

CABINET

20 JULY 2010

GATEWAY 3 CONTRACT AWARD: CHATHAM DYNAMIC BUS FACILITY

Portfolio Holder: Councillor Rodney Chambers, Leader
Report from: Robin Cooper, Director Regeneration, Community and Culture
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Summary

This report seeks approval to award the main works contract for the construction of the Chatham Dynamic Bus Facility to Morgan Sindall.

1. Policy and Budget Framework

- 1.1 The decision falls within the policy and budget framework. The delivery of the dynamic bus facility is identified as a priority in a number of adopted Council documents:
- Medway Waterfront Renaissance Strategy 2004
 - Chatham Centre and Waterfront Development Framework 2004
 - Medway Regeneration Framework 2006-2016
 - Chatham Centre and Waterfront Development Brief 2008
 - Council Plan 2009-2012 (priorities 1, 5, and 7)
- 1.2 The Cabinet is asked to consider this matter as urgent and not subject to call-in as any delay would jeopardise the development programme and the ability for the bus station to be delivered within the funding period (before March 2011).
- 1.3 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. As set out above, it is considered that a call-in would delay the development programme and jeopardise the funding for this project. The Chairman of the Regeneration, Community and Culture Overview and Scrutiny Committee has agreed that

the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency and to waive call in.

2. RELATED DECISIONS

- 2.1 The Gateway 1 report considered by Cabinet on 24 November identified that the appointment of a contractor at the pre construction stage is medium risk and Cabinet delegated the appointment of the preferred contractor at the pre construction and enabling works stage to the Assistant Director of Housing and Corporate Services in consultation with the Leader and the Portfolio Holder for Finance.
- 2.2 Following the approval of the Gateway 1 report in November 2009 a Gateway 3 Report for the appointment of the contractor for the pre construction stage and the enabling works contract was approved in December 2010 by the Assistant Director of Housing and Corporate Services in consultation with the Leader and the Portfolio Holder for Finance.
- 2.3 Morgan Sindall were subsequently appointed for the pre construction stage, and enabling works contract.

3. BACKGROUND/INTRODUCTION

- 3.1 This report relates to the procurement of a contractor for the Chatham Dynamic Bus Facility. When the Gateway 1 report was considered by Cabinet in November 2009, it was confirmed that prior to entering into the main construction contract with the appointed contractor a further Gateway 3 report would be considered by Procurement Board and Cabinet, at such time as agreement is reached with the contractor on the contract sum.
- 3.2 Following the appointment of Morgan Sindall under the pre construction agreement in December 2009, the contractor has worked alongside the project team, throughout the detailed design process, to advise on cost, programming, procurement and buildability issues, and subsequently has been appointed for the enabling works contract, including the service trench and utility diversions, which is now underway on site. Morgan Sindall have now priced the main works contract, by competitively tendering all of the construction packages that make up the scheme. This has been carried out using an open book process, and a contract sum for the main works has now been reached. This report now seeks Cabinet approval to enter into the main works contract with Morgan Sindall on the basis of the sum proposed. The main construction contract will include the following elements of work:
 - Works to the Brook between Whiffens Avenue and Dock Road, including new pedestrian crossings
 - The construction of the bus station and the refurbishment of the White House to provide management and driver facilities
 - Design and installation of the telematics equipment required for the Dynamic Operating System for the bus station
 - Associated landscaping works.

The Dynamic Bus Facility project is fully funded by HCA as part of the current programme of regeneration projects taking place in Chatham as part of the Thames Gateway programme. The funding period runs until March 2011. Funding has been confirmed.

4. SUMMARY OF THE BUSINESS CASE

4.1 Strategic Context

The Transport for Medway study in 2005 identified a need for a new modern bus facility to serve Chatham in order to fulfil regeneration objectives, and to encourage greater patronage of public transport in the area. The case for a new bus station relates to the inefficiencies and inadequacies of the existing bus station within the Pentagon Centre, as well as the identified benefits of the new station. In addition the relocation of the bus station out of the Pentagon Centre allows for the expansion of the Pentagon Centre, providing additional retail floorspace and reinforcing Chatham's role as a retail destination. The dynamic operating system allows efficient use of the station, which reduces the land take required to facilitate the number of bus services, now and in the future.

4.2 Whole Life Costing/Budgets

Whilst the capital cost of designing and constructing the DBF will be met from HCA funding, there will be an associated ongoing revenue cost in managing and maintaining the station, which cannot be met in this way. HCA funding can only be used for the initial capital investment. It is expected that the revenue cost will be met through revenue generated by charging the bus operators for use of the bus station.

Arrangements for the on-going management, operation and revenue funding of the DBF are being examined currently by the Council's Integrated Transport team.

4.3 Risk Management

A project of this nature, as with any construction project, has a number of risks and a detailed risk register is held by the project team and frequently updated as risks are mitigated or identified. Following the appointment of Morgan Sindall under the pre construction agreement in December last year, they have contributed to the risk register and risk management process. A summary of the main areas of risk associated with this project is set out below. A copy of the project team's comprehensive risk register is provided in the exempt appendix.

Risk	Description	Action to avoid or mitigate risk
Approvals	Risk of significant further delay and additional costs or loss of funding if required approvals are deferred or not approved	Planning approval is now in place and pre commencement conditions have been discharged. Cabinet authorisation to appoint is the last remaining significant approval required.
Construction	There are a range of construction risks e.g. ground conditions, weather conditions and archaeology that could result in additional cost or delay to the programme	Ground investigations and archaeological assessments have been carried out, so that risks are managed, however this does not preclude uncovering the unexpected when works start. Weather conditions remain a significant risk of delay during the winter period.
Dependencies with other Council Projects	The DBF project has dependencies with other Council projects, in particular the Real Time Information (RTI) project, if this is not operational at the time of completion of the DBF there would be cost implications for the Council	Effective liaison with the Council's integrated transport team
Cost/Specification	The DBF project has a fixed budget. If unexpected construction risks are encountered the associated increase in costs may require a reduction in scheme specification to stay within budget	Early contractor involvement and risk management

4.4 Market Testing (Lessons Learnt/Bench Marking)

Use of the IESE framework as proposed takes full advantage of the benefits of bench marking and lessons learnt from other members of the framework as set out in the Gateway 1 report considered in November 2009.

4.5 Stakeholder Consultation

The policy documents referred to in section 1 of this report have been the subject of full public consultation, and there has also been the opportunity for members of the public to comment on the proposals through the planning

process.

The bus operators are an important group of stakeholders, particularly the main operator in this area, Arriva. Discussions have taken place with operators regarding the proposed station. The integrated transport team within Medway Council, who are responsible for ensuring public transport targets are met are also a significant stakeholder and have been involved in the development of the project.

4.6 Equalities Issues

The Council's equal opportunities policy seeks to ensure that contractors promote equality and diversity. The procurement of the contractor has been carried out having full regard to the equal opportunities policy.

4.7 Environmental Issues

Morgan Sindall provided evidence of their commitment to environmental sustainability in their tender submission. Confirming that the following will be undertaken:

- The preparation and implementation of an accredited project specific Environmental Management Plan
- Minimising site impacts during construction (including energy and water use, procuring timber from sustainable sources, protecting retained trees and environmental features, and minimising dust and water course pollution)
- Implementation of a site waste management policy to mitigate where possible transportation of waste to landfill.

5. PERMISSIONS / CONSENTS

Planning permission was granted by Development Control Committee on 27 January 2010. The permission was subject to a number of pre-commencement conditions which have now been discharged.

6. INVITATION TO TENDER

6.1 Summary of Tender Process

The contractor has not been procured through a traditional competitive tender process. Instead, the contractor has been selected through the IESE (Improvement and Efficiency South East) Contractor Framework. The process for selection of the contractor was set out in considerable detail in the Gateway 1 report that was considered by Cabinet in November 2009.

In summary, the selection process comprised a shortlisting exercise, seeking expressions of interest from the 10 framework contractors. Four contractors were shortlisted and a mini competition exercise, including interviews to select the preferred contractor. The mini competition provides the opportunity for contractors to demonstrate their approach, experience, and ability to deliver the project. Initially the contractor that is selected as a result of this exercise is appointed to provide preconstruction advice through the detailed design process, however it is expected that that contractor will then be appointed to carry out the construction works.

The price for the main works contract is arrived at in conjunction with the project team, following Morgan Sindall undertaking a competitive tending exercise for each package of works. This process carried out on an open book basis. Measures to reduce and manage costs are agreed between the project team and the contractor.

6.2 Tender Evaluation

The tender evaluation process was reported in detail in the Gateway 3 Report for the pre construction and enabling works contracts considered by Assistant Director of Housing and Corporate services in consultation with the Leader and the Portfolio Holder for Finance in December 2009.

Four contractors were shortlisted and took part in the mini competition. All four were also interviewed by the project team. Morgan Sindall was the highest scoring bidder in relation to the selection criteria both through the mini competition and interview stages as prescribed by the protocols of the IESE framework and mini competition documentation. Once appointed through the pre construction agreement Morgan Sindall have worked alongside the project team, and have now priced the scheme to arrive at a contract sum for the main works contract. This pricing is carried out on an open book basis.

Following the issue of the stage F design in May this year to the contractor, they have tendered the work to their subcontractor supply chain. The initial price which was returned on 2 July was in excess of the project budget. However, the design team in conjunction with Morgan Sindall had already identified a range of cost savings and these are now being reviewed with the supply chain, to verify the level of saving that can be achieved.

The price set out within the tender review report by Franklin + Andrews contained in the exempt appendix is within the project budget allowance, however there remain a number of matters which are still subject to confirmation by the contractor. The information available to date is however enough to give the project team confidence that an agreed price that is within the project budget, including an appropriate level of contingency will be agreed, this is also confirmed by Morgan Sindall, see exempt appendix.

7. PREPARATION OF THE NEXT STAGE OF PROCUREMENT

7.1 Resources & Project Management

Medway Renaissance will continue to manage the project through the construction phase, to ensure the required outputs are achieved and quality is maintained.

7.2 Contract Management

Contract administration will be provided by scheme architects D5 who will be contract administrators for the main construction contract, and Franklin + Andrews will have an ongoing role in verifying quantity and value of works completed as the scheme progresses.

8. Comments of The Leader (Regeneration)

- 8.1 The proposed Dynamic Bus Facility represents a key stage of the transport and public realm improvements taking place as part of the ongoing regeneration programme in Chatham. Appointment of a contractor for the main works represents an important step forward in this project.

9. Procurement Board

- 9.1 Procurement Board considered this on 12 July 2010 and approved the report for consideration by Cabinet subject to:

- Formal written confirmation from HCA of the funding allocation to Medway Council.
- Clarification of budgeted costs for the DBF Main works and the White House, contingences and potential costs in the event that issues arise, requiring contract cancellation.
- Review of risk register and subsequent inclusion to the Cabinet report as a separate appendix.

- 9.2 It is confirmed that funding agreements are in place for all of the Chatham projects, including the phase 2 road schemes and the public realm projects. Further written confirmation was sought in response to the request from Procurement Board, and an e-mail was received from HCA, dated 19th July 2010, confirming that "As a result of the funding settlement, the HCA has confirmed that it will be able to meet existing contractual commitments across all its programmes. This applies to Medway funding agreements and therefore includes Chatham Bus Facility and Chatham Road Network Phase 2, both of which are funded from the Thames Gateway fund.

- 9.3 In terms of the budget costs for the main works and the White House, this is set out in more detail in the tender review report which is included as an exempt appendix.

10. FINANCIAL, PROCUREMENT AND LEGAL COMMENTS

- 10.1 *Comments of the Chief Finance Officer.*

The overall programme for Chatham which is wholly funded by Homes and Communities Agency (HCA) allocates £5,009,463 this financial year to the Bus station project (which also includes works to the Brook and Waterfront, paid for out of their respective budgets). The procurement route assures value for money and the contracts will be within the budget provision.

- 10.2 *Comments of the Head of Procurement.*

Strategic Procurement has provided quality assurance throughout the procurement process and is satisfied that a robust and compliant procurement process has been undertaken in line with the protocols of the IESE framework and EU procurement regulation. The outcomes of this procurement process

should enable the delivery of best value and the requirements of the specification. The client department must ensure that all legal formalities are concluded and HCA funding confirmation has been formally received before committing the Council. Furthermore, as the evaluation is of highly technical nature, the client department must ensure that it is satisfied that the financial evaluation is robust in respects to the viability of the submitted pricing matrix.

9.3 *Comments of the Monitoring Officer*

This procurement was under the IESE (Improvement and Efficiency South East) Contractor Framework. This framework protocol involves a staged process, the final stage of which is the contract award for the main construction works. Under the protocol the contractor awarded the design and pre-construction works had the option, through an open book procedure, to price for the main construction works. This open book process is fully supportive of the principles of best value and it encourages the contractor's supply chain, i.e. the contractors pricing for each part of the main construction works, to develop transparent processes and for their prices to be competitive. This final stage of the process will have been in accordance with the provisions of a framework agreement that satisfies the requirements of the Public Contracts Regulations 2006 (as amended).

10. RECOMMENDATIONS

- 10.1 Cabinet authorise the Assistant Director of Housing and Corporate Services to enter into a contract with Morgan Sindall for the main works contract for the construction of the Chatham Dynamic Bus Facility within the agreed budget provision.
- 10.2 The Cabinet is asked agree that this decision is considered urgent and therefore should not be subject to call-in.

11. SUGGESTED REASONS FOR DECISION(S)

- 11.1 To enable the contract for the construction of the bus station to be awarded to Morgan Sindall so that the main works can commence.

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Background papers

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

Description of document	Location	Date
IESE Construction and Asset Management Guidelines and Working Practices		Sept 2009
Gateway 1 Report – Chatham dynamic bus facility		24 November 2009
IESE Framework Shortlist Results		13 November 2009
Gateway 3 Report – Chatham Dynamic Bus Facility (Pre construction and Enabling works contracts) and appendices		11 December 2009