

Cabinet – 9 February 2022

Contractor Procurement Strategy for Connected Gateway Project

Portfolio: Councillor Adrian Andrew, Deputy Leader and Regeneration

Related portfolios: Councillor Mike Bird, Leader of the Council

Service: Regeneration & Economy

Wards: St Matthew's

Key decision: No

Forward plan: Yes

1. Aim

- 1.1 To deliver a transformative regeneration scheme in Walsall Town Centre, currently moving from initial business case and design stages through to procurement. The scheme will create a landmark arrival into the town centre and increase the footfall and types of uses in the area, further contributing to the recovery and future strength of the economy.

2. Summary

- 2.1 The Connected Gateway project involves the redevelopment of the Saddlers Centre with enhanced railway gateway entrance, rail concourse and associated street works around the bus station. The project is reaching the stage where a contractor needs to be procured to carry out the design and build of the works.
- 2.2 This report sets out the procurement strategy for the contractor.
- 2.3 To ensure there is no delay to Stage 3 of the programme, the procurement will need to commence in accordance with the anticipated programme and following early contractor discussions in March 2022.

3. Recommendations

- 3.1 That the procurement strategy for the project be noted.
- 3.2 A further report will be submitted to seek approval to enter into the Pre Construction Services Agreement (PCSA).

4. Report Detail - Know

- 4.1. Connected Gateway is a £36million project part funded by the Department for Levelling Up, Housing and Communities (DLUHC), which will create a landmark arrival experience into the town. It will improve connectivity between Walsall bus and railway stations by creating a new public square on Park Street, also improving passenger access to and from the station.
- 4.2. The project is currently on schedule to complete in 2025 with the defects liability continuing to 2026.
- 4.3. Early design work has been carried out and in order to reduce risk and manage costs it is recommended that a two-stage procurement process is run to engage a contractor, complete the design and deliver the works.
- 4.4. As opposed to traditional or single stage contracting (see section 5 below), a two-stage procurement process is where a contractor is brought into the project early on the basis of their overheads & profits and other fixed project costs. A Pre-Construction Services Agreement (PCSA) is then entered into, which covers the contractor's time and any design services required. The contractor then works with the project team to finalise the design and issue tenders for sub-contractor works. The tender process is overseen by the quantity surveyor for the project. Once satisfactory tenders have been received for the majority of the works a design and build construction contract is entered into to finalise any remaining design and deliver the project on site.

Council Corporate Plan priorities

- 4.5. The Connected Gateway project contributes to the priorities below, and the decision requested by this report will enable it to progress.
 - 4.5.1 Economic growth for all people communities and businesses
 - Creating an environment where businesses invest and everyone who wants a job can access one
 - 4.5.2 Communities are prospering and resilient with all housing needs met in safe and healthy places that build a strong sense of belonging and cohesion
 - People are proud of their vibrant town, districts and communities

Risk management

- 4.6. There is a risks and issues register for the project, which is reviewed at regular Working Group meetings. Any items requiring escalation are raised at Project Board and can be taken on to Regeneration Board or Strategic Investment Board if required.
- 4.7. In respect of this particular decision, risks are set out in relation to options (detailed in section 5 below). The recommended option does still entail some residual risk. Either party will have the option to withdraw from the process at the end of stage 1 should they not agree on key items such as the scheduled rates or delivery programme. However, under the PCSA the employer (the Council in this case) would retain any design work completed with no obligation to proceed to stage 2

with the preferred contractor. It would then be possible to approach another contractor from the original bid process and negotiate with them on the design with a view to proceeding with stage 2. This could result in a small risk to the programme.

- 4.8. As the project moves towards entry into the main construction contract, the Council will be advised on risks by its legal and commercial consultants prior to final contract close.

Financial implications

- 4.9. The total project budget of £36.1million is comprised of an external FHSF grant of £11.4million and Council match funding of £24.63million, both of which are included in the Council's Capital Programme being approved at the same date as this report.
- 4.10. The current position for the project is that the value of the PCSA and construction contract, together with all associated acquisition and other project costs will be managed within the overall total budget. The project will continue to be monitored but it is a fundamental requirement of the scheme to remain within budget and any cost overruns will be dealt with via review of the design and scope.

Legal implications

- 4.11. The main construction contract will be procured via a framework to reduce resourcing costs, save time and reduce/remove the risk of challenge. The framework that will be used is the Constructing West Midlands (CWM) framework, through which more than £2billion of projects have been delivered in the region since 2011.

Procurement Implications/Social Value

- 4.12. The Constructing West Midlands framework has been established in accordance with the Public Contracts Regulations and the proposed procurement will be conducted according to the agreed framework processes.
- 4.13. The Council has already entered into an access agreement and the framework sets out a mini-tender process, which will be used to select a contractor.
- 4.14. The CWM framework allows additional projects to be included at the point of tender, so that if this project goes well, the Council could then move directly to another scheme without having to retender. It is proposed that the Town Deal projects which are currently in business case development are set out in the tender process to allow for this eventuality. This would be on the basis that there is no commitment from the Council at the completion of the initial tender process to any contract beyond the PCSA for the Connected Gateway scheme. Further Cabinet approval would be sought for any additional contracts relating to Town Deal projects.
- 4.15. As a wholly-owned public framework, CWM is committed to social value through its Business Charter for Social Responsibility, creating and sustaining employment and targeting training local to each project it delivers (and in recognition it received

the coveted Chamberlain Award and was the only regional framework to be named as exemplar in the national Joseph Rowntree Foundation Report: 'Tackling Poverty Through Public Procurement')

Property implications

- 4.16. None beyond those already covered in existing decisions relating to the project.

Health and wellbeing implications

- 4.17. There are no implications at the time of drafting this report.

Staffing implications

- 4.18. There are no staffing implications at the time of drafting this report as the existing team will be procuring external services as per the programme

Reducing Inequalities

- 4.19. The implications for reducing inequalities have been taken into account and assessed as set out below:

The decision on procurement route and to delegate authority has no implications in respect of reducing inequalities

Climate Change

- 4.20. No impacts as a result of this decision.

Consultation

- 4.21. This report has been discussed at Connected Gateway Working Group and the principles of two-stage tendering have been presented to the Leader of the Council.

5. Decide

- 5.1. The other options considered in respect of procurement strategy were traditional or single stage tendering.
- 5.2. Traditional contracting is where the employer (in this case the Council) retains control of the design all the way through the project. This means that there is an opportunity to change the design as the project progresses. However, any changes instructed can result in increased cost and given that there is a fixed budget for the project this route is not suitable.
- 5.3. Single stage tendering is where the employer issues an invitation to tender including all the information necessary to construct the project. The contractor then responds with a fixed price (usually subject to some exclusions such as site conditions) to complete the design and deliver the works. On a project of this sort,

which involves substantial works to an existing building it would be highly likely that prices would come back very high to allow for risk.

- 5.4. The Public Sector Contract Regulations do not permit public authorities to negotiate with the winning bidder after the tenders have been issued, merely to provide clarifications to all tenderers. This makes it very difficult to deal with specific issues or engage with the contractor's supply chain to discuss design changes. The design can change after the contract has been let but this then opens the employer up to variation requests and increased cost when they have very little ability to negotiate.
- 5.5. Finally, the project cost consultant's view is that there is no appetite in the market currently for single stage tendering on a scheme of this nature, requiring specialist sub-contracting and involving extensive works to an existing structure.
- 5.6. Two-stage contracting is described above from 4.3 and is the recommended route for this project. The risks relating to cost in respect of traditional and single stage are reduced using this route, though some remain – see 4.7 above.

6. Commencement

- 6.1 CWM will be engaged immediately to bring the contractor into the project as soon as possible. It is currently expected that the PCSA will be entered into in August 2022, but if possible, this will be brought forward to reduce risk.

7. Review

- 7.1 This project is subject to continual review by the Connected Gateway Working Group and Project Board. The project is also subject to the monitoring and evaluation processes of the Department for Housing, Levelling Up and Communities, which provides part of the capital funding.

Background papers

Not applicable.

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