

Part A Report

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| REPORT TO: | Cabinet Member for Economic Development 17.02.15 |
| AGENDA ITEM: | Background report to Cabinet agenda item 11 |
| SUBJECT: | Connected Croydon - Old Town (Church Street) Public Realm Improvement Works |
| LEAD OFFICER: | Jo Negrini, Executive Director Development and Environment |
| CABINET MEMBER: | Cllr Toni Letts, Cabinet Member for Economic Development And: Cllr Kathy Bee, Cabinet Member for Transport and Environment And Cllr Simon Hall, Cabinet Member for Finance and Treasury |
| WARDS: | Fairfield & Broad Green |
| CORPORATE PRIORITY/POLICY CONTEXT/ OUTCOMES FOR RESIDENTS OF THE BOROUGH: The Old Town (Church Street) Public Realm Improvement project forms part of the overall Connected Croydon programme. The projects within the programme have been approved individually as they have become ready for implementation. Connected Croydon is a £52m programme of coordinated public realm projects and transport improvements that will transform Croydon Metropolitan Centre into a more easily accessible and liveable place. | |
| FINANCIAL IMPACT The recommendation is to enter into a contract to deliver construction works services for the Old Town (Church Street) Public Realm Improvement. The project is externally funded from Greater London Authority (GLA) Mayor's Regeneration Fund (MRF) and Croydon Council capital. All funding has been secured. | |
| KEY DECISION REFERENCE NUMBER: This is not a Key Decision | |

1. RECOMMENDATIONS

- 1.1. The Cabinet Member for Economic Development in consultation with the Cabinet Member for Finance and Treasury is recommended to approve the direct award of a contract under the Council's Highways Framework arrangement to undertake the Old Town (Church Street) Public Realm Improvements construction works to EM Highways Ltd. for the price detailed in the associated Part B report.

2. EXECUTIVE SUMMARY

- 2.1 This report advises the Cabinet Member of the offer received and the evaluation undertaken further to which a recommendation is made for the direct award of a contract to EM Highways Ltd. for the construction works (the works) of the Old Town (Church Street) Public Realm Improvement Project (the Project).
- 2.2 The exception to the Council's Tenders and Contracts Regulations that has been approved to enable the direct award will be reported to the next available meeting of the General Purposes and Audit Committee.

3. DETAIL

- 3.1 The Project, as part of the Council's Connected Croydon programme, has the following objectives:

- Provide an arrival space that reveals and celebrates the best of Old Town;
- Reflect the progressive character of Croydon and its objectives of Connected and Creative City (Core Strategy 2012);
- Improve the quality of surfacing in terms of levels, materials, accessibility and appearance;
- Reduce street clutter and improve aesthetic compatibility of street furniture and surfaces;
- Support the economic regeneration and diversification of the retail offer;
- Improve way-finding and orientation;
- Lengthen the Church Street Tram Stop.

- 3.2 The construction works, to be let under the Council's 2011 framework contract with EM Highways Ltd (the contractor), are scheduled to commence in March 2015 and be completed in December 2015. Critically, this will enable the works to lengthen the Church Street Tram Stop, and other tram-affected works, to be carried out during a planned two-week period over Easter 2015 when trams will not be running on the town centre loop.

3.3 Procurement Approach

- 3.3.1 The original procurement strategy was to select suitable contractors using Constructionline, supplemented by shortlisting the two lowest tenders from the last comparable tender (East Croydon Interchange). However, to retain the highly desirable ability to make use of the 16-day Easter tram shut-down a revised strategy

was agreed by the Director of Strategy, Commissioning and Procurement (ref.) for the Council to use its highways framework arrangement with EM Highways Ltd.

Establishment of the framework was originally approved, on the basis of contract values up to £500k. Above that value it would be usual practice to introduce some element of competition. However, as part of the revised procurement strategy, an exception to the Council's Tenders and Contracts Regulations to allow a direct award at the price given for these works, has been agreed, on the basis that, for the reasons detail in para. 3.3.2, it is still considered to represent Value for Money...

3.3.2 Whilst competitive tender might procure a lower contract price from a particularly keen contactor, analysis and market research has concluded that Value for Money and the Most Economically Advantageous route is still achieved by the Council using it's contractor. This is on the basis that the time taken to run a competitive tender would not enable the construction works to start in time to make use of the Easter tram shut-down and lose the benefits of:

- Vastly improved efficiency achieved by the contractor having possession of the whole road for 16 days meaning an estimated fourfold increase in the productivity of the construction works during that period. This should reduce the duration of construction by five weeks, meaning that Church Street would be clear of major roadworks by the Christmas 2015 shopping period
- The base rates quoted in the EM contract were provided in 2011. In 2015 these rates still offer particularly good value because:
 - a) the prices were secured when the market was buyer-constrained (i.e. highly competitive) rather than supplier-constrained (as it now is), and
 - b) the index-linked uplift to the 2011 rates is 4.67% - significantly below construction-price inflation (which was 6.0% in 2013-14 alone)

Evaluation

3.7 Quality

3.7.1 Quality is specified and measured as described in the term contract.

3.8 Price

3.8.1 Prices in the EM Highways contract are demonstrably competitive; where there are rates in the framework agreement for the items of work in the capital project, EM Highways must use those prices; where they are not listed, they must supply an "open book" itemised breakdown including supplier quotes to support their quotation for each works item, which are then securitised buy the Council's cost consultant to determine competitiveness of price ensure Best Value as described below.

3.8.2 The Council carries out two assessments before deciding whether to accept those rates:

- a) To gauge competitiveness, our external quantity surveyors will advise whether the rate is comparable to quotations provided by other contractors for similar works

b) To assess contract compliance officers analyse the supporting data that EM provide with their quotation that details the plant, labour, materials and preliminaries plus reasonable overheads and profits they have used calculate their rate.

If, for any item, EM Highways fail to satisfy either assessment then the Council enters into negotiation before agreeing a rate.

4. CONSULTATION

4.1 Various stakeholder groups have been consulted as part of the Old Town (Church Street) Public Realm Improvements project. Most have been fully supportive of the proposals:

- Six-week formal public consultation during July and August November 2013, including drop-in sessions to discuss the proposals. This included a briefing for local Members.
- GLA and TfL have representatives at the Project Board meetings and on the evaluation panel.
- Technical and design approval of proposals by GLA / TfL Mayors Design Advisory panel.
- Stage sign-off by key transport stakeholders such as Tramlink, TfL Buses and LBC Highways.

Further stakeholder and public engagement will take place during the construction phase of the project.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

5.1 Budgetary provision and financial effects of the decision are considered in detail in Part B of this report.

5.2 Risks:

5.2.1 Three risks have been identified relating to the recommended method of procurement:

- a) If negotiation is required to agree a rate not in the term contract (see 3.8.2) then the Council may be unable to agree a price for those items of work before we need the contractor to mobilise; this could weaken the Council's position in those negotiations.
- b) The term contract has weaker controls than a competitive tender to ensure that the contractor adheres to programme; nonetheless, because it does have a "low service damages" process, there is an incentive for EM Highways to work efficiently
- c) Although the project is funded by the Mayor's Regeneration Fund, it is a condition of funding that all risks after the award of construction contract are carried by the Council. Any overspend, therefore, would have to be met by the Council

5.3 Options:

5.3.1 If, instead of awarding a contract to the Council's term contractor, the Council were to revert to the original strategy of seeking competitive tenders (which is forecast to result in works starting in June 2015) the risks would be

- a) Recent tenders for public realm works in Croydon have seen weak interest from the market. This makes it less certain that the Council can secure a low price (or that it will receive sufficient tenders to demonstrate effective competition)
- b) If the tenders are considered so uncompetitive as to necessitate retender (as was the case last year for West Croydon public realm) then there is a risk of works not being completed before the GLA's April 2016 deadline
- c) Without the efficiencies that can be achieved by being able to work during the Easter tram shut-down, contractors' prices are unlikely to be especially keen.
- d) Because the contractor will be constrained by having to work with trams running throughout, works would take an estimated five weeks longer to complete. Each week that a contractor is on site incurs the Council direct costs of £2,000 and Croydon businesses indirect costs due to the disruption the works inevitably cause them and their customers
- e) Because paving works would be incomplete, Church Street could have a "half-finished" look during the Christmas shopping period
- f) It would not be possible to carry out the planned improvements to the Church Street tramstop (these improvements would be likely to be delayed until summer 2016)

These risks are considered by the project team to be of sufficient gravity to make this option significantly inferior to the contract award recommended

- 5.4 **Future savings/efficiencies:** No future savings or efficiencies have been identified associated with the undertaking of the works.

Approved by: Jabin Jiwa on behalf of Dianne Ellender, Head of Finance and Deputy Section 151 Officer

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 6.1 The Council Solicitor comments that in accordance with the exception that has been agreed under Regulation 3 the procurement process as detailed in this report meets the requirements of the Council's Tenders and Contracts Regulations and the statutory duty to demonstrate best value under the Local Government Act 1999.

Approved by: Gabriel MacGregor, Head of Corporate Law on behalf of the Council Solicitor & Monitoring Officer

7. HUMAN RESOURCES IMPACT

- 7.1 Project management and contract administration will be undertaken by staff already employed by the Council, for which adequate resource provision has been made.

Approved by: Adrian Prescod on behalf of the Director of Human Resources

8. EQUALITIES IMPACT

8.1 The High Streets project initiation documentation underwent a detailed Equality Impact Assessment (EQIA).

9. ENVIRONMENTAL IMPACT

9.1 The proposals for the Old Town Public Realm Improvement project have been carefully developed to ensure a positive environmental and design impact.

9.2 The main environmental impacts / benefits of the wider project include:

- Improved accessibility for all people
- Improved cycle routes

9.3 This specific contract will promote:

- the sustainable management of construction waste re-use of materials on site.
- the use of sustainable / recycled material.
- The reduction of waste generated and reuse of materials.

10. CRIME AND DISORDER REDUCTION IMPACT

10.1 There are no immediate Crime and Disorder consequences of this proposal.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

11.1 Following analysis of the commercial and qualitative aspects of the tenders received, it is recommended that the contract for the provision of works for Old Town (Church Street) Public Realm Improvements contract be awarded to the Council's term highway contractor.

11.2 Provision is made in the budget for a contingency sum which would only be used if there were any unforeseen events during the construction works that would lead to an increase in price in accordance with the conditions of contract. Having a contingency sum on the original purchase order can minimise any delays in the contractor's response to mitigate these unforeseen events. Control of the contingency sum would be managed through the usual tier approval.

12. OPTIONS CONSIDERED AND REJECTED

12.1 Since the recommendation is considered to be compliant, reliably and professionally quantified, no further options were considered.

CONTACT OFFICER:

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| Name: | Paul Forrester |
| Post title: | Senior Project Manager |
| Telephone number: | 60041 |

BACKGROUND PAPERS

None

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