

Committee: Delegated from Cabinet – September 2020

Date: 27th October 2020

Wards: Ravensbury

Subject: Award of contract for the construction of Bishopsford Bridge

Lead officer: Director of Environment and Regeneration, Chris Lee

Lead member: Cabinet Member for Regeneration, Housing and Transport, Councillor Martin Whelton

Contact officer: Deputy futureMerton Manager, Tara Butler

Recommendations:

- A. That the Director of Environment and Regeneration and the Director of Corporate Services in consultation with the Cabinet Member for Regeneration, Housing and Transport approve the award of the construction contract for the new Bishopsford Bridge to Preferred Bidder D, in line with Cabinet’s delegation of this decision on 24th September 2020.

It should be noted that the names of any of the bidders, including the Preferred Bidder, are confidential at this point and should not be disclosed publicly even after resolution under delegated authority on 27th October 2020 and any subsequent call-in period. While the contract is below the threshold where the Public Contracts Regulations 2015 applies substantively, all bidders need to be treated in a manner that is equal and transparent and as such need to be made aware of the intention award at exactly the same time (i.e. via notification letter via the E-Tendering portal). Disclosing the names of any of the bidders, including the Preferred Bidder, prior to the notification going out simultaneously via E-Tendering opens up the council to a potential legal challenge for failure to follow due process.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. The purpose of this report is to recommend that the Director of Director of Environment and Regeneration and the Director of Corporate Services in consultation with the Cabinet Member for Regeneration, Housing and Transport approve the award of the construction contract for the new Bishopsford Bridge to Preferred Bidder D,, in line with Cabinet’s delegation of this decision on 24th September 2020.

2 DETAILS

- 2.1. Bishopsford Bridge had been closed for strengthening works when it partly collapsed in June 2019 following heavy rainfall.
- 2.2. In February 2020 Merton’s Cabinet considered several options to reopen the bridge and resolved to reopen the bridge by demolishing the partly collapsed structure and rebuilding a new bridge. The existing partly collapsed structure was demolished by July 2020 under a separate contract.
- 2.3. In September 2020 Merton’s Cabinet resolved to delegate authority to the Director of Environment and Regeneration and the Director of Corporate Services in consultation with the Cabinet Member for Regeneration, Housing

and Transport to approve the award of the construction contract for the new Bishopsford Bridge.

- 2.4. In February and September 2020 Cabinet also reaffirmed its commitment to recognising the importance and urgency of this project in getting the bridge reopened for residents.
- 2.5. Issues of sustainability are considered under the planning process and the successful bidder will be required to adhere to the planning permission granted and associated planning conditions. The design of the bridge is part of a separate contract with WSP acting as Principle Designer. The bridge design and connected is currently being considered by the council in its role as Local Planning Authority as part of a planning application which is due to be considered by Merton's Planning Applications Committee on 22nd October 2020.
- 2.6. Under the Water Resources Act the successful bidder will also have to hold a Flood Risk Activity Permit issued by the Environment Agency in order to undertake construction over a main watercourse (the river Wandle). Adherence to a flood risk activity permit ensures the construction does not have a detrimental effect on the ecology or flood risk of the river.
- 2.7. For this project, specialist quality questions about health and safety were included in the Selection Questionnaire and a specialist question on social value engagement was included in the Invitation to Tender.
- 2.8. The contract terms and conditions are based on the Engineering Contract Term Services (NEC4) which is based on a partnering ethos. This type of contract was chosen because it encourages employers, designers and contractors to work collaboratively, its simplicity and clarity, which is designed to minimise the incidence of disputes.
- 2.9. As this contract value is below the relevant OJEU threshold (£4,733,252), a procurement standstill period is not required which also helps to speed up progress towards mobilisation and starting construction on site in line with the Cabinet resolutions in February and September 2020 to accelerate this priority project.
- 2.10. The contract will be for an initial term of 1 year commencing in November 2020.
- 2.11. The contract was advertised on the London Tenders portal and the Government's 'Contracts Finder' website, in accordance with the requirements of Contract Standing Order 19.3.1.

Selection Questionnaire

- 2.12. The Selection Questionnaire was published on 24th June 2020 and closed on 31st July 2020
- 2.13. Six Selection Questionnaire submissions were received by the deadline and all were deemed compliant.
- 2.14. The Bishopsford Bridge project manager (externally appointed under a separate contract) and officers from the future Merton team evaluated the six

Selection Questionnaire responses and undertook a moderation meeting with Commercial Services on 18th August 2020.

- 2.15. The bids were evaluated against specific quality criteria which are set out in Appendix A to this report. The ITT document explained to the bidders that on quality a bid had to score at least 15% out of a total quality score of 30% to quality. The ITT also explained that if any bidder scored zero on any question the bid would be disqualified (this didn't happen)
- 2.16. Of the six bidders, five contractors were notified on 25th August 2020 that they could progress to the Invitation to Tender. One bidder failed to progress to the ITT stage as they scored the lowest in the quality scores.
- 2.17. The Invitation to Tender was published on 28th August 2020, initially until 25th September 2020 but at the request of the bidders it was extended and closed on Thursday 8th October 2020.
- 2.18. A total of 48 clarification questions were received and responded to via the London Tenders Portal during the course of the Invitation to Tender.
- 2.19. Site visits were offered to all five bidders engaged in the ITT stage and three bidders took up the offer to visit the site with the Bishopsford Bridge project manager prior to submitting their Invitation to Tender.
- 2.20. The ITT documents state that the contract would be awarded on the basis of the most economically advantageous tender to the Council, based on a 30% Quality : 70% Price split

Evaluation process – Invitation to Tender

- 2.21. The tender evaluation was carried out by a panel of officers from FutureMerton and the project manager. Corporate services provided support in evaluating the financial standing of each of the bidders.
- 2.22. Each compliant tender was evaluated individually by each member of the evaluation panel, using evaluation sheets to note down their comments on how well each of the award criteria was addressed. Details of the evaluation questions, scoring criteria and weighting are contained in Appendix A to this report.
- 2.23. The panel met on Friday 16th October 2020 to discuss individual scores and comments for each question in order to arrive at an agreed, moderated score.
- 2.24. The names of the bidders and their respective scores are included in Appendix B.
- 2.25. Officers therefore recommend the award of the contract to the highest scoring bidder, namely Preferred Bidder D
- 2.26. The table below summarises the evaluation outcome.

Table 7: Quality and Price score breakdown:

| | Technical and quality (total of 30%) – moderated scores | Price (70%) | TOTAL SCORE |
|------------------|--|--|--------------------|
| | Overall weighted quality score (Min 15%; max 30%) | Price: (sub-criteria weighting: 100%) | |
| Bidder A: | 19.1% | 56.9% | 76% |
| Bidder C: | 15.4% | 69.6% | 85% |
| Bidder D: | 30% | 56.1% | 86.1% |
| Bidder E: | 14.6% (fails to meet min 15% quality score) | 70% | 0% |
| Bidder F: | 23.6% | 57.3% | 81% |

3 ALTERNATIVE OPTIONS

- 3.1. The alternative option would be not to award the contract to the Preferred Bidder. Officer recommend that this is not carried out as there is no reason for not awarding the contract to the Preferred Bidder and it would delay the construction of the new Bishopsford Bridge.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. None for the purposes of this report. At the Invitation to Tender stage bidders were required to submit responses to a question assessing their approach to engagement and social value. Further details are set out in appendix A to this report.

5 TIMETABLE

- 5.1. Progress to date is set out in the body of this report. Should the contract be awarded to Preferred Bidder D, the future timetable is as follows:
- 5.1.1 Decision on Contract Award – 27th October 2020
- 5.1.2 Democratic call in procedure ends – Monday 2nd November
- 5.1.3 Successful and unsuccessful bidders notified of results – Tuesday 3rd November

- 5.2. Once the successful bidder has been notified, the successful bidder, council officers, the Environment Agency and other parties will work to progress start on site and the construction of the new bridge in line with the successful bidder's proposed construction plan and timetable, any planning permission conditions and Flood Risk Activity Permit requirements.

6 PROCUREMENT IMPLICATIONS

- 6.1. The tender evaluation was carried out in accordance with the process set out in the Invitation to Tender document. Each evaluator independently reviewed each tender and a moderation meeting was then held where final scores were agreed.
- 6.2. The preferred bidder received the maximum possible quality score of 30%. The panel was unanimous in its assessment that this was the highest quality bid. There were more differences between scores for the other tenders but a final position for each question was agreed.
- 6.3. The two low-priced tenders were notably of significantly lower quality than the more expensive bids.
- 6.4. All unsuccessful bidders will receive feedback about why they scored lower than the preferred bidder

7 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 7.1. The final total value of this contract is set out in Exempt Appendix B. The Capital Programme 2020-22 will be amended to accommodate this contract as part of September 2020 Monitoring. Currently the scheme is being funded from Strategic CIL, unless alternative sources of funding are identified.
- 7.2. There may also be amendments to the project arising from planning permission that have a bearing on the costs. Merton's Planning Applications Committee is considering the planning application for Bishopsford Bridge at their meeting on 22nd October 2020.

8 LEGAL AND STATUTORY IMPLICATIONS

- 8.1. The contract value is below the OJEU threshold for works contracts and as such there is no requirement to observe a 10-day standstill period. Although the value is below the relevant threshold and therefore not subject to the full scope and extent of the Public Contracts Regulations 2015 (PCR), the procurement followed the 'restricted' procedure described at regulation 28.
- 8.2. It will be necessary to ensure that the relevant award notification is published on Contracts Finder in accordance with the PCR
- 8.3. Upon conclusion of the contract award notices will need to be published on the Council's Contracts Register and Contracts Finder as required by CSO 19.2.4.

9 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 9.1. None for the purposes of this report.

10 CRIME AND DISORDER IMPLICATIONS

10.1. None for the purposes of this report.

11 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

11.1. All bidder submissions were assessed for risk management and health and safety as part of the Selection Questionnaire.

12 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

Appendix A – procurement evaluation breakdown (not exempt).

Appendix B (EXEMPT) – bidders quality and price breakdown. This appendix is exempt from disclosure. Members and officers are advised not to disclose the contents of this report. The following paragraph of Part 4b Section 10 of the constitution applies in respect of information given in this appendix and it is therefore exempt from publication:

Information relating to the financial or business affairs of any particular person (including the Authority holding that information).

13 BACKGROUND PAPERS

13.1. Cabinet report 24th February 2020 *Preferred options for reopening Bishopsford Bridge*

<https://democracy.merton.gov.uk/documents/s31478/2020-02-24%20Cabinet%20report%20Bishopsford%20Bridge%20FINAL.pdf>

13.2. Cabinet report 7th September 2020 *Procurement of the new Bishopsford Bridge*

<https://democracy.merton.gov.uk/documents/s34348/2020-09-07%20Cabinet%20report%20Bishopsford%20procurement%20delegation%20FINAL.pdf>

13.3. Council's Contract Standing Orders