



Agenda Item:

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Report to Chief Officer Highways and Transportation

Date: 7th November 2017

Subject: East Leeds Orbital Route – Award of Contract

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Crossgates & Whinmoor, Harewood, Killingbeck & Seacroft, Moortown, Roundhay		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" 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?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, Access to Information Procedure Rule number: Appendix number 1: Access to Information The information contained in Appendix 1 is exempt under Access to Information Rule 10.4 (3) as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that the public interest in maintaining the content of Appendix 1 as exempt outweighs the public interest in disclosing the information. <i>This report relates to the East Leeds Orbital Route Award of Contract and as such release of information at this time would prejudice the council's position.</i>		

Summary of main issues

1. The East Leeds Orbital Route is a proposed new section of ring road on the outer edge of proposed development sites east of Leeds.
2. The Executive Board gave approval for the scheme to be tendered on the 8th February 2017.
3. This report seeks approval to award the Phase 1 and 2 of the East Leeds Orbital Route contract to the preferred tenderer, arrived at through an EU Restricted Procedure procurement exercise.

Recommendations

4. The Chief Officer (Highways and Transportation) is requested to approve the recommendation to award Phases 1 and 2 of the East Leeds Orbital Route Contract to the preferred tenderer.

1 Purpose of this report

- 1.1 This report seeks approval to award the contract which will enable the Phase 1 Outer Ring Road Junction Improvements works and Phase 2 Early Contractor Involvement to commence in January 2018 and run concurrently.

2 Background information

- 2.1 A significant part of the Councils commitment to delivering new homes, is the development of the East Leeds Extension. This is a programme of works to provide around 5000 new homes on the north east edge of Leeds.
- 2.2 The East Leeds Extension will also need to provide the necessary infrastructure to support this housing, mainly in the form of the East Leeds Orbital Route which is a new section of ring road on the outer edge of the proposed development sites.
- 2.3 In addition to the new road existing Ring Road junctions need upgrading and these works are to be included in the main ELOR works.
- 2.4 Executive Board gave approval for the scheme to be tendered on the 8th February 2017.
- 2.5 A pre-qualification exercise was carried out through the EU Restricted procedure and a tender list of 6 companies was approved by the Chief Officer Highways and Transportation on the 9 February 2017.
- 2.6 The procurement strategy for ELOR has been implemented to allow for a phased delivery approach to be adopted. The contract has been tendered based on the following phases:

Phase 1: Construction of the A6120 ORR Advance Junction Improvements

Phase 2: Design development of the main ELOR and A6120 Enhancement Works

Phase 3: Construction of ELOR and A6120 Enhancements

- 2.7 Tenders were invited on the 15th June 2017 and were returned on 30th August 2017.

3 Main Considerations and Reasons for Contract Award

- 3.1 Six companies were invited to tender for the works and all six submitted compliant tenders.
- 3.2 The six tenderers Quality Submissions were assessed by a panel of Highway & Transportation officers and this was chaired by an officer from the H&T Procurement Section.

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- 3.3 The quality scores of the tenderers were inserted into the model and the weighting specified in the tender documentation was applied to obtain a Quality Score.
- 3.4 The tenderers' financial submissions were entered into the Financial Evaluation model to obtain a Financial Score.
- 3.5 The Tender was then evaluated on a split of 60/40 Quality / Price which gave a total available score of 100.
- 3.6 The tenderer having the highest combined score in the table below is the preferred tenderer:

Tender	Quality Score	Financial Score	Combined Score (60 Quality/40 Price)
A	93.3	82.79	89.10
B	88.8	89.33	89.01
C	100	91.01	96.40
D	88.3	86.27	87.49
E	82.3	100.0	89.38
F	85.9	73.55	80.96

- 3.5 Tenderer C has the highest Combined Score, which is the preferred tenderer with a score of 96.40.
- 3.6 The target cost of the preferred tenderer is more than 5% higher than the lowest target cost received and in accordance with Contract Procedure Rule 18.2 this is being brought to the attention of the Chief Officer Highways and Transportation.
- 3.7 Although the financial score is higher the quality of the preferred tender is such that the increase in cost represents good value.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 A number of public engagement events have been held regarding the East Leeds Extension and feedback was received on ELOR.
- 4.1.2 Internal consultations have been undertaken regarding the Ring Road Junctions and Ward Councillors have been briefed.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 No further screening documentation has been undertaken.

4.3 Council Policies and City Priorities

- 4.3.1. The Council is committed to delivering new homes and the development of the East Leeds Orbital Route will assist in this policy by making land available for around 5000 new homes on the north east edge of Leeds.

4.4 Resources and Value for Money

- 4.4.1 The contract represents good value for money having evaluated six competitive tenders.
- 4.4.2 The contract will be funded from the budget previously approved by Executive Board on 8th February 2017.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 There are no specific legal implications arising from this report. All activities relating to the award of this contract are being executed in accordance with the Corporate Procurement Rules.

4.6 Risk Management

- 4.6.1 Award of this contract is offered over three formal phases. Phase One Construction of the Advanced Junctions on the Outer Ring Road; Phase Two Detailed Design and build-up of Target Cost of the main line of the East Leeds Orbital Road and finally Phase Three, construction of the East Leeds Orbital Road.
- 4.6.2 The objective is to award Phases One and Two concurrently within this procurement exercise. There is no contractual obligation to award Phase Three.
- 4.6.3 The intention is to then seek a further approval from the Chief Officer, Highways & Transportation, to award Phase Three of the contract. This recommendation would be sought at the appropriate programme milestone (currently scheduled for late 2018).
- 4.6.4 Such an approval would only be considered if the Contractor, Consultant consortium had satisfactorily met performance standards during Phase One and Two, and should the proper qualification assessments of company standing be of an appropriate level.
- 4.6.5 The contract process will be managed by the Civil Engineering Major Projects Team who will ensure appropriate risk management procedures are continually in place, see attached Confidential Appendix 1 for further details.

5 Conclusions

- 5.1 The tender has been procured in accordance with the Public Procurement Regulations 2015 and the LCC Corporate Procurement Rules, see attached Confidential Appendix 1 for further details.

6 Recommendations

- 6.1 The Chief Officer (Highways and Transportation) is asked to approve the recommendation to award Phases 1 and 2 of the East Leeds Orbital Route to the preferred tenderer.

7 Background documents¹

7.1 Appendix 1

(APPENDIX 1 – *this was originally a confidential appendix to the original report above. The matters contained within it are no longer considered to be confidential by the Director of City Development.*)

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4.6 Risk Management

- 4.6.1 Carillion plc, the parent organisation under which the preferred tenderer (Carillion Construction Ltd) are owned and operated have, over recent months, announced they are undertaking a strategic and operational cost cutting review of their business following significant financial challenges, purportedly emanating in the main from overseas contract failures.
- 4.6.2 Recent trading announcements to the stock exchange see financial losses standing at £1.15bn with share prices of the parent group Carillion plc in October 2017 standing at less than 25% the value of the same in June 2017. (Down from circa 200p to circa 46p).
- 4.6.3 Given the current financial picture of Carillion plc, the council could be reasonably minded not to award the contract over a conceivable potential lack of operational stability of the parent group, and the subsequent likelihood of their construction arm to raise a suitable supply chain to deliver civils works and third-party design operations on behalf of the council.
- 4.6.4 In attempt to give a practical and present position to afford an appropriate decision being taken, efforts have been made to undertake practical checks and put reasonable risk mitigation in place to protect the council against any potential absolute financial failure of Carillion plc.
- 4.6.5 As such, and before an award of this contract, Carillion Construction Ltd have agreed to provide an insolvency bond to the authority in the value of 10% of the Contract Value underwritten by a large financial institution. Should Carillion Construction Ltd be subject to an insolvency event during the contract duration, the Bond would be payable on demand to the council to cover its costs including employing an alternative supplier.
- 4.6.6 Payments for works and services due under the contract are always payable by the council in arrears, so the position of any potential advanced disbursements being at risk never arises, furnishing the contracting authority with additional financial safeguard.
- 4.6.7 Recent checks on the Credit Rating of Carillion Construction Ltd has shown the company (within the wider group) to have a high credit score/rating with financial capacity significantly beyond the value of this contract.
- 4.6.8 Should a non-award position be recommended, and such decision taken, it would lead to the second placed tendering organisation becoming the preferred bidder.
- 4.6.9 This position would subsequently expose the council to the risk of challenge from Carillion plc for a perceived and prejudicial decision based on subjective or particular

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

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intelligence, rather than a decision based on the contemporary facts or actual published financial position.

4.6.10 The danger of legal challenge from Carillion and responding to such would lead to a potential delayed position for the council in its efforts to continue a timely approach in unlocking the East Leeds Extension.

5 Conclusions

- 5.1 The tender has been procured in accordance with the Public Procurement Regulations 2015 and the LCC Corporate Procurement Rules.
- 5.2 Payments for works and services due under the contract are always payable by the council in arrears and no advanced disbursements shall be made to Carillion Construction Ltd of Carillion Group plc.
- 5.3 The provision of a third-party provided financial bond to the council to underwrite any damages relating to insolvency, offers significant protection should the parent group of Carillion Construction Ltd financially fold.
- 5.4 The up-to-date and present credit report of Carillion Construction Ltd is suitably rated and indicates their capacity as a company to undertake contracts of a much higher value (circa £378m).
- 5.5 When considering the four points noted above of procurement route, payment in arrears, the available credit rating information and the security offered by a third-party insolvency bond, it is considered appropriate to award the East Leeds Orbital Route contract to the preferred tenderer, Carillion Construction Ltd.
- 5.6 Extensive internal consultations have also taken place in relation to this DDN and award of contract with Senior Politicians and Officers including Exec Member for Planning, Transport and Regeneration; Leaders of all 3 main parties, Chief Executive, Chief Officer Financial Services, Chief Officer Resources and Housing, and City Solicitor.