

**ELY SOUTHERN BYPASS-AWARD OF CONTRACT FOR DESIGN AND CONSTRUCTION**

*To:* **Economy and Environment Committee**

*Meeting Date:* **14<sup>th</sup> July 2016**

*From:* **Executive Director, Economy and Environment.**

*Electoral division(s):* **Ely North and East.**

*Forward Plan ref:* **For key decisions**    *Key decision:*    **Yes**

*Purpose:* **To inform the Committee of the outcome of the procurement process for the Design and Construction contract for the Ely Southern Bypass, and to seek Committee's approval to award the contract to the preferred bidder subject to the Department of Transport (DfT) releasing the £16million Growth Deal Funding.**

*Recommendation:* **The Economy and Environment Committee is recommended to:**

- a) Note the procurement process.**
- b) Note that the tendered price from the preferred bidder falls within the budget allocated in the County Council's Business Plan, and within the range in the business case submitted to the DfT in support of the £16 million Growth Deal Funding.**
- c) Approve the award of the Design and Construction contract to the preferred bidder as detailed in Section 2.4 of this report, subject to confirmation from the Secretary of State of the release of £16 million Growth Deal Funding.**
- d) Delegate the decision to commence the second stage of the contract (construction) to the Executive Director of Economy and Environment in consultation with the Chair and Vice Chair of the Economy and Environment Committee as detailed in Section 2.6.**

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## **1. BACKGROUND**

- 1.1 The City of Ely lies on the east-west A142 Primary Road between Newmarket and Chatteris and the north-south A10 Primary Route between Cambridge and King's Lynn. These routes are important routes in the road network, linking the Cambridgeshire Fens and Norfolk with Cambridge and the trunk road network to the south and east. The A142 carries 15,000 vehicles per day, of which 1,200 are Heavy Commercial Vehicles (HCVs).
- 1.2 The A142 passes under the Ely to Kings Lynn railway line via a low bridge with only 2.74m of clearance. HCVs have to use the level crossing immediately to the east of the underpass. This arrangement causes congestion resulting in severance between the railway station and the rest of the city. Conditions for pedestrians and cyclists are particularly poor. The lack of convenient alternative routes to avoid the delays and congestion deters visitors and makes the area of the city unattractive for further growth.
- 1.3 At its meeting on 25<sup>th</sup> November 2014 the Economy and Environment Committee received a report on the approval of the planning application and outlining a procurement strategy for Ely Southern Bypass. The committee approved procurement of the detailed design and construction through an Early Contractor Involvement, two-stage Design and Construct contract.
- 1.4 The County Council's Highway Services Contract (HSC) would usually provide professional services required to develop the contract specification and documentation. The HSC provider decided that it wished to tender for the main contract, which would have resulted in a conflict of interest and was therefore unable to provide this service. A further procurement exercise was needed to secure the appropriate expertise in developing the draft contract and undertaking the evaluation of the tenders. This was procured through an existing framework.
- 1.5 The procurement of the Design and Construct contract was conducted as an EU tender process as the estimated total potential estimated contract value was above the European Procurement threshold. A Restricted Tender two-stage process was conducted as the market is relatively large and interest in the scheme had been expressed by a number of contractors prior to formal procurement commencing. This process is detailed in section 2 of this report.
- 1.6 When the initial £16m Growth Deal Funding allocation was approved, the mechanism for the release of funding was uncertain. The release of the funding has subsequently been clarified by the DfT and a full Major Schemes Business Case (MSBC) has been required. See section 3 of this report.
- 1.7 All necessary orders for the acquisition of land, Side Roads and construction of the bridge over the river have been confirmed.

## **2. Main Issues**

### **Procurement**

- 2.1 The first stage of the process was publication of a contract notice in the Official Journal of the European Union (OJEU) on 23<sup>rd</sup> January 2016 and the

issue of Pre-qualification Questionnaires (PQQ). The PQQ invites an interested provider to make a submission which is evaluated for financial and safety suitability, along with capacity and relevant experience, particularly with respect to some of the likely risks involved in delivering the Ely bypass such as; liaison with Network Rail, constructing rail and river crossings, resolving poor ground conditions, communications and local community impact and benefits. The PQQ received an excellent response with 11 contractors expressing interest in the Design and Construction contract for the by-pass.

- 2.2 All 11 PQQ submissions were evaluated and the highest scoring contractors were invited to tender. The Invitation to Tender (ITT) was issued on 13<sup>th</sup> April to the 6 contractors considered most suitable. The 8 week tender period closed on 8<sup>th</sup> June. All 6 contractors submitted a tender.
- 2.3 The tender required a quality submission to demonstrate how the contractors proposed to build a high quality product to meet the requirements of the County Council, along with separate target costs for the design and construction. The tenders were submitted on the LGSS e-tendering system and the cost and quality submissions were evaluated by independent teams. No cost information was shared with the quality evaluation team and vice versa until the evaluations had been completed. The scores for each component were then combined to give an overall score. The overall score was calculated on a ratio 60% quality to 40% price. The evaluation was undertaken by officers and consultants and independently moderated by LGSS Procurement Officers.
- 2.4 At this stage in the procurement process information on the bidders and details of the tendered prices are confidential. The overall result of the evaluation is set out in **Table1** below.

<b>Bidder</b>	<b>Quality score (Max 60%)</b>	<b>Financial score (Max 40%)</b>	<b>Total score</b>
Bidder 1	56.25	38.98	95.23
Bidder 2	48.6	40	88.6
Bidder 3	42.3	33.41	75.71
Bidder 4	31.28	32.9	64.18
Bidder 5	41.78	29.38	71.16
Bidder 6	42.83	24.68	67.51

From the table it can be seen that Bidder 1 has provided the most economically advantageous tender. Most importantly, it should be noted that the preferred bidder's target cost for the design and construction is within the budget available for the scheme. It is therefore recommended that the contract for the design and construction of Ely Southern bypass is awarded to Bidder 1. Details of the bidders' tendered prices are shown in the **Confidential Appendix 1** that will be circulated to committee members.

- 2.5 Although the contract will be awarded for design and construction, the process is divided into two parts, the first phase covering design development and consents process, with construction as a second phase. The presumption is that the scheme will be delivered as a single package, but there is no guarantee that the contractor will move directly from detailed design to construction. This will be conditional on satisfactory development of the design and agreement of a construction target price.
- 2.6 It is possible that the post-design construction Target Price will vary from the current construction Target Price submitted as part of the tender as a result of development of the engineering detail and the clarification of construction methods. Given the aspiration to deliver the scheme as quickly as possible, it is proposed that the agreement of the construction Target Price and commencement of construction is delegated to the Executive Director - Economy Transport and Environment, in consultation with the Chair and Vice Chair of the Economy and Environment committee unless the post-design Target Price is significantly higher than the tendered construction price. If the construction target price is significantly higher, then the decision to trigger construction will be referred back to committee.

### **Major Schemes Business Case and Funding**

- 2.7 When the allocation of £16 million Growth Deal Funding was announced the process for the release of the funding was unclear. The process has emerged through discussions with DfT and it was confirmed that a full MSBC is required. The MSBC has been developed in discussion with the DfT to, so far as possible, ensure that the information provided meets with the DfT's requirements and makes the strongest possible case for releasing the funding.
- 2.8 During discussion it emerged that a requirement of the DfT was that the economic sections of the MSBC would be considered on the basis of a contractor's tendered price, rather than a consultant's estimate. Waiting until a tendered price had been approved could have resulted in the MSBC being submitted after this Committee and a further minimum 6 week wait for the DfT to evaluate the MSBC and seek ministerial approval. After discussion with the DfT it was agreed that to reduce this potential delay the MSBC would be submitted and considered on the basis of a range of costs. This has allowed the DfT to assess the MSBC subject to the tendered cost falling within the agreed range and DfT officials are in the process of making a submission to the Minister.
- 2.9 It is hoped that the outcome of the DfT process will be known by the time of the Committee and this can be reported orally. It should be noted that the DfT will review the final the construction target price to ensure that it continues to provide value for money in the same category as the initial submission.
- 2.10 The full funding package includes: LEP Local Growth Fund £6 million, Network Rail £5 million, Local Growth Fund £16 million, subject to DfT approving the Major Scheme Business Case, and East Cambridgeshire District Council Community Infrastructure Levy (CIL) receipts £1 million. The remaining funding will be from the Council's prudential borrowing which has been included in the Council's Business Plan.

## **Timeline**

- 2.11 If the tender award is confirmed at this meeting, the DfT will be informed of the accepted tender price and asked to seek ministerial approval for the release of the Growth Deal Funding at the earliest opportunity. The formal tender award process will commence as soon as possible after confirmation of Growth Deal Funding is received.
- 2.12 The initial design period is 4 months and the construction was estimated to take between 12 and 18 months. The contractors have submitted an outline programme as part of their tender package, which is in line with these estimates.

## **3. ALIGNMENT WITH CORPORATE PRIORITIES**

### **3.1 Developing the local economy for the benefit of all**

The following bullet points set out details of implications identified by officers:

- The current layout at the level crossing and underpass causes significant congestion, which makes the area unattractive for development. The scheme will support plans for improvements to the area.
- The congestion has wider impacts on Ely, limiting the potential for housing and business growth.
- The location of Ely is at a key point in the transport network for both rail and road and this together with its general attractiveness and heritage value make the city especially attractive as a place to live and work. The scheme will therefore play a vital role in supporting this continued growth by providing housing and jobs.
- Current conditions around the station make accessibility poor and may deter use.

### **3.2 Helping people live healthy and independent lives**

- Reducing congestion and improving accessibility around the station area provides the opportunity to improve passenger transport services to the station and provide better facilities for pedestrians and cyclists, encouraging the use of more active modes of transport, especially from villages to the south of Ely.

### **3.3 Supporting and protecting vulnerable people**

- There are no significant implications within this category.

## **4. SIGNIFICANT IMPLICATIONS**

### **4.1 Resource Implications**

The following bullet points set out details of significant implications identified by officers:

- See section 3.4 for details of available funding.
- The road will increase demand on highway maintenance budgets. This has been considered in the MSBC and in earlier Option Appraisals, where both have shown an overall benefit from the scheme in respect

of the whole life Benefit Cost Ratio and economic advantages to the city wider city.

- Significant efforts have been made to ensure that the scheme is delivered competitively by the most appropriate contractor. The tender process has tested bidders' understanding of the scheme and key risks in its delivery.

#### **4.2 Statutory, Risk and Legal Implications**

The following bullet points set out details of significant implications identified by officers:

- All legal powers to commence the design and construction are in place. As the scheme progresses, planning conditions will be discharged at the appropriate stages and have been included in the contract requirements.
- The key risks are detailed in a scheme Risk Register which has been considered by bidders as part of their tender submission. Updating this is a key activity and will commence collaboratively soon after appointment of the contractor. Identified key risks include coordinating work with Network Rail, dealing with poor ground conditions and cost control.
- Health and Safety on the scheme will be managed in accordance with all relevant legislation, including the Construction Design and Management Regulations 2015.

#### **4.3 Equality and Diversity Implications**

There are no significant implications within this category

#### **4.4 Engagement and Consultation Implications**

The following bullet points set out details of significant implications identified by officers:

- The development of the proposal has been undertaken with full engagement of the local community and stakeholders at each stage. Public consultations were undertaken in 2011, 2013 and 2014, the later as part of the formal planning process. There has consistently been a high level of support (62-80%) for the scheme. Local members continue to support the scheme.

#### **4.5 Localism and Local Member Involvement**

There are no significant implications within this category.

#### **4.6 Public Health Implications**

There are no significant implications within this category

<b>Source Documents</b>	<b>Location</b>
<i>Planning Committee, 8th September 2014 Agenda and Minutes</i> <i>Economy and Environment Committee Report and Minutes 25th November 2014</i> <i>Major Schemes Business Case-V6 May 2016</i> <i>Tender evaluation summary</i>	Room Box 1311 Shire Hall, Cambridge

