



A1139 Fletton Parkway Junction 17 A1(M) – Junction 2 Widening Scheme – Appointment of Construction Contractor
Leader of the Council and Cabinet Member for Growth, Strategic Planning, Housing, Economic Development and Business Engagement
Deadline date: December 2013

Cabinet portfolio holder: Responsible Director:	Councillor Cereste, Leader of the Council and Cabinet Member for Growth, Strategic Planning, Housing, Economic Development and Business Engagement Simon Machen - Director of Growth and Regeneration
Is this a Key Decision?	YES If yes has it been included on the Forward Plan : Yes Unique Key decision Reference from Forward Plan : KEY/24JAN13/07
Is this decision eligible for call-in?	YES
Does this Public report have any annex that contains exempt information?	YES The attached Exempt Annex is NOT FOR PUBLICATION in accordance with paragraph 3 of Schedule 12A of Part 1 of the Local Government Act 1972 in that it contains information relating to financial and business affairs namely, details of the tender sums submitted. The public interest test has been applied to the information that is contained in the Exempt Annex to this Decision Notice and it is considered that the need to retain the information as exempt outweighs the public interest in disclosing it because to disclose it could compromise the Council's position in any future procurement for these works.
Is this a project and if so has it been registered on Verto?	YES Verto number: PR001170

R E C O M M E N D A T I O N S
The Cabinet Member is recommended to:
<ol style="list-style-type: none"> 1. Approve the appointment of Birse Civils Limited to construct the A1139 Fletton Parkway Junction 17 A1(M) – Junction 2 Widening Scheme and the award of a contract through the Midlands Highway Alliance (MHA) Medium Schemes Framework 1 Contract (MSF 1), for the Target Cost sum of up to £11,000,000; and 2. Authorise that the Director of Growth and Regeneration can vary this contract when required, subject to; (i) available budget being in place; (ii) the total sum of each variation not exceeding £500,000; and (iii) the variations do not cause the total sum to exceed that permitted under the framework contract (£12,000,000).

1. SUMMARY OF MAIN ISSUES

- 1.1 The Council were successful in bidding for funding towards the cost of implementing the £12.892m Fletton Parkway Junction 17 to Junction 2 Widening Scheme, being awarded £1.5m grant and £3m loan from the Local Enterprise Partnership (LEP). A further bid to the Department for Transport (DfT) Pinch Point Fund was also successful with the award of £4.5m grant towards scheme delivery. The remainder of the scheme costs are being funded through corporate resources and S106 developer contributions of £3.33m (this will be used to repay the £3m LEP loan once its trigger point is reached). Unfortunately time constraints were placed on some of these funding awards with the LEP requiring scheme commencement before the 31st March 2013 and the DfT requiring scheme completion before the end of 2014/15 financial year. These tight time constraints put pressure on the project from the outset and resulted in a challenging delivery programme.
- 1.2 The Council is a member of the Midlands Highway Alliance (MHA) which has established and developed collaborative procurement frameworks in order to secure the delivery of major highway capital schemes, medium sized highway schemes and professional services. Several Civil Engineering Contractors entered into open competition in accordance with the European Union procurement regulations to become preferred contractors for the MHA. In recent times the Council has procured several major and medium sized schemes through the MHA saving a considerable amount of time and money.
- 1.3 In order to provide best value, scheme continuity and minimise procurement timescales a decision was taken at an early stage to use the MHA professional service providers for design/supervision and if appropriate, seek to appoint an MHA contractor for the scheme build. URS are the sole consultant appointed for use under the MHA's professional services framework (PSP1) and were appointed on the basis of a competitive quality and cost process undertaken by the MHA under EU procurement rules. URS have been working on the scheme design since March 2013 – unfortunately, due to complications arising from pavement investigations and associated design solutions, the overall design programme is running about four weeks late.
- 1.4 There are four contractors pre-qualified to compete for work under the MHA MSF1 contract. Using a direct call off process contractors were compared against each other on a quality/price ratio in delivery of a model scheme similar to the Fletton Parkway Widening Scheme. Under this selection process Birse Civils Limited achieved the highest score. The selection process used to identify a preferred contractor is explained in greater detail under Paragraph 7 'REASONS FOR RECOMMENDATIONS & ANY RELEVANT BACKGROUND INFORMATION'.

2. PURPOSE OF THIS REPORT

- 2.1 This report is for the Leader of the Council and Cabinet Member for Growth, Strategic Planning, Housing, Economic Development and Business to exercise delegated authority under paragraph 3.3.8 (a) of Part 3 of the Constitution in accordance with the terms of his portfolio at paragraph 3.4 (g).
- 2.2 The attached report/background information is NOT FOR PUBLICATION in accordance with paragraph 3 of Schedule 12A of Part 1 of the Local Government Act 1972 in that it contains information relating to financial and business affairs, namely, details of the tender prices submitted. The public interest test has been applied to the information contained within the exempt annex and it is considered that the need to retain the information as exempt outweighs the public interest in disclosing it as to do so would compromise the Council's position in any future procurement for these works.

3. TIMESCALE (If this is not a Major Policy item, answer **NO** and delete second line of boxes).

Is this a Major Policy Item/Statutory Plan?	NO
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4. DETAILS OF DECISION REQUIRED

- 4.1 Approve the appointment of Birse Civils Limited to construct the A1139 Fletton Parkway Junction 17 A1(M) – Junction 2 Widening Scheme and the award of a contract through the Midlands Highway Alliance (MHA) Medium Schemes Framework 1 Contract (MSF 1), for the Target Cost sum of up to £11,000,000; and
- 4.2 Authorise that the Director of Growth and Regeneration can vary this contract when required, subject to; (i) available budget being in place; (ii) the total sum of each variation not exceeding £500,000; and (iii) the variations do not cause the total sum to exceed that permitted under the framework contract (£12,000,000).

5. CONSULTATION

- 5.1 The scheme was included in the Peterborough Long Term Transport Strategy (2011-2026) and Local Transport Plan 3 (2011-2016) document. Extensive consultation was carried out before publication to obtain the views of interested parties, from stakeholders to members of the public. The specific scheme has been widely consulted on within the Council and is included in the Medium Term Financial Strategy, has an approved Business Case and Environmental Screening Approval. Consultation with external stakeholders includes the Highways Agency, LEP, DfT, MHA and utility service providers. On the 7th November 2013 a public engagement event was held in the Bushfields Centre Public Library and a further event was held in the Serpentine Green shopping centre on the 12th November 2013.

6. ANTICIPATED OUTCOMES

- 6.1 Birse Civils Limited will be awarded a contract through the MHA Medium Schemes Framework 1 (MSF1) contract to build the Fletton Parkway Junction 17 A1(M) – Junction 2 Widening Scheme. Birse Civils Limited will work with URS (design and supervision contractors) and other parties, to refine the scheme design and establish the most effective delivery solution to provide best value and minimise disruption to the road network during construction. This process will result in a robust target cost estimate for scheme delivery.
- 6.2 The A1139 Fletton Parkway Junction 17 A1(M) to Junction 2 Widening Scheme improvement works will commence in January 2014. The scheme will be installed over a period of 47 weeks and become fully operational in December 2014. Details of the proposed improvement scheme works are listed below:
- Widening of the A1139 Fletton Parkway from two lanes to three lanes in each direction, between Junction 1 and Junction 2;
 - Complete reconstruction of the eastbound carriageway between Junction 1 and Junction 2;
 - Improvements to the link capacity between Junction 17 of the A1 (M) and Junction 2 of Fletton Parkway;
 - Resurfacing of the road between Junction 17 and Junction 2;
 - Replacement of street lighting between Junction 17 and Junction 2;
 - Provision of average speed cameras to enforce reduced speed limits

7. REASONS FOR RECOMMENDATIONS & ANY RELEVANT BACKGROUND INFORMATION

Background Information on Midlands Highway Alliance (MHA) and the Medium Schemes Framework Contract 1 (MFS1).

- 7.1 It is recommended that the delivery mechanism for this scheme should be the Midland Highways Alliance (MHA) Medium Schemes Framework Contract (MSF 1). The Midlands Highway Alliance (MHA) is a formal collaboration of seventeen local authorities, including Peterborough City Council, seeking a more effective way to deliver highway services. The Highways Agency (HA) is also a member. Leicestershire County Council is the 'host' authority.
- 7.2 The Medium Schemes Framework 1 Agreement was procured by Leicestershire County Council using the Official Journal of the European Union (OJEU) procedures and the scope of the agreement was defined in the OJEU Contract Notice. The agreement is therefore between four framework contractors (see details below) and Leicestershire County Council as the host authority, and has been signed under seal. The award of the Agreement was announced in an OJEU award notice on 12th April 2010 and this date has been taken to be the '*start date*' for the framework. The duration of the MSF 1 Contract is three years from the 12th April 2010, with the ability to extend for one additional year.
- 7.3 The Medium Schemes Framework 1 was developed throughout 2009 by the MHA to replace the Midlands Works Frameworks 3 and 4 Contracts developed by the Highways Agency and used by the MHA members previously. Its development was an example of collaborative working between a large number of highway authorities. As a publicly available framework Peterborough City Council is permitted to use the MSF 1 Contract.
- 7.4 The following contractors have been appointed to the framework:
- Balfour Beatty/Birse Civils Limited;
 - BAM Nuttall;
 - Ringway Infrastructure Services Limited; and
 - Tarmac/Carillion Joint Venture Limited.
- 7.5 As part of the EU procurement process for the MSF 1 Contract a rigorous quality/price assessment was undertaken for each contractor at tender stage.
- 7.6 The premise of the framework is to achieve efficiencies by working collaboratively. It is the expectation that all parties, clients and contractors alike, will share experiences and innovation for the mutual benefit of the whole Framework Community, thereby providing continuous improvement. Framework contracts can realise benefits to the MHA member and the supplier by forging long-term relationships focused on delivering a specific service consistently. These include fewer procurement actions, early involvement of the contractor (if required), fostering of relationships with suppliers and their sub-suppliers, (i.e. supply chain management), shorter lead-in times, faster delivery and an opportunity to demand high standards of training and health and safety awareness.
- 7.7 The use of the MSF 1 Contract does not commit the Council to give any level of work to an individual contractor.

The Contractor Selection Process

- 7.8 The MSF 1 Contract has four contractors pre-qualified for selection, based on six model schemes. Selection of a specific contractor is usually carried out based on their submission scores against one or more of these example schemes, although there is an option to undertake a competitive mini-tender approach. Past experience suggests that the mini-tender approach, whilst offering some value, can result in an unacceptable time delay. In this instance PCC has selected one of the model schemes as a basis for selection of the contractor.

- 7.9 The chosen scheme is:
- Model Scheme E – (Rugley Eastern Bypass Stage 2).
- 7.10 Scheme E was selected for several reasons –firstly it is located in a rural environment and is similar to Fletton Parkway in that it bypasses the local urban area. This scheme incorporates many common factors including construction of a significant amount of pavement, drainage works, service diversions and interfacing with structures. Scheme E was also the closest comparison regarding financial cost.
- 7.11 The MSF 1 Contract assessment suggests a 70/30 quality/price split, but allows for variation. In this instance a 50/50 quality/price split was used due to the high financial cost of the project.
- 7.12 Having completed the price assessment the quality scores for each contractor were added to produce a final assessment score. The quality assessment scores are calculated by the MHA. They are based upon the original submission of each contractor at tender stage and periodic adjustments based upon current performance received via feedback from MHA member authorities.
- 7.13 The assessment suggests that Birse Civils Limited will offer the best value of the available contractors based upon the combined price and quality scores.
- 7.14 The decision to engage with one contractor is then approved by the MHA Framework Board. A Commissioning Authority [Peterborough City Council or any other MHA member authority] can then issue a Package Order of works to the preferred contractor based upon a negotiated Target Cost.
- 7.15 The scores of the four MSF 1 Contractors for Model Scheme E are shown in the table below:

Contractor	Quality Score Tender Based (out of 50)	Price Score (out of 50)	Total Score	Ranking
Contractor A	48.00	50.00	98.0	1
Contractor C	50.00	46.58	96.6	2
Contractor D	45.33	49.00	94.3	3
Contractor B	46.24	47.65	93.9	4

The Collaborative Agreement

- 7.16 In order to enable an MHA member authority to use the MSF 1 Contract, a tripartite Collaborative Agreement is required between Leicestershire County Council, the Commissioning Authority [Peterborough City Council] and the framework contractor to whom the Package Order is to be assigned.
- 7.17 This Collaborative Agreement empowers a Commissioning Authority to transfer the role of 'Employer' from Leicestershire County Council, as host authority, to the Commissioning Authority. This agreement must be signed and sealed by the authorised signatories for Leicestershire County Council, the Commissioning Authority and the designated Framework Contractor.

- 7.18 The Collaborative Agreement has zero value and does not commit the Council to any expenditure but it does facilitate the formation of MSF 1 contracts.
- 7.19 A single Collaborative Agreement is required for each designated Framework Contractor and this is valid for each subsequent works package issued under the MSF 1 Contract. A Collaborative Agreement between Leicestershire County Council, Peterborough City Council and Birse Civils Limited was previously entered into for Street Lighting Improvement Works on 15th February 2011. This Collaborative Agreement also covers the A1139 Fletton Parkway Junction 17 A1(M) – Junction 2 Widening scheme.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 The Council briefly considered holding an open tender competition to secure a contractor to build the scheme, but discounted this due to the tight delivery timetable required by DfT. However, the procurement route of the MSF 1 Framework Contract was deemed most suitable for this project following the evaluation of other procurement routes. Utilising the MSF 1 Contract for this scheme will mean that the Council will realise the following benefits:
- Reduced procurement time and hence earlier project delivery
 - Reduced procurement costs by using a framework agreement
 - Improved project management and cost certainty through the utilisation of a 'target cost' style of contract
 - Reduced construction cost through early contractor involvement (ECI) at the design stage to manage and mitigate more effectively any potential build issues with the design

9. IMPLICATIONS

- 9.1 Timeline/Financial Implications - It is imperative that a construction contractor is formally appointed at the earliest opportunity, as the construction phase is due to commence on site on the 6th January 2014. As mentioned previously the scheme design phase is running approximately 4 weeks late - Birse Civils Limited are providing early contractor involvement, which if they are formally appointed should mitigate much of the time lost. If at this stage the Council had to seek an alternative contractor through an open tender process, the delivery timeline would be seriously compromised and potentially some external scheme funding may be lost.
- 9.2 Legal Implications – The framework was procured under the restricted procedure of the Public Contracts Regulations 2006 and the Council is permitted to use the framework to call-off contracts. The Council is entering into this arrangement pursuant to its powers contained in s111 of the Local Government Act 1972 and its statutory obligations under section 41 of the Highways Act 1980 and sections 16 & 17 of the Traffic Management Act 2004.
- 9.3 Travel Implications – Whilst the scheme is under construction, it is possible that at certain times there will be journey delays along the Fletton Parkway route. Every effort will be made to minimise inconvenience, for example by keeping two lanes open in each direction during morning and evening peak periods.

10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985) and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Executive Decision: A1139 Fletton Parkway Junction 17 A1(M) - Junction 2 Widening Scheme - Appointment of Site Supervision and Contract Administrator - OCT13/CMDN/080