The 'test' of risk transfer will essentially be an expert judgement from an independent specialist accountant, verified by the authority's independent auditor. In terms of FRS5 there is no specific reference to the involvement of DLO's being factors to adversely affect the issue of risk transfer. Moreover from an employee relation's point of view the realisation that BCC is still retaining workforce responsibility from the contractor could act as a powerful determinant in engaging with the workforce and their trade union representative.

A further requirement in respect of this option is that it is necessary for the Secretary of State to designate the HMMPPFI Service Provider as a Public Body under the Local Authorities (Goods and Services) Act 1970.

3.2.5 Joint Venture Partnership

The analysis above does not specifically consider the option of a Joint Venture Partnership as this is neither a finance nor an employment option. Rather, it is a form of company structure through which external services to the Council could be provided, whether or not PFI is the funding vehicle used. As such it could be used in conjunction with any of the employment vehicles discussed above.

A joint venture could be structured so that the Council has less than 20% stake, as in the Kirklees Schools PFI Project, and, if this was the case, it is unlikely that this would have any significant influence on the balance sheet accounting treatment. However, in reality, it provides little Joint Venture benefit for the Council.

On the other hand the Council could take a controlling stake in the Joint Venture. However, contractors are unlikely to be willing to put finance at risk in a PFI where they don't have control over the management of the related business. Moreover, such a high degree of involvement in the Joint Venture by the Council would present significant and almost certainly insurmountable challenges to the requirement to achieve off-balance-sheet treatment for the project, thus making PFI funding undeliverable.

3.2.6 Different employment vehicles for service delivery options are summarised in Appendix 3.

3.2.7 Retraining and reskilling issues of the workforce is addressed further in Appendix 1.



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4 TRADE UNION CONSULTATION

- 4.1 A series of meetings were held with the trade unions during 2001 to discuss and understand the scope of the services included in the Outline Business Case. During the period between the late summer of 2001 and the award of the PFI credits in October 2003, consultation consisted of the HMMPFI appearing as a regular item on internal departmental meetings, attended by the trade unions.
- 4.2 The trade unions' concerns and perception, at the time, was that meaningful and timely consultation had not taken place. Management acknowledged that if this was the case then it needed to be rectified immediately.
- 4.3 Therefore since January 2004, in response to the trade unions' concerns and perception, an extensive series of formal consultation meetings have been scheduled and held fortnightly, with local trade union representatives from each of the service areas identified in the current scope of the contract. Recently an impasse has been reached with the trade unions over the release of a small amount of commercially sensitive information which is subject to the trade unions signing of disclosure protocol, however, management and trade unions are currently working together to resolve this issue.
- 4.4 In conjunction with this an Employment Issues Working Group has been meeting on a regular basis. In respect of this group APSE have been acting as 'critical friend' to both the management and trade union side and have been instrumental in facilitating a recent 2- day workshop with appropriate representatives from both management and trade unions from each of the service areas. The Workshops considered each of the service areas currently in the scope of the contract in terms of the applicability of three employment options – TUPE transfer, retention via a subcontract arrangement and retention via secondment.
- 4.5 As TUPE/TUPE Plus is the only option that results in the transferred workforce leaving the City Council's employment, it is for that reason that this option is the least acceptable to the recognised trade unions. Their most acceptable options for an employment solution would be either a sub-contract and/or applying the PFI to a smaller group of employees which has the effect of retaining the workforce in-house.
- 4.6 In summary the essential features of the consultation with trade unions are:



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- Early indication of the City Council's intentions
- The scope of services to be included in the contract
- Provision of information on the project implementation timetable for tendering, evaluation, contract negotiation and service commencement
- Provision of background information and progress against the timetable
- Contract/Tender documentation
- Alternative employment solutions to TUPE transfer of staff/workforce
- Workforce profile information
- The facility for the Joint Trade Unions (JTU) to meet with their members and feedback to management within the consultation meetings.

4.7 Consultation minutes of both groups are available, if required in line with the statutory requirement to consult under TUPE.

4.8 In addition to consultation with the trade unions a newsletter has been launched to all staff potentially affected by HMMPFI and managerial briefings have also been undertaken.

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1 Further issues in respect of TUPE and Pension Matters

- 1.1 The HMMPFI Treasury guidance document states in the context of value for money that:

"The Government's commitment to PFI is based on its ability to deliver value for money in public investment, whilst protecting the terms and conditions of employees. Therefore – as the Government has always made clear – value for money should not be achieved at the expense of staff terms and conditions."

- 1.2 The TUPE regulations themselves, as stated, do not protect pensions but they are protected by the new Code of Practice on Workforce Matters in Local Authority Service Contracts, which applies to all contracts advertised after the 13th March 2003.
- 1.3 The new Code lays down a number of responsibilities for the outsourcing employer, in this case BCC, and the incoming 'service provider'. Primarily the parties must identify pensions arrangements and how the service provider intends to treat new employees who will work alongside existing employees i.e. the two tier workforce.
- 1.4 In respect of Pensions the Code specifies that new joiners must be offered a reasonable pension that could mean:
- Membership of the LGPS
 - Membership of a good quality Employer Pension Scheme or
 - Membership of a stakeholder pension scheme with an employer contribution (of up to 6% but either party can pay more)
- 1.5 Essentially the Code requires that where there is a TUPE transfer and the transferee (in this case the HMMPFI service provider) employs new joiners (i.e. employees recruited directly by the HMMPFI service provider to work alongside the transferred workforce then the new joiners have to be employed on no less favourable terms than the transferred employees (i.e. the employees transferred under TUPE by the Council). It therefore is designed to avoid a two tier workforce – that is two workforces working alongside each other on different terms and conditions.
- 1.6 TUPE is the solution expected by any prospective HMMPFI service provider. All service provider consultees have experience of a TUPE transfer and do not see significant issues with TUPE or Pensions.
- 1.7 The risk associated with the employment of a workforce is transferred to the HMMPFI service provider.



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- 1.8 There will be a single integrated workforce to deliver the project objectives and no justification for any relief from the consequences of a failure to perform the HMMPFI contract where the Transferred Workforce is responsible for such failure.
- 1.9 On a final note, in respect of TUPE, by the end of the core investment period i.e. 5 to 7 years the highway network will have been significantly upgraded and therefore, there will be a reduced demand for the same level and amount of highways maintenance. Following the transfer of the workforce, this may result in wider range of employment opportunities, due to the acquisition of new skills as a result of moving to programmed improvement work.
- 2 PPP Secondment for Support Services between Liverpool City Council and British Telecommunications (BT)
 - 2.1 In this model staff were seconded to work in the joint venture rather than transferred, for the term of the partnership. That is, the City Council remained the employer of the workforce, continued to pay the workforce, and was ultimately responsible for dealing with dismissals of employees. The service provider managed the staff on a day to day basis and gave instructions to the workforce.
- 3 Retraining/Re-skilling of the Workforce
 - 3.1 If the workforce was to remain in-house consideration would need to be given to ensure that the workforce is adequately resourced in terms of skills, well managed, trained and motivated employees who can deliver the service in an economic, efficient and effective way in order to improve the service in the City. It is critical to ensure that the adequate resources are in place to deliver a significant step change very early on to secure an improvement in the highway infrastructure. It is also important to ensure that the advantages, in terms of flexibility and responsiveness, of an in-house workforce, are able to be recognised.
 - 3.2 In respect of the Highways DLO due to the poor condition of the highway infrastructure the service has predominately become a reactive one. With the exception of the sign shop, this has resulted in the skill base of the workforce becoming largely focused on maintenance. Some re-skilling/re-training will be required to undertake the larger planned maintenance work.
 - 3.3 In contrast the Street Lighting DLO has a high skills base level and are required by legislation to receive regular refreshment accreditation training. The DLO has a successful track record in winning contracts



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and work in open competition and are often the preferred provider of external contractors.

- 3.4 This health check of the current workforce, in order to be able to deliver the requisite step change would need to be undertaken, and if deficient a comprehensive change management programme of retraining/re-skilling to maximise benefit, will need to be put in place. Consideration may, therefore, have to be given to the possible use of sub-contractors to provide the requisite skills, to fill any gap whilst it exists.
- 3.5 Consideration also needs to be given to type of work/skills that will be required to be undertaken at the end of the core investment period, where there will be a reduced demand for highways maintenance work and an increased demand to perform programmed improvement work.
- 3.6 Re-skilling issues may also emerge under TUPE/TUPE Plus for the contractor.
- 3.7 In addition, given the size of the project and the buoyancy of the construction industry the contractor/City Council would almost certainly have to rely, in part, on local labour and have to give consideration to employing a larger workforce. A preliminary analysis of workforce requirements has been undertaken for the services in the original scope of the PFI contract. It is estimated that the workforce would need to increase substantially for the first five years of the contract, with a peak in year five. This represents the increased investment in the first five years of the contract. Following this period the workforce requirements will reduce to a consistent level for the remainder of the contract.

4 Relevant Tests

- 4.1 In summary, in determining which employment vehicle is appropriate the following issues will need to be considered:
 - What is the financial impact upon the likely unitary charge that will be tendered by the HMMPFI Service provider when added to any other costs that the Council will incur. A fundamental feature of the HMMPFI contract will be that it is for 25 years with an estimated expenditure of over £2.2 billion (at Net Present Value figures). Therefore in this context it is crucial that the employment solution succeeds and the Council can demonstrate that it has secured best value;
 - What is the effect on the maximisation of risk transfer in the project and in particular the effect upon the transfer of risk in accordance with FRS5. Any solution that the Council



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puts forward will have to satisfy the Department for Transport as the providers of the PFI credit that there has been a sufficient transfer of risk in the project as well as to represent a credible solution to both the HMMPFI Service provider and their funders;

- Can the solution be implemented legally or are consents required and how effective is the solution at withstanding any legal challenge;
- What is the effect of the option on the workforce and how are their future employment prospects affected by it;
- How does the solution fit with the guidance issued by Government.



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Appendix 2

Full Time Equivalent (FTE) Employees within the Scope of Services identified in the Outline Business Case (OBC)

Function/Service Area	No. of FTE`s within each Function/ Service Area		
	Operational / Manual	Technical/ Management / Admin	Total
Highways DLO which covers: Road Workers: Safety Repairs (Pot Holes/Trips on F/Ways and Carriageways) <i>Planned Footway Repairs</i> <i>Find & Fix</i> <i>Winter Maintenance</i> <i>24hr Emergency Response</i> Sewerage Workers: <i>Gully Cleansing</i> <i>Gully Installation</i> <i>Pipelaying:</i> Sign Makers: Production of signs <i>Component fabrication</i> * Includes 25 Medical Re-deployee`s	130*	46	176
Lighting DLO which covers: Electricians Electrician/Signals Fitter/Erector: erection &	50	14	64



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removal street furniture			
Driver/Lining: routine maintenance			
Driver/Labourer: routine maintenance			
Craftsman/Lining: application of yellow/white road markings			
<i>Driver/Stores</i>			

Function/Service Area	Operational / Manual	Technical/ Management / Admin	Total
Highway Structures		17	17
Highway Drainage/Gullies Cleansing		4	4
New Roads and Street Works		10	10
Claims		12	12
Traffic Signal Management (UTC)		11	11
Contingency Patching		15	15
Carriageway and Footway Resurfacing		24	24
Vacant posts in Network Management		8	8
Street Lighting		19	19
Note: Road Marking, Name Plates, Seats, Safety Barriers& Fences, Bollards, Flood Protection and Winter Maintenance are all included in above FTE figures		0	0
Horticultural Maintenance & Trees	10	1	11*
* Excludes employees within the current external horticultural maintenance			



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provider who may be affected by a second generation TUPE transfer			
Street Sweeping and Cleansing	228	14	242
	418	195	613



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Appendix 3 Employment vehicles for service delivery options

Service Delivery Option	In-House	Joint Venture	PFI Contract	Outsourced
Summary	Service provision retained in-house, all risks of service delivery retained by local authority	Service provision transferred to a JV company, in which local authority has a financial interest. Risks of service delivery shared between parties (such as in relation to shareholding)	Service provision transferred to a service provider. A long-term performance contract sets out service requirements, and payment is dependent on satisfactory performance of contracted services. Typically involves significant allocation of risk	Service provision outsourced to a service provider. Typically medium term contracts (10 to 15 years), and payment for services is typically not related to performance. Will involve some transfer of risk for service delivery
Realistic sources of funding for the street services reference project	<ul style="list-style-type: none"> • Borrowing with SCE • Locally raised funding (e.g. RUC) 	<ul style="list-style-type: none"> • Borrowing with SCE • Locally raised funding (e.g. RUC) • Possibly PFI credit but will require structuring as a PFI transaction 	<ul style="list-style-type: none"> • PFI Credit 	<ul style="list-style-type: none"> • Borrowing with SCE • Locally raised funding (e.g. RUC)



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Employment Options	<ul style="list-style-type: none"> • Directly employed 	<ul style="list-style-type: none"> • TUPE • Secondment • Sub-Contract <p>To JV Company</p> <p>(As PFI if to be structured as a PFI transaction)</p>	<ul style="list-style-type: none"> • TUPE • Possibly secondment and/or sub-contracting, but only realistically for 'soft' services <p>To PFI Service Provider</p>	<ul style="list-style-type: none"> • TUPE • Secondment • Sub-Contract <p>To Service Provider</p>
Specific issues		<p>New group accounting requirements</p> <p>(As PFI if to be structured as a PFI transaction)</p>	<p>A PFI transaction is required to meet the ODPM/DfT/PRG criteria for PFI projects; these include a requirement for the transaction to be off the balance sheet of the local authority</p>	



A1.6 Local Service Provision and Environmental Considerations in relation to Highways Management and Maintenance Service Provision

BIRMINGHAM CITY COUNCIL PROPOSED HIGHWAYS MANAGEMENT AND MAINTENANCE PFI PAPER 5 - LOCAL SERVICE PROVISION AND ENVIRONMENTAL CONSIDERATIONS

1 BACKGROUND

- 1.1 The Co-ordinating Overview and Scrutiny Committee have requested a paper on the impact of the Highways PFI (HMMPFI) on services delivered from within the Local Services Strategic Directorate which have a considerable impact on localities, and which interface with other City Council policies and services delivered at a local level.
- 1.2 The services and policy issues are set out below in accordance with the framework provided by the Chair of the Co-ordinating Overview and Scrutiny Committee.

2 PARKS AND NATURE CONSERVATION

- 2.1 The City Council currently delivers Horticultural Maintenance as a totally integrated service across all City owned land. The service includes grass cutting, shrub and hedge maintenance, play area inspections, litter clearance, footpath sweeping etc. This service is currently organised geographically and is delivered by the in-house DSO (Birmingham Parks and Nurseries) and 2 external providers (Serviceteam and Glendale).
- 2.2 The highways work is approximately 20% of the total horticultural work. The highway verges link the non-highway sites and thus they hold the grounds maintenance service together. If these highway areas are removed from the contract the entire City wide service will need to be reorganised and re-priced. The other element of Horticultural Maintenance is tree work of which approximately 85% is on the highway.
- 2.3 The other element of Horticultural Maintenance is Tree Work. This is a specialised service which is currently provided by 2 external specialist providers, although within the Northfield and Edgbaston contract the tree works are delivered by the DSO (BP&N), using trained specialist operatives
- 2.4 A closely managed degree of risk has already been transferred from the City Council to the private sector as a result of the Grounds



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- Maintenance and Tree works contracts transferring to external providers 4 years ago.
- 2.5 In terms of competitive pricing, this was actively demonstrated in 2000 when the tenders were returned and benchmarked for deliverability and affordability.
- 2.6 The existing contracts were let on a 4 + 4 years basis, following a market consultation exercise, to allow private companies to:-
- (i) develop a partnering approach with BCC; and
 - (ii) invest in new equipment and training in response to the Best Value Output based specification to achieve the required service improvements.
- 2.7 The break clause after 4 years (i.e. at 1 April 2004) could only be activated if any of the service providers were not achieving satisfactory performance targets - this has not been the case. The contracts will expire in 2008, and in 2006, the Council will begin a review of the city-wide service with the service users, all the land-holding Directorates, the 11 Districts, and the market service providers. Within the review, the Council will need to consider options for future service delivery, taking account of user's requirements, budget availability, Council objectives and policies and devolution/localisation.
- 2.8 Having invested 6 years in developing a Best Value partnering approach with the service providers - all of whom employ local people and all of whom are either entirely Birmingham based or have set up a Birmingham "arm" of their company, one option to be considered in the review would be the development of the partnership to build on the good practice, community links and local accountability already developed through the Ward/District monitoring processes; without the cost of a total re-tendering.
- 2.9 Highways Horticulture makes up 14% of the total Integrated Horticultural Maintenance (IHM) budget. If the HMMPFI scope includes Highways Horticulture, the removal of this element of the integrated contract will inevitably require a re-tendering process, with potential loss of economies of scale for both the HMMPFI areas and the remaining City Council areas. This will impact upon the cost of maintaining Parks Open Spaces, Play Areas, Playing Fields, Housing Areas, Schools, and Committees etc. and will limit the ability to vary the service to accommodate local needs.
- 2.10 Operational re-organisation will be necessary to review staffing, machinery requirements, named day mowing, and emergency call out processes for the Tree service. Residents may well find their housing area, local park and local school having their grass cut on one named



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day, by one provider, with their highway verge cut on another day by a different provider. In severe weather, calls from members of the public in connection with trees will need to be sifted into highway and non highway trees for Emergency call-outs which will be confusing.

- 2.11 The Tree service is particularly sensitive and the Council needs to be mindful of the revised Tree Policy approved by Cabinet on 21 January 2002. Health and Safety is paramount and must be considered within the context of the Council's Tree Policy, Nature Conservation Policy, and Sustainability Policies all of which could be put into an output specification.
- 2.12 Trees grow and develop over the years. The risks associated with root penetration and their effect on pavements, plus tree canopy growth in relation to street lights, signs, traffic signals and junctions, are all important areas. However, impacts need careful consideration in relation to actual risk rather than perceived risk.
- 2.13 A Tree replacement programme already exists and takes account of trees which have outgrown their location; forest tree species located inappropriately and trees on the "At Risk Register", which have reached maturity and are suffering die-back. This programme also takes account of position, amenity value and public opinion - in line with the Council's Tree Policy.
- 2.14 There is considered to be an "optimum" replacement programme which ensures trees are replaced sensitively - entire rows of trees are not replaced all at one time - they are phased. There is therefore an arguable case about the need for increased investment in the tree infrastructure, as included within the current HMMPFI scope.
- 2.15 The Grounds Maintenance Service has been localised under Service level Agreements. Since 2000 Annual reports on performance have been presented to the Ward Committees. The first of the regular SLA performance reports are due to be submitted to the District Committees from October onwards. Regular reports on tree pruning and replacement programmes have been taken to the Ward Committees in response to requests for works by residents and their elected representatives.
- 2.16 The Grounds Maintenance and Tree Services:-
 - have been externally tested for best value, both via the competitive tendering process and by the Audit Commissions' Best Value Inspectorate, (who awarded the Parks Service 2 star Good and Likely to Improve rating);
 - have developed a Partnership approach based on an annually reviewed Partnership Agreement;



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- have embraced joint performance evaluation via the ISO 2000 system;
- currently delivers the service in accordance with the City Council's Tree Policy, Nature Conservation Policy and Sustainability Action Plan;
- achieves local service variation;
- ensures that the City Council's legal responsibilities for trees are dealt with in accordance with the Tree Policy.

2.17 For the last 4 years, the highway service providers have developed working practices and processes to improve harmonisation and ensure that where services interface with each other, they do so effectively and efficiently. Clearly there is always room for further improvements and the Street Scene Approach will require strengthening and formalising of these interfaces which will be beneficial to citizens.

2.18 Whilst it could be stated that inclusion of Grounds Maintenance and Trees within highway corridors is in the best interest of the street scene, all other Council owned areas will suffer as a consequence which, when taken across the Parks and Nature Conservation Service as a whole, is not necessarily in the best interests of those who live and work in Birmingham.

2.19 The Council's Tree Policy requires that a formalised relationship between the Council and any contractors or utility companies who carry out works on the highway which may affect trees, be established within the contract documentation. Such a relationship will need to be included within the HMMPFI documentation, which can draw upon existing SLA and contract documentation, working practices and experience, so as to safeguard the health and safety of the trees, as well as the highway/footway surfaces.

3. STREET CLEANSING AND REFUSE COLLECTION

3.1 There has always been a dilemma between including street cleansing within the HMMPFI on the basis of its' influence on the condition of the highway or excluding it due to it being an integral part of the Waste Management function which includes refuse collection, recycling, abandoned vehicles and a waste disposal. Whilst the original scope of the HMMPFI promoted a back of footway to back of footway concept it excluded refuse collection and street cleansing activities taking place beyond the highway. There were also several remaining interfaces between service providers, i.e., refuse sacks placed on the footway awaiting collection, recycling banks located on the footway, and abandoned vehicles, which remained outside the scope.



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- 3.2 There are also likely to be significant annual costs associated with disaggregating refuse collection from street cleansing.
- 3.3 Indications from the Bidders Conference suggest that street cleansing would at best be of secondary concern and likely to be sub-contracted by the principal civil engineering contractor to a third party.
- 3.4 There are strong links between street cleansing activities, Regulatory Services and the Environmental Thematic Panel of the City Strategic Partnership, which have developed the Clean and Safe Campaign. Since November 2003, this initiative has tackled issues of environmental degradation and community safety by seeking to restore a sense of ownership and civic pride in local neighbourhoods throughout the city.
- 3.5 Street cleansing teams have been cleaning up land off the highway. Over 10,000 tonnes of rubbish has so far been cleared from over 2,800 sites beyond the highway. Building on this success further joint initiatives with a specialist multi-agency City-wide Environmental Crime Unit will involve street cleansing, Police, Fire and Regulatory Services to deal with a range of environmental issues including litter, graffiti, fly posting, abandoned vehicles, dog fouling and pleading.
- 3.6 Refuse collection and street cleansing are part of the first tranche of functions to be included in the localisation of services to Districts. The Service Level Agreement reflects historical spend. A review of operational schedules is currently taking place to co-ordinate refuse collection and street cleansing operations and to develop a District approach which envelops local priorities. There are advantages in an integrated service with the flexibility and ability to move resources between the constituent parts of waste management.
- 3.7 The indiscriminate placing of sacks of refuse on the footway on days other than the scheduled day of collection can and does cause inconvenience and litter. A combined Waste Management refuse collection and street cleansing service ensures such problems remain one organisations responsibility with no demarcation lines to cause conflict.
- 3.8 There are seasonal peaks and troughs in both refuse collection and street cleansing activities. During the autumn additional resources are required to collect leaf fall. This in part is accommodated by utilising refuse collection vehicles at times when they are not being used on collection duties. Conversely, during the post Christmas period when street cleansing requirements are less but refuse collection tonnages are high, vehicles normally used on street cleansing assist with the collection of refuse. Downtime and costs are kept to a minimum by sharing facilities, equipment and vehicles.



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- 3.9 A fundamental review of the City's waste strategy is also taking place. This will include an appraisal of options for the collection and recycling of waste including that collected and disposed of as part of the street cleansing function. The interface between street cleansing activities and the disposal/recycling of the waste collected will be best dealt with from within a comprehensive waste management function which is in line with the Audit Commission's model for a Waste Management Strategy which groups street cleansing, waste collection, recycling and waste disposal under the same umbrella.
- 3.10 There is, however, one item currently undertaken by the street cleansing service on behalf of Highways, which is not a core activity and which could influence the condition of the highway. The treatment of weeds on the footway and highway is carried out by street cleansers, who have been appropriately trained and certified to apply non-residual chemicals by hand lance. Some three applications are required during the growing season, dependent on weather and growing conditions.
- 3.11 Failure to address the presence of weeds will have a detrimental effect on the condition of the highway. It is therefore both logical and practical to include this responsibility in the HMMPFI.
- 3.12 Street cleansing, along with refuse collection, is a basic, high level service which is readily identified with the Local Authority and is, as such, used as a measure of the Authority's performance. It is a service which, by its very nature, is in continual change and one that having been localised should reflect the needs, priorities and changes that local communities wish to address. It is, therefore, important that local accountability and influence are maintained.

4. HERITAGE AND CONSERVATION

- 4.1 Any highway works, particularly in relation to the 5 year Capital Rehabilitation investment period, within Conservation Areas, will need to adhere to the City Council's Conservation Policies.
- 4.2 Any plans to replace or improve existing lighting columns, street name signs or street furniture would need to be formally submitted to the Council for approval. The approval process should involve the Chief Planning Officer's Conservation Group.
- 4.3 Any substantive replacement scheme would need to be submitted to the Conservation Areas Advisory Committee, together with any local conservation, heritage groups or societies, (such as the Moseley Society), for consultation.



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- 4.4 The contract should ensure that current standards for lighting are delivered like for like with due regard paid to the need for a different style and character of equipment and furniture within conservation areas.

5. ENVIRONMENTAL FACTORS

The following issues could be dealt with by including them in the output specification:

5.1 Noise and Air Quality

- 5.1.1 The continuous development of the street cleansing service as a flexible but integrated element of City Council activity indicates that more locally based service delivery is the best way forward, with local employees operating within smaller neighbourhoods using small-scale equipment and vehicles. This approach allows potential reductions in vehicle use with the consequential benefits of reduced noise and improved local air quality.
- 5.1.2 Birmingham City Council were a lead partner in a European research project from 2001-2004 called URGE - the Development of Urban Green Spaces to Improve the Quality of Life in Cities and Urban Regions. This established the importance of trees within the urban landscape for their barrier effect to noise. It also made specific reference to their potential for sustainable resource management, biodiversity benefits and their positive psychological effects. The National Urban Forestry Unit has established specific figures and recommendations based on research from the USA on the exact performance of trees against noise and as a vital part of thermal screens to maintain Winter warmth, and offer Summer shade, to urban developments.
- 5.1.3 From 2000/04 Birmingham City Council, were also a lead partner in several pieces of national research sponsored by the Natural Environment Research Council, under their specific urban programme, known as the URGENT programme. One of these was entitled: -
- 'Trees & Sustainable Urban Air Quality' - using trees to improve air quality in cities. This research, the first of its kind in the UK, sought to test and prove the health and environmental benefits of trees in towns and cities.

The research tried to answer two more detailed questions: -

- which trees are the best to plant to sustain and improve air quality?
- how big is the effect trees have on urban air quality?



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Its summary concluded that "trees are an integral part of the urban environment, affecting communities - ecologically, socially, economically and physically and they benefit human health."

5.2 Bio-Diversity

- 5.2.1 The importance of urban trees and established hedgerows within the urban environment, including those within the highways curtilage, to benefit biodiversity is considerable. The ecological dependency and diversity of populations and species between mature trees and hedgerows increases over time.
- 5.2.2 It is for this reason that the Nature Conservation Strategy for Birmingham (1997) seeks to maintain the city's street tree population and hedgerow stock. In some parts of the city, street trees represent the only available habitat to wildlife. This compounding effect of species dependency and increasing diversity over time, is the reason why mature trees cannot be equally replaced or substituted through the provision of new planting when lost or badly damaged. The street tree population of the city therefore represents part of the urban environmental legacy for which Birmingham City Council is accountable.
- 5.2.3 The Birmingham and Black Country Biodiversity Action Plan 2000-2005 emphasises the regional importance of highway vegetation as wildlife corridors.
- 5.2.4 Development of recycling and recovery processes for litter and mechanical sweeping arisings reduces the need for raw materials extraction which in turn reduces the impact that mining, quarrying and manufacturing can have on biodiversity and water resources.
- 5.2.5 Similarly, composting of green waste by the current Grounds Maintenance Service providers produces a re-usable product, as developed at the Council's Cofton Recycling Unit and the shortly to open Bromford Recycling Unit.

5.3 Water

- 5.3.1 One major concern to the sustainable management of cities, is that of water management and specifically stormwater and flood alleviation management. The established national benchmark is now to adopt Sustainable Urban Drainage Systems as the norm for all significant new roads. Within the city an example of this would be the proposed Selly Oak New Road.
- 5.3.2 Another role played by highways in the urban environment is for the siting of oversized pipe networks or underground temporary storage



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tanks as a vital part of the storm water management within cities. A recent example of this would be the installation of such a system within New Road, Frankley to relieve the Frankley housing estate from localised flooding, and holding waters back from the upper reaches of the River Rea, so reducing the pressure on the channel downstream.

5.3.3 Such approaches will need to be integrated into the HMMPFI.

5.4 Safety and Crime

5.4.1 The street cleansing service works with Regulatory and Enforcement agencies to tackle crime and the fear of crime as rubbish, litter and graffiti are widely held to be key factors in shaping public perceptions. The continuous visible presence of local sweepers in public areas is helpful in producing a feeling of safety.

6. LOCAL INFLUENCE ON HIGHWAY MAINTENANCE

6.1 The HMMPFI will deliver a consistent fair and reasonable base line standard in every Ward of the City in line with relevant Codes of Practice. Enhancement will be possible during the development of the 1, 2 and 5 year plans, where additional local funding is made available.

6.2 The City Council's policy on Devolution and Localisation included the establishment of a District Engineer post within the District Management team.

6.3 Such a post would provide Engineering advice and guidance and possibly minor works design, to the District Directors, District Committees and Local Strategic Partnerships.

6.4 Processes will need to be put in place whereby the District team and Engineer can identify local priorities with Local Strategic Partners, Users and Elected Members, and feed them into the HMMPFI programming and planning process.



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- 6.5 Such processes should thus ensure there is close liaison with the HMMPFI contractor so as to ensure that the initial 5 years Capital Rehabilitation programme, any subsequent highway maintenance elements and any minor works (either within or outside of the HMMPFI), are developed in response to both the HMMPFI requirements in terms of risk management, but also to locally developed priorities and need. For example, to ensure co-ordination between local regeneration initiatives involving strategic partners and the highway rehabilitation programme.

.....
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A1.7 Timetable Implications

BIRMINGHAM CITY COUNCIL PROPOSED HIGHWAYS MAINTENANCE AND MANAGEMENT PFI PAPER 6 - TIMETABLE IMPLICATIONS

1 INTRODUCTION

- 1.1 The table at Appendix 1 attached shows key dates (3 programme versions) to inform Committee what is required for the letting of a Highways Maintenance and Management PFI (HMMPFI) contract.

2 TIMETABLE

2.1 Column 1

Shows the target key dates presented at the 20th April 2004, Cabinet Committee. This was to ensure that the project would reach contractual (commercial & financial) close by the 31st March 2006, and therefore meet the conditions of the Department for Transport's (DfT) offer letter of PFI credits. The offer letter dated the 28th October 2003, is appended at Appendix 2 for reference since the letter outlined their requirements to monitor the City Council's progress. Although both the ITN and preferred bidder dates suggested by the DfT could not be achieved, the failure "to close" date (31st March 2006) is shown as being met. It is this date which is critical and may lead (if not achieved) the DfT to consider the possible withdrawal of the credits.

2.2 Column 2

Members will be aware in that taking the project forward from the DfT's award of credits, a successful 'Bidders' Conference' was held in July 2004, with pre-qualification information being required to be returned to the City Council by mid August. Potential bidders were asked at the Conference to comment on the proposed timescales. (As included in column 1.) They suggested further time was necessary at ITN compilation to ensure the submission of a well structured response. Column 2 of Table 1 shows this, the consequence being the moving of the contractual close date to May 2006. Pragmatically, this is thought not to be an issue for DfT. Whilst at the Bidders' Conference, DfT heard from the Cabinet Member for Transportation & Street Services (also the chair of the HMMPFI Cabinet Committee) that in fact the new BCC leadership wished to consider some further aspects of the project in order to get the right solution for the citizens



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of Birmingham. The Cabinet Member also pointed out to both Bidders and DfT that full but final consideration of this review would be laid before Council on the 12th October 2004.

2.3 Column 3

Shows a further revised timetable based upon the working assumption of a clear Council decision being given on the 12th October 2004. The timetable assumes that:-

- The revised project scope can proceed utilising the pre-qualification process that has already occurred and that the outline proposals already submitted can be utilised to determine a Bidders shortlist (maximum of 4).
- After the BCC Scrutiny process, but before a mid October 2004 Executive Decision (following City Council), a delegation of officers informally meet with the DfT to ensure that the proposed changes to be decided by the Council are in general acceptable to DfT together with moving the 'close date' to June 2006. The June 2006 date is still considered by officers as a significant challenge to meet, since whilst it is recognised that the scope of the project may be reduced, the clarification of the interface issues and possible working arrangements may increase in their complexity.

2.3 In summary, all the dates up to, but not including 'Contract Close' are to a degree flexible. However, once the City Council's requirements are re-established and agreement reached with the DfT, dates such as Formal Intention to Negotiate (ITN), appointment of Preferred Bidder and then Contract Close should be practically fixed, ensuring project development can be fully monitored and out-turned to the criteria required.

- Appendix 1 Table of HMMPFI Programmes
- Appendix 2 DfT letter dated 28/10/03 to the Strategic Director of Development

NEIL DANCER
CHIEF HIGHWAY ENGINEER AND
HMMPFI PROJECT DIRECTOR

Contact Officer:

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PROGRAMME VERSION			KEY PROGRAMME ITEM
COLUMN 1	COLUMN 2	COLUMN 3	
20 TH APRIL 2004 CABINET COMMITTEE	POST BIDDERS CONFERENCE WITH <u>NO SUBSTANTIAL CHANGE TO SCOPE</u> *	BCC DECISION ON FUTURE OF HMM PFI AT MID OCTOBER 2004	
March 2004	March 2004	March 2004	Cabinet Committee approval of scope of project.
May 2004	May 2004	May 2004	OJEU Notice published to seek expressions of interest.
June 2004	June 2004	June 2004	Closing date for Contractors / consortia to express interest. BCC issue Information Pack, Pre-Qualification Questionnaire (PQQ) and Invitation to Submit Outline Proposals (ISOP) to bidders expressing an interest in the project.
July 2004	July 2004	July 2004	BCC Presentation to potential contractors / consortia – Bidders Conference.



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August 2004	August 2004	August 2004	Closing date for contractors / consortia to return completed PQQ and Outline Proposals.
October 2004	November 2004	December 2004	BCC evaluation completed and short-list selected. Report to Cabinet Committee seeking approval to the short list of contractors / consortia.
November 2004	January 2005	February 2005	Formal Invitation to Negotiate (ITN) issued to short-listed bidders.
February 2005	June 2005	July 2005	Closing date for receipt of ITN tenders.
April 2005	September 2005	October 2005	Completion of evaluation of ITN bids and Report to Cabinet Committee seeking approval to move to best and final offer, probably after de-selection of some bidders.
July 2005	January 2006	February 2006	Receipt and evaluation of best and final offers from remaining bidders and Report to Cabinet Committee seeking approval to select a preferred bidder.
August 2005	January 2006	February 2006	Appointment of preferred bidder.
December 2005	May 2006	June 2006	DfT confirm and approve PFI credits.
January 2006	May 2006	June 2006	Report to Cabinet seeking approval to enter into contract.
January/March 2006	May 2006	June 2006	Commercial and Financial Close. (DfT endorsement letter of 28/10/03 requires "contractual close no later than 31 March 2006.")
April 2006	September 2006	October 2006	PFI contract lead in and start.



Department for
Transport

APPENDIX 2

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Direct line: 020 7944 3829
Fax: 020 7944 2195

Web site: www.dft.gov.uk

Our Ref: LOCTP 16/2/56
Your Ref: HM/JTD/T0730A24

28 October 2003

Dear David

BIRMINGHAM HIGHWAY MANAGEMENT SERVICE PFI SCHEME

I am writing to inform you that consideration of the outline business case (OBC) you submitted in August 2003 for the Birmingham Highway Management Service PFI scheme has been completed. Following recommendation by the Department, the project was assessed at the meeting of the inter-departmental Project Review Group (PRG) on 7 October 2003. The PRG has, after consideration, agreed that your project should receive central Government support. It will appear in the next revised list of endorsed local authority PFI projects, available at www.local.odpm.gov.uk/pfi/endorsed.htm.

Support for this project depends on the project meeting the criteria set out in the attached note "Criteria to be met by all projects seeking PFI credits". Please keep in touch with us about your project so that we can assess progress. Areas that are the subject of particular concern are contract terms and design quality. You have confirmed that you are committed to the use of standardised contract documentation and your authority should advise of any proposed departures from standard terms as described in the attached note before it commits to them.

Support is also subject to the following particular conditions. We will monitor your progress during procurement and particularly at ITN and preferred bidder. We have agreed that you are aiming to reach these stages by 31 August 2004 and 31 May 2005. We have also agreed that the project will reach contractual close no later than 31 March 2006. Failure to achieve contractual close by this



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date could mean withdrawal of support for the project and you must therefore notify this Department with an explanation of the reasons if you should need an extension to the deadline.

Once you are clear about the value of the eligible expenditure under the contract you may require a promissory note confirming the level of support you can expect to receive from the Department. Please let us know if that is the case.

The level of revenue support will be determined by the value of the PFI notional credit approval (NCA or 'PFI credit'). We will formally issue an NCA on the basis of an approved final business case (FBC) and a letter confirming the date the contract was signed. The FBC should be sent to the Department once you are confident that its contents will not markedly change further. It should take the form of a short document stating where the business case remains as set out in the OBC and where it has changed, with a fuller explanation for any changes. On the basis of your OBC, we expect the NCA to advise PFI credits of £379m. Whilst we will consider requests for increases to that amount, you should not assume that such requests will be agreed and should consequently plan the further stages of the project's procurement on the assumption that no more will be forthcoming.

In endorsing this scheme PRG instructed the Department to pass on two recommendations to the Authority. Firstly, that since the scheme will be significant in terms of developing this market it is not only significant for Birmingham but for the sector more widely. Therefore PRG agreed with the reviewers comments on legal advice and recommend that Birmingham appoint external legal advisors for this project. Secondly, given the size and developing nature of this type of deal, PRG strongly recommended that in planning for the procurement, Members recognise the importance of budgeting an appropriate contingency in terms of their financial contributions to mitigate the risk of cost creeps given the large size and limited precedents for this project.

This letter is without prejudice to any other consent that may be required, for example, in connection with planning legislation.

Yours sincerely,

Paul Foskett

c.c Paul O'Day
Peter Garghan



Highways PFI

ATTACHMENT TO LETTER DATED 28 OCTOBER 2003 TO BIRMINGHAM CITY COUNCIL

CRITERIA TO BE MET BY ALL PROJECTS SEEKING PFI CREDITS

Revenue support for this project depends on the project continuing to meet the relevant published criteria available on the ODPM website at www.local.odpm.gov.uk/pfi/critschm.htm. In particular, you are reminded of the requirements to:

- (a) Negotiate a contract based on standardised contract documentation, namely 'Standardisation of PFI Contracts' (September 2002) and 'Standardisation of Local Authority PFI Contracts' (November 2001) in relation to the project. Where that is not possible, your authority should advise the Department of any departures from standard terms by submitting a schedule, prior to committing to them, signed off by your legal advisors wherein:
 - for sections of the contract where suggested drafting (partial or full) is provided in SoPC or any other relevant guidance, any deviations from the suggested wording should be identified and justified in the schedule; and
 - for sections of the contract where only general principles or guidance are outlined in SoPC or any other relevant guidance, any deviations from the stated principles should be identified and justified in the schedule.
- (b) Comply with the Government's commitment to achieving "Better Public Buildings". You are reminded that the use of Design Quality Indicators (available from Construction Industry Council) may be a useful tool to help in achieving this goal for the project; that expert advice on design provides value in ensuring that good quality PFI projects are both required and delivered; and that design quality should be clearly stated as one of the key evaluation criteria for bidders.
- (c) Agree to share non-commercial documentation with other local authorities procuring similar projects, at no cost to those authorities; and to give the Department and the 4ps access to the final contract documents, at no cost, with the exception of any areas of genuine commercial sensitivity.

The Department must be informed immediately if the scope, contract, need for credits, timetable, or any other aspect of the project is changed in any material way from the case agreed. If that happens you will need to obtain the Department's written agreement to all proposed changes at the very latest before the contract is signed. Clearly, where deviations are being considered, early engagement with the Department would be prudent, and should



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minimise the risk of delays to contract signature. You will not be able to rely on existing letters as entitling your authority to a PFI credit and failure to secure prior agreement to deviations will invalidate any undertaking by the Department or PRG to support your scheme.

Revenue support will be paid as Special Grant and calculated according to the formula set out in the Special Grant Report which will be published for the relevant financial year. Revenue support will start in the first year in which your authority's payments under the contract are made. Your authority will need to ensure that funds are available to cover that part of the payments to the contractor which will not be met by central Government.

Revenue support is not intended to match or correlate directly to the payments that arise under a PFI contract. However, the Government is committed to supporting good PFI projects and to assisting the development of PFI in the local authority sector. Its policy is therefore to maintain revenue for PFI projects in the long term, consistent with the long-term nature of PFI contracts, even though formally such support cannot be guaranteed as it forms part of the annual Local Government Finance Settlement.

Variations or termination of a PFI contract would not of themselves lead the Government to reassess the level of revenue support due other than in exceptional circumstances, such as, for example, where continuation of support would unduly enrich or reward a deliberate abuse of the PFI contract. In such exceptional circumstances, however, the Government would expect to take steps to ensure that you were not thereby prevented from meeting in full your resulting liabilities to the PFI contractor and its funders for capital assets already delivered.

You must inform this department immediately if, following contract signature, it becomes clear that a significant variation in the nature of the outputs required from the contract, or the capital assets being delivered by the Contractor will be necessary. This may, in some circumstances, result in a reduction in revenue support.

Department for Transport

28 October 2003

Highways PFI Report - Appendix A/Cabinet