

**Report of Director of Resources and Housing**

**Report to Scrutiny Board (Strategy and Resources)**

**Date: 22<sup>nd</sup> February 2018**

**Subject: Carillion**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

- 1 On Monday 15th January Carillion plc, Carillion Construction Limited, Carillion Services Limited, Carillion Integrated Services Limited, Carillion Services 2006 Limited and Planned Maintenance Engineering Limited entered into an insolvency process known as compulsory liquidation. The number of Carillion group companies in compulsory liquidation has since extended to 17, with Price Waterhouse Cooper (**PWC**) has been appointed as Special Managers to assist the Official Receiver. Provisional liquidators have also been appointed for Carillion (AMBS) Limited.
- 2 There are many other companies within the Carillion group that are not currently part of the compulsory liquidation process, but it is likely that such entities will be affected in some way or other as the liquidation progresses.
- 3 This report provides an update on the position between Leeds City Council and its contractual relationships (direct or indirect) with various Carillion group companies.

**Recommendations**

- 4 Scrutiny Board members are requested to note and comment on this report.

## **1 Purpose of this report**

- 1.1 This report updates the position between the Council and the various Carillion group companies (including those not directly part of the compulsory liquidation) with whom it has current contractual relationships (directly or indirectly).

## **2 Background information**

- 2.1 While the Council has had material spend with Carillion in recent years, at the time that the various Carillion group companies identified above entered insolvency, the only ongoing direct contract for works was Carillion Construction Limited's appointment as the Main Contractor to deliver the city centre phase of the cycle city ambition grant (City Connect 2). This was funded by the West Yorkshire Combined Authority at a value of approximately £4.1m.
- 2.2 Carillion Construction Limited was also preferred tenderer, in a consortium bid with the consultant Ove Arup, to construct the first phase of works that relating to the East Leeds Orbital Road (ELOR), again funded by the West Yorkshire Combined Authority. However, this contract was not awarded.
- 2.3 Affected Carillion group companies also provide facilities management services in respect of the Council's Seven Schools PFI contract, however they are not directly employed by the Council (the Council's contractual relationship being with a special purpose vehicle).
- 2.3.1 In addition, while not one of the group companies currently affected by the compulsory liquidation, Carillion Civil Engineering (**CCE**) have also recently completed a number of civil engineering contracts for the Council. These are the Inner Ring Road A58(M) tunnel repair and refurbishment, and both park and rides at Elland Road (Phase 2) and Temple Green.

## **3 Main Issues**

- 3.1 East Leeds Orbital (ELOR): A separate report has been provided to Scrutiny Board (Infrastructure and Investment), and a summary of the position is set out below.
- 3.1.1 Tenders for the initial phase of work on the ELOR were initially invited in November 2016, with the subsequent potential to exclusively bid for a later phase to deliver the new orbital road itself.
- 3.1.2 The invitation to pre-qualify closed on the 21<sup>st</sup> December 2016. Tenders were then invited of the qualified list of six on the 15<sup>th</sup> June 2017, and subsequently returned for assessment on the 30<sup>th</sup> August 2017. The formal procurement assessment process ended in October 2017. Under the tendering criterion Carillion Construction Ltd's consortium offered the most economically advantageous tender.
- 3.1.3 The initial £8m contract was split into two preliminary phases, followed by a potential third to build ELOR should progress on Phases 1 & 2 have been satisfactory.

- Phase 1 Construction of Outer Ring Road Improvements (£7m)
- Phase 2 Development of Detailed Design for the East Leeds Orbital Road (£1m)

3.1.4 While a recommendation was sought to award to the preferred bidder of Carillion Construction Ltd (with Ove Arup as the consulting partner), with contract award scheduled for the 3<sup>rd</sup> February 2018:

- the financial position of Carillion plc has been closely monitored since profit warnings in July 2017;
- a strategy in the event of a contractor going into liquidation has been in place within City Development since March 2017. This sees any contract being potentially awarded to a visibly market-strained organisation being subject to an on-demand insolvency bond, financially protecting public funds. Such a bond (in the value of 10% of the contract sum) was to be required in this instance;
- due diligence was being undertaken by the authority which included regular credit search checks and exploring other UK organisations interactions and contract awards with Carillion plc.

3.1.5 Following notice of the compulsory liquidation of Carillion Construction Limited, the Council did not award the ELOR contract to Carillion, and the Council is now pursuing an alternative procurement strategy for ELOR.

3.2 City Connect 2 (City Centre Cycle Scheme): A separate report has been provided to Scrutiny Board (Infrastructure and Investment), and a summary of the position is set out below.

3.2.1 Funded by the West Yorkshire Combined Authority, the contract to construct the city centre cycle scheme known as City Connect 2 was awarded to Carillion Construction Ltd on the 3<sup>rd</sup> October 2017. The tendered value was approximately £4.1m.

3.2.2 Before award of the contract (and in accordance with strategy outlined above) an insolvency bond was required by the authority to guard against any financial failure of Carillion Construction Ltd. This was provided to the Council, whereby it can call in payment of the on-demand bond, in the sum of £450,000 and within seven working days. The bond was provided by HSBC.

3.2.3 By the 15<sup>th</sup> January (the date of liquidation) overall progress on the scheme was measured at approximately 20% with the completion programme standing at late summer 2018.

3.2.4 Since then, the option of PWC managing the works to completion was explored, but an additional fee for doing so was sought, and there would have been additional complexities of negotiation.

- 3.2.5 Consequently, as the organisation was no longer able to satisfactorily provide plant, labour and materials, workers on site spent time making a number of work areas safe and tidy.
- 3.2.6 The Official Receiver has been advised that as the company has entered receivership that Leeds City Council are Terminating the Contract. Highways & Transportation's Direct Labour Force and Term Contractor are continuing to make the open work-areas safe and undertake any works that will afford the reopening of public highway, and the Council is now pursuing an alternative re-tendering strategy.
- 3.2.7 The mechanism to execute the provisions of the on-demand insolvency bond has begun. The Financial Guarantor has been made aware that as the Contractor has suffered an insolvency event and Leeds City Council are to call in payment of the on-demand bond.
- 3.3 Leeds Seven Schools:
- 3.3.1 The Leeds Seven Schools PFI contract was signed in 2001, with a capital value of £38m. It includes the following schools: Lawnswood High, Roundhay High, Oakwood Primary, Hilltop Primary, Five Lanes Primary, Asquith Primary and Spring Bank Primary.
- 3.3.2 The contract is with a special purpose vehicle (Education Support Company (Leeds) Limited – **ESCo**), and construction works completed in 2003. However Carillion Construction are appointed by ESCo to provide facilities management services at the schools.
- 3.3.3 Under the terms of the contract ESCo are obliged the facilities management services and (while under-performance is recorded and the Council enforces its rights in such regard) no performance issues have been reported which directly relate to the compulsory liquidation, and staff remain on site with PwC effectively having stepped into Carillion's shoes as employer.
- 3.3.4 It is understood that PwC are charging additional overhead costs to ESCo, however there is no right for ESCo to flow these through to the Council at present (though the contract does provide for regular benchmarking or market testing exercises in relation to soft facilities management services which can result in an adjustment to the payment due).
- 3.3.5 ESCo is focused on continuing service delivery and is therefore considering its sub-contracting arrangements.
- 3.3.6 While the Council's consent to any change of sub-contractor is required, such consent may not be unreasonably withheld or delayed and it may only withhold such consent on the grounds that any new sub-contractor is not of sound financial standing technical ability or good repute. If the services are subject to market testing in future, the Council is entitled to undertake further reviews of candidates and make its own proposal as to an entity to also be invited to take part in the tendering process.

3.3.7 The latest indication is that ESCo may seek to appoint an interim contractor to take over provision of the services while a longer term solution is formulated, and the Council is currently considering its position as to proposals for involvement in such future service provision. In any event, staff affected will be afforded the protections of TUPE.

3.4 Carillion Civil Engineering: A total of £4,703,000 has be spent with Carillion Civil Engineering in recent years:

3.4.1 Temple Green Park & Ride (Civils) £3,530k

3.4.2 Woodhouse Tunnel Ph2 (Civils) £1,015k

3.4.3 Elland Road Park & Ride (Civils) £158k

3.5 While this entity is not one of the six Carillion group companies currently in compulsory liquidation, it is reasonable to anticipate that it will be impacted in some way as part of the insolvency process affecting the wider group. However, while there are maintenance obligations which continue in respect of the Temple Green Contract, all works have been completed and delivered to time and within budget.

#### **4 Recommendations**

4.1 Scrutiny Board members are requested to note and comment on this report.

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

7.1 None

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<sup>1</sup> 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.

