

Finances and Resources Committee

10.00am, Thursday 7 March 2019

Edinburgh Tram York Place to Newhaven Project – Swept Path Contract – Award of Contract

Item number	7.6
Executive/routine	
Wards	
Council Commitments	

1. Recommendations

- 1.1 Approves the award of contract to Morrison Utility Services Ltd (MUS Ltd) for the notional contract sum of £22,020,000 for the Edinburgh Tram York Place to Newhaven Project - Swept Path Contract, subject to approval by Full Council of the Final Business Case for the Edinburgh Tram York Place to Newhaven Project on 14 March 2019.

Paul Lawrence

Executive Director of Place

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Edinburgh Tram York Place to Newhaven Project – Swept Path Contract – Award of Contract

2. Executive Summary

- 2.1 On 21 September 2017, Full Council approved a series of activities for the completion of a Final Business Case (FBC) for the Edinburgh Tram York Place to Newhaven Project which included the commencement of procurement for the Project.
- 2.2 The updated Outline Business Case presented to Council on 21 September 2017 included three options for dealing with below ground obstructions. Work to finalise the procurement strategy concluded at the end of 2017 and was approved by the Project Board.
- 2.3 The procurement option selected was to engage a specialist contractor, managed directly by the client team, to work ahead of the Infrastructure and Systems Contactor to identify and resolve below ground obstructions.
- 2.4 The procurement proceeded on this basis and this report seeks the approval of the Finance and Resources Committee to approve the outcome of the procurement process and award a contract to MUS Ltd for the notional contract value of £22,020,000 subject to approval of the FBC at Full Council on 14 March 2019.

3. Background

- 3.1 On 13 February 2017, Commercial and Procurement Services, in conjunction with the Trams to Newhaven Project Team and its advisors, commenced market research for the Edinburgh Tram York Place to Newhaven Project by placing a Prior Information Notice (PIN) in the Official Journal of the European Union to inform the Outline Business Case. The PIN included an option for interested contractors to respond to a questionnaire and attend sessions with the Project Team to participate in finalising a procurement strategy for the Project.
- 3.2 17 organisations returned questionnaires with 11 attending the face to face sessions focussed on the market opportunity, scope of the procurement process, quality cost ratio, risk transfer, innovation, and whole life costing. The feedback from

these sessions allowed the Council to finalise a procurement strategy which would have maximum interest from the market while ensuring the Council's best interests for the Project.

- 3.3 This outline contracting strategy was approved at Full Council on 21 September 2017 and approval to proceed with the procurement granted, subject to further development of the strategy.
- 3.4 The options considered in developing the procurement strategy were as follows:
- (i) include works to identify and resolve below ground obstructions in the Infrastructure and Systems Contract;
 - (ii) award a separate below ground obstruction design and build contract in advance of the Infrastructure and Systems Contract; and
 - (iii) engage a specialist contractor, managed directly by the client team, to work ahead of the Infrastructure and Systems Contractor to identify and resolve below ground obstructions.
- 3.5 The options were considered against set criteria. The first option was discounted because the level of programme and cost risk associated with below ground obstructions would be exacerbated by the premium that would become payable to the Infrastructure and Systems Contractor if utility risk was included in their contract.
- 3.6 The second option was discounted again because of the level of programme and cost risk associated with below ground obstructions, which would result in a lack of scope definition with associated risk to the ability of the Council to control programme and cost.
- 3.7 The third option was selected because it allows the Council to take cognisance of the programme and cost risk associated with below ground obstructions, and to manage that risk closely. It aligns with the approach successfully adopted post mediation on the first phase of tram, allowing the Council to closely control costs and time. In addition, it avoids a double dig which is a key lesson from the first phase of tram.
- 3.8 This report provides the outcome of the procurement process and recommends that Finance and Resources Committee approve the contract award for Lot 2 – Swept Path Contract to the most economically advantageous bidder, MUS Ltd.

4. Main report

- 4.1 The City of Edinburgh Council wishes to appoint a suitably qualified and experienced contractor for the Swept Path Contract works for the Edinburgh Tram York Place to Newhaven Project. The scope of the Swept Path Contract is to clear the tram route of all below ground utilities and obstructions, including archaeology, either by means of diversion or removal to create a swept path for the main infrastructure and systems contractor.

- 4.2 Commercial and Procurement Services, in conjunction with the Trams to Newhaven Project Team and its advisors, has conducted the procurement process in accordance with the negotiated procedure as set out in the Utilities Contracts (Scotland) Regulations 2016.
- 4.3 In response to a contract notice published on the Public Contracts Scotland portal and in the Official Journal of the European Union on 25 October 2017, three applicants applied to be prequalified to receive an invitation to tender. The prequalification submissions were individually evaluated by the nine members of the prequalification evaluation team, against the five selection criteria and the scoring matrix included in the Procurement Information Document. The financial and economic standing of the applicants was also evaluated.
- 4.5 Following this evaluation, one of the applicants failed to achieve the pre-set selection threshold of 50% and therefore only the two contractors who were deemed to have sufficient experience and capability were invited to tender. The market for utility contractors is small and it was always envisaged that there would be a low number of responses. However, the two bidders shortlisted demonstrated the required experience of similar works.
- 4.6 The invitation to tender noted that the contract would be awarded based on the most economically advantageous tender with 70% of the overall score being given to quality and 30% given to price. This ratio was determined based on the form of Contract which was being utilised. The contractors will be dealing with an unknown quantity and complexity of utilities diversions and therefore the quality of the contractor is the most important aspect of the evaluation as their costs are based on time and materials. The more experienced a contractor is, the more efficient they will be on site which will save the Project cost and delays.
- 4.7 Tenders were received from the two bidders on 10 August 2018. These tenders were then evaluated in accordance with the evaluation criteria set out in the invitation to tender. The criteria are provided in Appendix 1.
- 4.8 A total of 11 evaluation criteria were evaluated, each having different weightings and each being scored between 0 and 10 in accordance with the scoring definitions included in the tender instructions issued to the bidders.
- 4.9 A minimum score of 5 out of 10 was set for each individual criterion to ensure that any bidder failing to provide a satisfactory response to any of the published evaluation criteria requested within the tender documentation could be disqualified and not be considered further. In addition, an overall minimum score of 60 marks out of 100 for the full qualitative submission was set to ensure that the winning bid was deemed to be of good quality. Both tenders scored above the minimum marks.
- 4.10 Each criterion was evaluated individually by at least three people. On completion of these individual evaluations, a consensus meeting was held for each criterion, attended by the relevant members of the evaluation team and the procurement lead from Commercial and Procurement Services. Individual evaluation scores were reviewed and debated and a consensus score reached for each bidder. The

appropriate weightings were then applied to each of the individual evaluation criteria to arrive at a final quality score out of 70% for each bidder.

- 4.11 The tenderers' pricing submissions were opened and separately evaluated by the Project's external cost consultants, Turner and Townsend. The lowest priced tender received was awarded the maximum score of 30% for price, with the other tender scored on a pro-rata basis against this lowest bid.
- 4.12 The quality scores were then combined with the scores from the price evaluation to derive an overall score for each bidder out of a maximum of 100%.
- 4.13 The scores achieved by each bidder are:

Bidder	Quality Score	Price Score	Total Score
MUS Ltd	47.43	30.00	77.43
Bidder 2	46.38	29.75	76.13

- 4.14 Both bidders achieved the pre-set quality thresholds which are identified at 4.9 of this report. MUS Ltd scored satisfactory to excellent on all qualitative elements which were assessed and have the highest overall score which represents the most economically advantageous.

5. Next Steps

- 5.1 The Final Business Case will be considered at Full Council on 14 March 2019. The approval of the Finance and Resources Committee in relation to the procurement process will not have any impact on the approval of the FBC though the approval of the FBC may be delayed if the procurement process is not approved.
- 5.2 If the FBC is approved at Council, a mandatory 10-day standstill period will commence before entering into contract with MUS Ltd.

6. Financial impact

- 6.1 The contract being used is the NEC4 Option E cost reimbursable contract. The notional cost of the Swept Path contract is £22.02m, although it is recognised that the actual cost will vary, depending on the extent of works required to clear the tram route of all below ground utilities and other obstructions.
- 6.2 The above cost, together with allowances for risk, contingency and optimism bias will be included in the Final Business Case for the Trams to Newhaven Project, which is due be considered by Council on 14 March 2019. The award of this contract is contingent upon Council approval of the Final Business Case and approval of the recommendations in the Infrastructure and Systems Contract Award Report.
- 6.3 The costs associated with the procurement of this contract are approximately £0.02m which includes internal and external project resource. This has been

funded through the budget approved by Council in September 2017 for the development of the Final Business Case.

7. Stakeholder/Community Impact

- 7.1 The Council has a Community Benefits in Procurement Programme and as part of the evaluation process MUS Ltd has committed to community benefits including:
- Apprentices from the Edinburgh area throughout the works programme;
 - Community Events using local community venues or social enterprise premises;
 - Supporting interest in archaeology through engagement events, public viewing areas while the works are ongoing and working alongside schools for training and history lessons;
 - Work experience for 5th and 6th year pupils, jobseekers and ex-armed forces;,,
 - Community volunteering days for their workforce on the Project; and
 - Use of a local enterprise within their supply chain.

8. Background reading/external references

- 8.1 Edinburgh Tram – York Place to Newhaven – Updated outline business case. Report to [Full Council, Paper 21 September 2017](#)
- 8.2 [Edinburgh Tram – York Place to Newhaven Final Business Case](#) – report to Transport and Environment Report, 28 February 2019

9. Appendices

Appendix 1 - Summary of Tendering and Tender Evaluation Processes.

Appendix 1 - Summary of Tendering and Tender Evaluation Processes

Contract	Edinburgh Tram York Place to Newhaven – Swept Path Contract	
Notional Contract Value	£22,020,000	
Procurement Route Chosen	Negotiated Procedure	
Tenders Returned	2	
Name of Recommended Supplier(s)	Morrison Utility Services Ltd	
Price / Quality Split	Price 30%	Quality 70%
Evaluation criteria and weightings	Price	30%
	Quality	70%
	Project Team	10%
	Programme Management	7.5%
	Utility Design Management	10%
	Construction Methodology	20%
	Archaeology Resolution	15%
	Stakeholder Management	5%
	Unknown Utilities	15%
	Handback of Utilities	5%
	Cost Management	5%
	Community Benefits	5%
	Fair Work Practices	2.5%

<p>Evaluation Team</p>	<p>Senior Responsible Officer, Edinburgh Tram Project</p> <p>Project Director, Edinburgh Tram Project</p> <p>Depute Senior Responsible Officer, Edinburgh Tram Project</p> <p>Senior Project Manager, Turner & Townsend</p> <p>Project Manager, Turner & Townsend</p> <p>Senior Cost Consultant, Turner & Townsend</p> <p>Technical Advisor, Atkins</p> <p>Technical Advisor, Atkins</p> <p>Archaeology Officer</p> <p>Stakeholder Engagement Manager</p> <p>Service Manager, Economic Development</p> <p>Service Manager, Economic Development</p> <p>Client Manager, Communications</p>
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