



**Report of:** Asset Management

**Report to:** Director of City Development

**Date:** 1 October 2014

**Subject:** Proposed Contractor Appointment, Kirkgate Market, Project

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): City & Hunslet	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: 10.4(3) Appendix number: 1	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

### Summary of main issues

1. The report summarises the procurement approach pursued by the City Council for the appointment of a contractor from the YorBuild Framework to undertake the proposed improvement and refurbishment works at Kirkgate Market.
2. The report outlines the evaluation of the bidder's submission and recommends the appointment of Interserve Construction Ltd as the preferred contractor to undertake the works and the payment of an early contractor involvement fee for their services during the second stage tender development process.

### Recommendations

3. The Director of City Development is requested to:
  - (i) Approve the appointment of Interserve Construction Ltd as the preferred contractor to undertake the proposed improvement and refurbishment works at Kirkgate Market.
  - (ii) Approve the payment to Interserve Construction Ltd of an early contractor involvement fee for their services during the second stage tender development process as detailed in Appendix 1 of this report.

## **1 Purpose of this report**

- 1.1 The purpose of this report is to seek approval to the appointment of Interserve Construction Ltd (Interserve) as the preferred contractor to undertake the proposed improvement and refurbishment works at Kirkgate Market.

## **2 Background information**

- 2.1 The City Council's Executive Board at its meeting in December 2013 was advised that the preferred procurement route for the appointment of a contractor to undertake the proposed improvement and refurbishment works (the works) at Kirkgate Market had yet to be determined, but that the choice would be likely to be either two stage traditional (scheme fully designed) or two stage develop and construct, with both approaches seeking early contractor involvement in the project.
- 2.2 During the early stages of the RIBA Stage D design phase, the design team along with representatives of the client and PPPU held a procurement workshop to consider the options for the procurement of a contractor for the proposed works. Having regard to the Council's approach to risk transfer; the nature and complexity of the project; the desire to achieve cost certainty and the allocation of design responsibility to the party best equipped to assume such responsibility, it was concluded that the City Council should pursue a two stage develop and construct approach via the YorBuild Framework
- 2.3 Subsequently, and in accordance with the Council's Contract Procedure Rules 3.1.8 and 3.1.10 the Chief Economic Development Officer approved the selection of a two stage develop and construct procurement approach via the YorBuild Framework and, that the evaluation criteria to be used in the evaluation of the tender submissions should be split 60% quality and 40% price.

## **3 Main issues**

- 3.1 In order to mitigate the risk that there may be little/no interest from companies in Lots 5 and 6 of the YorBuild Framework in tendering for the proposed works, Council officers undertook a soft market testing exercise to establish contractor interest in participating in a two stage develop and construct tender process to allow early contractor involvement in the project. In response to the market testing exercise, four companies confirmed their interest in the project, whilst the remainder either failed to respond or advised that they did not wish to participate in the tender process.
- 3.2 Tender documentation, including the tender evaluation criteria was uploaded onto the YorTender System on 13 June 2014, with a deadline for the Stage 1 tender return of 12 noon on 16 July 2014. During the tender period a clarification meeting was held to allow the contractor the opportunity to raise any queries/questions to the project team. Following this meeting, a number of clarification points were issued via the YorTender System to assist interested bidders in the preparation of their tender response. The Director of City Development should note that the clarification meeting did not form part of the tender assessment process.
- 3.3 The Stage 1 tender return was based on the bidders proposed preliminaries, overheads and profit for the proposed works and a price for the proposed roofing

works. It should be noted that the contract price for the proposed works is to be agreed on completion of the Stage 2 tender process, the outcome of which will form a further report to the Director of City Development in due course.

- 3.4 An evaluation panel comprising officers from City Development and PPPU along with representatives of the cost consultant and the design team's project manager evaluated tender submissions on the pre-agreed tender evaluation criteria. Appendix 1 attached summarises the tender returns.
- 3.5 On the basis of the quality/price assessment, it is proposed to appoint Interserve Construction Ltd as the preferred contractor for the proposed works to Kirkgate Market. The Director of City Development should note that it is also proposed to pay Interserve an early contractor involvement fee for their services during the second stage tender development process, the details of which are contained in Appendix 1 of this report.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 The Council's Executive Board was advised at its meeting in December 2013, that whilst the preferred procurement route had yet to be determined, members were advised that two stage develop and construct was one of two options to be considered for the appointment of the contractor to undertake the proposed works.
- 4.1.2 The Executive Member for Transport and the Economy has been consulted and is supportive of the recommendation contained in the report.
- 4.1.3 The Kirkgate Market Project Board has been consulted on the proposed appointment of Interserve as the preferred contractor for the proposed works and is supportive of the recommendation contained in the report.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 An Equality and Diversity, Cohesion and Integration screening document and Equality, Diversity Cohesion Impact Assessment has been completed and implemented, as it is considered there will likely to be impact to all equality characteristics. The equality impacts of the proposed improvement and refurbishment works to Kirkgate Market are in the main positive, due to the major improvements the project delivers in terms of future sustainability of a Grade 1 Listed Building by addressing long term maintenance issues and improvements to the general market environment. Improvements to accessibility will also be an important feature of the proposed works. Further positive impacts include the proposed installation of a Changing Places WC and the introduction of a covered daily market which will provide the opportunity for small businesses to trade on a daily licence.
- 4.2.2 It is acknowledged that negative impacts as a consequence of the scheme proposals include trader displacement, leading to anxiety and concern amongst traders as to the future of their businesses. To address trader concerns the Market

Management team has held meetings on an individual / group basis with traders in an effort to address concerns raised.

### **4.3 Council policies and City Priorities**

- 4.3.1 The proposed improvement and refurbishment of Kirkgate Market is consistent with the Best Council Plan 2013-17 in terms of promoting sustainable and inclusive economic growth by maximising employment opportunities for local residents.

### **4.4 Resources and value for money**

- 4.4.1 The cost of the early contractor involvement fee (pre-contract services fee) as detailed in Appendix 1 of the report will be met from the budget provision of £12.3m (Capital Scheme No. 16811) previously approved and authorised for expenditure by Executive Board at its meeting in April 2014.

### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 The information contained in Appendix 1 of this report relates to the financial or business affairs of a particular company and of the Council. This information is not publicly available from the statutory registers of information kept in relation to certain companies and it relates to a tendered fee proposal submitted to the Council as part of a competitive tender process. In line with Access to Information Procedure Rules 10.4(3), it is considered that the public interest in maintaining the content of the Appendix as Exempt/Confidential outweighs the public interest in disclosing the information contained in the Appendix, as disclosure would prejudice the financial / business affairs of an individual company.
- 4.5.2 Under the Council's Contract Procedure Rules, contracts (pre-contract service agreement with Interserve) with a value of up to and including £100,000 which was based on the Council's standard terms and conditions or on formally approved submitted terms and conditions, may be awarded and signed by an Officer with the requisite delegated authority to do so within the relevant service directorate.

## **5 Conclusion**

- 5.1 The Interserve tender submission scored 100% for the commercial (price) section of the evaluation assessment and 44.52 points (74.2% with weighting) for the quality assessment, representing a combined total score of 84.52%. The evaluation panel considered that Interserve had submitted a comprehensive tender demonstrating their ability to deliver the project and, accordingly, the recommendation is that the company be appointed as the preferred contractor to undertake the works and, that they be paid a fee for their services during the second stage tender development process.

## **6 Recommendations**

6.1 The Director of City Development is requested to:

- (i) Approve the appointment of Interserve Construction Ltd as the preferred contractor to undertake the proposed improvement and refurbishment works at Kirkgate Market.
- (ii) Approve the payment to Interserve Construction Ltd of an early contractor involvement fee for their services during the second stage tender development process as detailed in Appendix 1 of the report.

## **7 Background documents<sup>1</sup>**

7.1 None.

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