

# Cabinet – Supplementary agenda

A meeting of the Cabinet will be held on:

**Date:** Tuesday, 7 September 2010

**Time:** 3.00pm

**Venue:** Meeting Room 2 - Level 3, Gun Wharf, Dock Road, Chatham ME4 4TR

## Items

**13. Gateway 3 Contract Award: Quality Public Transport Corridors (Pages 1 - 14)**

Please note that there is an exempt appendix to this report which contains commercially sensitive financial information detailing the costings used for both the original tendering of the Highways Agency East and South East Asset Management Framework, and therefore for this procurement exercise. It is considered the need to keep this information exempt outweighs the public interest in disclosing the information.

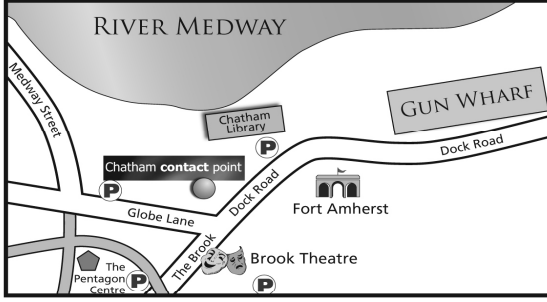
Therefore, should Members wish to discuss the exempt appendix, the Cabinet is recommended to exclude the press and public as it contains commercially sensitive information under paragraph 3 of part 1 of Schedule 12A of the Local Government Act 1972.

Definition:

Paragraph 3: Information relating to the financial or business affairs of any particular person (including the authority holding that information).

**For further information please contact Wayne Hemingway/Anthony Law, Cabinet Coordinators on Telephone: 01634 332509/332008 or Email: [democratic.services@medway.gov.uk](mailto:democratic.services@medway.gov.uk)**

**Date: 27 August 2010**



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中文	331781	हिंदी	331783	Polski	332373	এহুৎশফব	331786	فارسی	331840	Lietuviškai	332372



## **CABINET**

**7 SEPTEMBER 2010**

### **GATEWAY 3 CONTRACT AWARD: QUALITY PUBLIC TRANSPORT CORRIDORS**

Portfolio Holder: Councillor Phil Filmer, Front Line Services

Report from: Robin Cooper, Director of Regeneration, Community and Culture

Author: David Bond, Implementation Manager QPTC

#### **Summary**

This report details the reasons for the engagement of the recommended contractor, Interserve, for the completion of works for two Quality Public Transport Corridors (QPTC) road improvement schemes: Rochester, Corporation Street bus priority measures and Strood Riverside, Sustainable Transport Link. The preferred contractor has been procured through the Highways Agency East and South East Asset Management Framework.

#### **1. Budget and Policy Framework**

- 1.1 Medway Council was recently successful in being awarded £13M from the Government's Community Infra-structure Fund (CIF) for the implementation of the Quality Public Transport Corridor Project (QPTC) and Urban Traffic Management Control Project (UTMC). This sum has been split between the two Projects, £5M and £8M, respectively.
- 1.2 This project's estimated tender value of £2.5m is outside the delegated authority of the Director of Regeneration Community and Culture, and is therefore a matter for Cabinet.
- 1.3 This Project will support Objective 3, 'Public Transport' (to ensure public transport becomes a realistic alternative choice to the private car), of the Local Transport Plan.
- 1.4 This report is submitted to Cabinet to enable work to start at the beginning of October. However, as a result of the design and condition changes, new drawings will have to be prepared and issued to enable pricing and programming. As it is not possible for the contractor to submit a firm price before the publication of the Cabinet Report it is proposed that Cabinet be asked to delegate the acceptance of the formal tender price to the Director of Regeneration, Community and Culture in consultation with the Portfolio Holder for Frontline Services.

- 1.5 The Cabinet is asked to consider this matter as urgent and not subject to call-in. In line with rule 16.11 of Chapter 4, Part 5 of the Constitution, call-in can be waived where any delay likely to be caused by the call-in process would seriously prejudice the Council's or the Public's interests. For works to be completed before 31 March 2011 and for funding therefore to be retained, it is essential that the contractor be appointed in time to start work in October. It is for this reason that the delegation of contract award is sought as set out below and that call-in be waived. The Chairman of the Regeneration, Community and Culture Overview and Scrutiny Committee has agreed to waive call in on this report on the basis that this matter is reasonable in all the circumstances and to it being treated as a matter of urgency in accordance with Rule 16.11 of the Overview and Scrutiny Rules (Part 5 of Chapter 4 in the Constitution).

## **2. RELATED DECISIONS**

- 2.1 A Gateway 1 (options appraisal) report relating to all 4 Quality Public Transport Corridors Programme (QPTC) road improvement schemes was approved for Cabinet review by Procurement Board on 10 March 2010. Cabinet approved the report on 30 March 2010.
- 2.2 Medway Council entered into a procurement exercise to acquire real time passenger information displays as part of the Quality Public Transport Corridors Programme following the presentation of a Gateway 1 report to Procurement Board on 16 December 2009, and to Cabinet on the 5 January 2010.
- 2.3 Following consideration by Procurement Board on the 9 September 2009, Cabinet approved the award of a contract for the supply of up to 60 new bus passenger shelters, and for the maintenance of the whole of Medway Council's shelter stock on the 22 September 2009.

## **3. BACKGROUND**

- 3.1 Medway Council's third Local Transport Plan (LTP3) and the Council Plan both seek to engender a strong modal shift away from private car use and to sustainable forms of transport. Both plans list improvements to public transport as a key priority.
- 3.2 Medway regularly suffers from high levels of peak time congestion, which affects the reliability of existing bus services, creating delays and reducing the attractiveness of services. Through improvements to local bus services the QPTC programme will reduce congestion across Medway and improve air quality. The reliability and attractiveness of bus services will be enhanced by the provision of bus priority measures at key locations, enhanced bus stop and waiting facilities and high quality bus passenger information through real time displays. Efficiency will be greatly increased as journey times can be reliably predicted and timetables better adhered to. Operators will save money in the resultant avoidance of costly "back-up" measures previously used when congestion caused delays. The money saved can then be re-invested in the network.

- 3.3 The QPTC Programme is made up of a number of separate but closely related schemes, which, together with UTMC, will combine to create a step change in the quality, reliability and attractiveness of local bus services in Medway. This report is concerned with the following individual schemes, which form part of the QPTC Programme;
- Rochester, Corporation Street – provision of a length of bus lane, towards Strood, between Northgate and Esplanade with public realm improvements, including new surface materials, improved lighting, improved pedestrian crossing points which will also assist with sustainable connectivity between Rochester Riverside and historic Rochester; estimated cost - £1.2M.
  - Strood Riverside – provision of a new link between Canal Road and Commissioner’s Road for buses, pedestrians and cyclists only; this will also serve as an emergency route from the future Strood Riverside development and is essential enabling development for the site; estimated cost - £1.3M
- 3.4 The two schemes relating to this procurement are of comparable size and complexity, and are geographically adjacent. In procuring these schemes together it is hoped that substantial costs will be avoided. Officer time will be saved, one site office can be established instead of two, and schemes will be conducted concurrently, allowing fluidity of labour, efficiency and continuity of work. Costs will be within the original £2.5m budgeted for these schemes.
- 3.5 The two remaining QPTC schemes, not subject to this report, are of a far smaller nature by comparison with the above. Chatham Hill resurfacing works can be completed within Medway Council’s existing Term Maintenance Contract (Volker Highways). North Dane Way road improvements are to be procured in the near future.
- 3.6 This procurement is being conducted using the Highways Agency East and SouthEast Asset Management (HAESEAM) Framework. Interserve has been chosen as the recommended contractor on the basis of a schedule of rates originally tendered for the framework contract. Sixteen Sample Schemes were priced for the framework (see Exempt Appendix), 4 of which (SS4, 4a, 5 and 13) were considered accurately reflective in total of the elements contained within the two schemes relating to this report.
- 3.7 The processes used in this procurement fully comply with the Framework protocols. All evaluation has been scrutinized and passed by the Highways Agency East and South East Asset Management Framework Board.
- 3.8 The main elements that lie outside this schedule of rates are for paving works and materials for Corporation Street. Under the framework protocols the appointed contractor must provide at least 2 quotes for the sub contracting of work and materials. As the quality of these materials is specified by Medway Council, a paving subcontractor will be chosen only on price. All accounting on this framework is open book.
- 3.9 As an exact tender price is not currently available, the Cabinet is asked to accept this report on the basis that the project schemes are very similar to the sample schemes that Interserve priced for the HAESEAM Framework. The prices put in for the

HAESEAM Framework will be used to price the project schemes. It is on this basis that Interserve have been able to indicatively state that the final price will not exceed the £2.5 million budgeted for these two schemes.

- 3.10 It is not considered that there have been any significant price variations since the sample scheme prices were submitted, and those prices are therefore considered to be current. It is felt that time constraints restrict the procurement route to that of a direct appointment only, and that if any savings were to be made by holding a mini competition, they are likely to be very small, and will be vastly outweighed by the risk of losing the funding for these projects. It is possible, as part of the chosen process for the Council to refine the design in order to ensure that the scheme is affordable.
- 3.11 The potential impact on traffic of various options to reduce the construction period have been explored. These include a reduction in the amount of block paving at junctions, 7 day working, December working (but avoiding Dickens Festival) and changes to the location of storage. In order to maximise the working window, and given that mobilisation and sub-contractor appointments will take 3 weeks, it is essential that works commence as soon as possible.

**4. PERMISSIONS / CONSENTS**

- 4.1 The only scheme that requires planning approval is the Strood Riverside scheme, which received consent in September 2009.

**5. PRE-QUALIFICATION QUESTIONNAIRE (PQQ) AND TENDER PREPARATION**

<p>5.1</p>	<p>Which Stakeholders were consulted in preparation of the tender?</p>	<p>Detailed public consultation has been carried out in connection with the Transport for Medway Study (TfM) and Medway’s LTP3. As part of the TfM Study, various methods of engagement were used including workshops and presentations to key stakeholders, questionnaire surveys and exhibitions in town centres.</p> <p>A Member Task Group was set up to contribute to the development of LTP3 and to focus on issues associated with accessibility. The Task Group identified a number of interest groups and organisations along with some individual representatives who were asked to supply written evidence.</p> <p>Consultation with statutory bodies in connection with the development of the LTP was undertaken as part of the document.</p> <p>All schemes have been through public consultation exercises as follows:</p> <ul style="list-style-type: none"> <li>• Rochester, Corporation Street - a public exhibition was held on 7 and 8 December at Rochester Library. Public response was very positive, with a total of 120 people attending over the two days, all of whom supported the Project</li> <li>• Strood Riverside – a public exhibition was held on 20 and 21 July and a total of 16 people attended; all supported the Project except 1 on the grounds of noise during the construction phase; invitation letters were sent to all</li> </ul>
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		<p>properties that could be potentially affected by the scheme, a total of 90 households.</p> <p>A QPTC Officer Working Group meets approximately every 6 weeks to discuss Project progress, issues and opportunities and to seek guidance and advice.</p>
5.2	Does TUPE apply?	No
5.3	How was the tender list compiled?	This contract will be awarded using the Highway Agency East and South East Asset Management Framework.
5.4	What tender process was used	Award from the Framework in accordance with the protocols set out in the OJEU notice and all corresponding procurement documents.
5.5	How many PQQs were issued? How many were returned?	N/A
5.6	Which Officers were members of the Evaluation Team?	N/A
5.7	Were applicants shortlisted from PQQs using clear, relevant criteria? List the criteria used and enclose a copy of the results in an appendix to the report.	N/A
5.8	Were the tender documents approved by Procurement at Gateway 2?	N/A
5.9	When were tenders invited and returned? Were any returned late or disqualified?	A direct award tender was invited from "Interserve" on 2 August 2010.

## 6. TENDER EVALUATION

6.1	Name the evaluation criteria were used and the weighting applied to each?	<p>The original contract under the Framework was tendered on the basis of MEAT. Price was evaluated against 16 sample schemes that all contractors quoted against. These schemes and their related compositions can be seen in the Exempt Appendix. The winning contractors that now form the Framework are;</p> <ul style="list-style-type: none"> <li>• Bam Nuttall/Hanson</li> <li>• Birse/Balfour Beatty</li> <li>• Carillion</li> <li>• Interserve</li> <li>• Lafarge/Costain</li> </ul> <p>For the purposes of this procurement, the contractor with the lowest prices in respect of the sample schemes (SS4, SS4a, SS5 and SS13) has been selected. All other qualitative requirements of the selected contractor will already have been assessed when considering the inclusion of contractors in the Framework Agreement.</p> <p>A breakdown of price against each of these schemes for each of the framework's contractors can be seen in the Exempt Appendix.</p>
6.2	Which Officers were Members of the Evaluation Team?	<p>Ian Wilson. Head of Capital Projects, Road safety and Networks            Andy Wilde. Principal Engineer, Capital Projects.</p>
6.3	How are tenderers ranked using the quality assessment alone? Show overall marks ("Contractor A, B, C" etc – show actual names in Exempt Appendix 1)	N/A
6.4	Did the quality assessment use clear and relevant quality criteria? List the criteria and state the quality / price weighting ratio applied.	The quality assessment relied on the original criteria used in the tendering of the Framework.



6.5	Does the proposed award give best value for money? Summarise the evidence	<p>The HAESEAM framework is a robustly procured and policed method of Procurement.</p> <p>This procurement evaluated the cost of 4 of the 16 original Sample Schemes used in the original tendering of the Framework. These 4 were judged to be most representative of the 2 schemes currently being procured.</p> <p>The lowest price for the 4 Sample Schemes used was provided by Interserve at £1m less than the nearest competitor, and over £6m less than the highest price.</p> <p>Interserve will now quote on the basis of the schedule of rates originally tendered in the framework, along with new quotations for some specialist materials for the paving of Corporation Street.</p> <p>Both the HAESEAM Framework Board, and Medway Council's Strategic Procurement Manager have approved the method of evaluation used in this instance.</p>
6.6	Summarise the risks associated with the proposed award, and state the measures taken to control or avoid.	<ol style="list-style-type: none"> <li>1. A key risk is not being able to spend the money within the timescale, i.e., by the end of March 2011. This can be mitigated by working closely with Strategic Procurement to develop and deliver a robust and efficient procurement process.</li> <li>2. This could jeopardise future requests for Government funding.</li> <li>3. Failure to meet our own Local Transport Plan commitments to improve the quality and reliability of public transport services in Medway.</li> <li>4. Sustainable transport improvements are vital if Medway Council is to deliver successful regeneration whilst minimising traffic growth and congestion</li> </ol>
6.7	Has a bond or parent company guarantee been sought?	A parent company guarantee (PCG) was requested as part of the original framework tender exercise. A PCG in the form supplied by the contractor will be provided.
6.8	Are final costs within the identified budget estimate? (state % over or under where applicable) Where costs exceed the estimate state how balance will be funded.	<p>Final costs are yet to be submitted, though it is projected that costs will be well within the budgeted £2.5m. Accurate costings will be given once the submitted prices have been received.</p> <p>Whilst the maintenance of these schemes will become the responsibility of this Authority, with the Corporation Street scheme there will be the opportunity to fund extensions of the current scheme from future development proposals.</p>

6.9	What is the contract duration? Additionally, highlight any options to extend	This one off contract must commence as soon as is possible. All works must be completed by 31 March 2011. Failure to do so will result in the loss of CIF funding.
6.10	Do government or Council KPIs apply to this service? If so, are these reflected in the specification and monitoring requirements?	This Procurement relates directly to goals set in the Council Plan and emerging LTP3.

## 7. PREPARATION FOR CONTRACT MANAGEMENT

7.1	Who is the contract (service) manager responsible for day-to-day supplier relationships?	The supplier will provide a delivery programme to allow Medway Council to monitor the rate and quality of delivery.  Procurement and Implementation – Ian Wilson (Head of Capital Projects)
7.2	Do sufficient resources exist to manage the contract through implementation and throughout its contract term?	Yes
7.3	When does the contract start?	October 2010
7.4	When is the contract due for its first formal review at Gateway 4?	Post completion. 31 March 2011

## 8. COMMENTS OF THE PORTFOLIO HOLDER FOR FRONTLINE SERVICES

- 8.1 I welcome opportunities to make it easier to get around by public transport, particularly for those who do not have access to a car and need local bus services to access jobs and services. A good reliable system should also improve travel choice.

## 9. PROCUREMENT BOARD

- 9.1 This Gateway 3 report was approved for presentation to Cabinet by Procurement Board.

## **10. FINANCIAL, PROCUREMENT AND LEGAL COMMENTS**

### 10.1 Comments of the Chief Finance Officer

10.1.1 The suite of schemes that constitute the QPTC programme have attracted funding from the Community Infrastructure Fund. This funding will expire on 31 March 2011 and it is therefore imperative that any contractor engaged commences work as soon as is possible and that works are complete by the end of the financial year.

10.1.2 Although a final tender value will not be submitted by the time Cabinet reviews this report, it has been indicated by Interserve that the tendered price will be within the £2.5m budget. In the unlikely event that a tender exceeds this budget, it is possible, as part of the chosen process for the Council to refine the design in order to ensure that the scheme remains within budget.

### 10.2 Comments of the Head of Procurement

10.2.1 Strategic Procurement has provided Quality Assurance throughout the process and identified the Highways Agency Framework as a potential source for procuring the requirements outlined within this report. The client department has been advised to seek written confirmation from the Framework Operator to the applicability and accessibility of the Framework to Medway to ensure compliance with EU Procurement Regulations in relation to Framework usage by other Local Authorities. The client department has advised that this written confirmation has been provided and formed the basis for Medway gaining access to the Framework. The methodology of direct award via the framework is possible and should deliver value in light of the pressing need to spend the funding monies by 31 March 2010. The client department has also advised that a mini competition, although an alternative possibility, would not afford sufficient time for tendering, internal award procedures and onsite delivery. However, the client department has been advised that a degree of benchmarking should be undertaken to ensure that the direct award provides a best value. In addition, the client department is advised to ensure that a formal written commitment of funds is in place from the Community Infrastructure Fund prior to award to mitigate the Council 's risk exposure from any future expenditure commitment not committed by the funding. Overall, Strategic Procurement is satisfied that the proposed methodology of procurement and contract award is robust, compliant and should deliver best value.

### 10.3 Comments of the Monitoring Officer

10.3.1 As the overall contract value is below the EU procurement threshold for works, the procurement of the Project schemes will primarily be subject to the Council's Contract Rules. The procurement procedures undertaken by the Council will need to be subject to the general principles of the EU Directives to treat all operators equally and to act in a non-discriminatory and transparent manner. The proposal is to use the Highways Agency East and South East Asset Management Framework as the medium through which the contract is to be awarded. Provided the relevant protocols for the use of this Framework are observed, the procurement will have been compliant with both the Council's Contract Rules and EU procurement requirements, and should also have secured a contract providing value for money to the Council.

## 11. RECOMMENDATIONS

- 11.1 Cabinet is recommended to agree that the contractor Interserve be engaged for works in relation to Quality Public Transport Corridors improvement works as follows; public realm and bus priority measures in Corporation Street, Rochester and the Sustainable Transport Link, at Strood Riverside.
- 11.2 Cabinet is recommended to agree that the acceptance of the tender from Interserve be delegated to the Director of Regeneration, Community and Culture, in consultation with the Portfolio Holder for Front Line Services, provided all costs are within the available CIF budget of £2.5m.
- 11.3 The Cabinet is asked agree that these decisions are considered urgent and therefore should not be subject to call-in.

## 12. SUGGESTED REASONS FOR DECISION(S)

- 12.1 To enable the scheme to be delivered within the available funding requirements and to minimise the traffic impact of the works.

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Head of Procurement:	Gurpreet Anand	☎ 01643 332450

### Background papers

The following documents have been relied upon in the preparation of this report:

Description of document
<i>QPTC Business Case</i>
<i>DMT Report (2 April) – request to enter into a collaborative procurement exercise with Kent County Council for the purchase of electronic ticket machines and real time passenger information displays</i>
<i>Gateway 1 report – Procurement and maintenance of bus passenger shelters, 24 June 2009</i>
<i>Gateway 3 report – Procurement and maintenance of bus passenger shelters, 22 September 2009</i>
<i>Gateway 1 report – Procurement of Electronic Ticket Machines and Real Time Passenger Information displays, 16 September 2009</i>
<i>Gateway 3 report – Procurement and maintenance of Real Time Passenger Information display screens, 16 December 2009</i>
<i>O&amp;S Scrutiny report – Quality Public Transport Corridors Project, 2 December 2009</i>
<i>Scheme drawings</i>
<i>Gateway 1 Report – Quality Public Transport Corridors Project; Chatham Hill, Rochester Corporation Street, North Dane Way and Strood Riverside, 4 March 2010</i>
<i>Cabinet Report, Options Appraisal Quality Public Transport Corridors Project; Chatham Hill, Rochester Corporation Street, North Dane Way, Strood Riverside, 30 March 2010</i>

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