

Report to the Chief Financial Officer

Date: 01 June 2021

Report by: Jess Khanom-Metaman, Head of Operations

Report title: Contract award for a stage engineering contractor to deliver the decant, refurbishment and reinstallation of theatre equipment; and to deliver the design and installation of new equipment as part of the Hertford Theatre Growth and Legacy Scheme

Ward(s) affected: All

Summary

Following a tender process for the stage engineering contract for the Hertford Theatre Growth and Legacy Scheme redevelopment project, this report is to recommend contract award in order to conclude the tender process and commence the delivery phase of the project.

RECOMMENDATIONS TO THE CHIEF FINANCIAL OFFICER:

- a) Approval to award the stage engineering contract for the decant, refurbishment, reinstallation of theatre equipment; and for the design and installation of new equipment, at part of Hertford Theatre Growth and Legacy Scheme to Bidder C**

1.0 Proposal(s)

- 1.1 It is proposed that the Chief Financial Officer agrees to award the stage engineering contract to the successful bidder.

2.0 Background

- 2.1 In July 2018, the Council approved capital funding for the Growth and Legacy Scheme at Hertford Theatre. The scope included: three bespoke cinema screens, additional seating in the main auditorium, a new 150 seat studio, improved riverside café bar, and improved access to the building.
- 2.2 In October 2019, the Council approved additional capital funding for the delivery of Hertford Theatre Growth and Legacy Scheme.
- 2.3 In order for the subsequent asbestos works to be carried out at the Hertford Theatre site, which needs to occur prior to the construction phase of the Growth and Legacy scheme, the stage engineering contractor needs to decant and store the existing equipment. The storage of this equipment will then allow it to be subsequently refurbished and reinstalled under the main contractor as part of the construction phase of the project.
- 2.4 The contract documentation and Employer's Requirements were produced by the Council's consultant team and external lawyers, following a review by officers across the council. Technical designs and specifications were produced by the consultant design team which provided detailed information for the tender stage for bidders.
- 2.5 This information was advertised on the open market, and bidders were invited to submit tender returns by the 7th May 2021. The evaluation of those tenders was concluded by the

technical team on the 24th May 2021.

2.6 The core contract consists of the following scope comprises of two main parts:

1. Part 1 – Strip out of theatre equipment and transport of that equipment to the Council's storage facility. This part will be delivered directly by the Council.
2. Part 2 - Reinstallation of the stored equipment, and design and installation of new equipment. This part will be novated across to the main contractor, following their appointment. This part will be delivered directly by the main contractor during the construction phase of the Growth and Legacy Scheme.

2.7 The tender covers the following indicative time periods:

| Project Part | Timescales |
|---|---|
| Part 1 – decant of equipment | 7 th June 2021 -25 th June 2021 |
| Part 2 – reinstallation of refurbished equipment, and installation of new equipment | October 2022-February 2023* |

*As the scope of Part 2 will be novated across to the main contractor to deliver, the dates for part 2 are currently notional.

2.8 The Chief Finance Officer has delegated authority to make contract awards to an unlimited financial value within the Constitution. Specifically under Part 3C – Officers' Responsibility for Functions, paragraphs 8 and 8.3 and within Part 4G - Financial Procedure Rules, Appendix 1 - Scheme of Financial Delegations. Therefore in light of the aforementioned delegated authority, the Chief Finance Officer has delegated authority to make this construction contract award.

3.0 Reason(s)

- 3.1 A quality and price evaluation was undertaken with 60% awarded for quality and 40% for price.
- 3.2 Four bids were evaluated and the following table shows the results of the compliant bids:

| Core Service Bidder | Score % | | |
|------------------------|----------------------------|--------------------------|-------------------|
| | Quality X% (out of 60%) | Price Y% (out of 40%) | Total max 100% |
| B | 38.40 | 26.68 | 65.08 |
| C | 36.00 | 40.00 | 76.00 |

- 3.3 Two bids were non-compliant.
- 3.4 The bidder that provided the highest overall score was Bidder C and accordingly Bidder C offers the most economically advantageous tender (MEAT) for this contract.
- 3.5 The financial implications on the core bid items for the bidder that offers the MEAT is shown in Appendix 1 (Confidential Paper).

4.0 Options

- 4.1 Do Nothing - Not proceeding with this tender would have legal and financial implications for the asbestos contract following Part 1 of this contract. By doing nothing, this would delay the construction phase of the Theatre Growth and Legacy Scheme, and therefore not generate the revenue return on the capital as identified in the business plan. There would therefore be significant implications for the Council's Medium Term Financial Plan. This would also impact the future needs of the

community therefore the Council would not be able to fulfil the policy as agreed at Council in July 2018.

- 4.2 Undertaking the tender process again or undertaking an alternative tender process tender would delay the asbestos works as part of Hertford Theatre Growth and Legacy project, which would in turn delay the construction phase of the project. Any delay will impact the Council's revenue position.
- 4.3 Using a framework was explored as a procurement option for this tender, however due to the specialist nature of the works there was not a suitable framework available.

5.0 Risks

- 5.1 The financial risk of collapse of the successful bidder is considered low on the basis that they are out as 'below average risk' of collapse on the Experian credit score. The Council is only in direct contract with the successful contractor for PART 1 of the works which are being carried out in June 2021, therefore the risk of collapse in this timeframe is considered highly unlikely.
- 5.2 There are a number of risks as part of the delivery phase of any project. The risks that sit on the Council's side as part of the decant contract fall under standard clauses as part of the Joint Contracts Tribunal Intermediate Building Contract (JCT ICD) 2016.
- 5.3 The main delivery risks are:
 - Health and Safety. With any works at height or engineering works, health and safety remains a risk. This will be mitigated by robust method statements, risk assessments and provisions under the JCT ICD contract.
 - Condition of equipment for refurbishment. With any existing equipment, the condition for refurbishment remains unknown until the delivery phase. The council's technical team have

- carefully defined the equipment that is suitable to be refurbished, so this risk is considered low.
- Safety of equipment during its storage period. Insurance cover will be arranged to cover equipment during its storage and additional precautions to ensure its security taken.

6.0 Implications/Consultations

- 6.1 Procurement has led the procurement process, including the moderation of the tenders, and supported the recommendation identified at the start of this report. The Corporate Procurement Manager has provided the following comment: "The process followed has been compliant and has concluded that the contract should be awarded to the most economically advantageous bidder which is bidder C"
- 6.2 The Council's insurance officer reviewed the bidder's insurance levels and is happy with the insurance levels provided.
- 6.4 The Council's financial officer has reviewed the bidder's financial stability and is happy to proceed with the recommended bidder.

Community Safety

The contractor will comply with their legal Health and Safety requirements. The Council's contract manager will ensure compliance of the contractor with health and safety requirements.

Data Protection

This is covered under the JCT ICD contract

Equalities

An updated EIA will be completed when the main contractor is appointed for the refurbishment and reinstallation works

Environmental Sustainability

The Legacy and Growth Project is targeting 'BREEAM excellent' so the stage engineering contractor will need to comply with BREEAM requirements for the scheme

Financial

The finance team has been consulted during the evaluation of the tender returns

Health and Safety

The contractor will comply with their legal Health and Safety requirements. The Council's contract manager will ensure compliance of the contractor with Health and Safety requirements.

Human Resources

N/A

Human Rights

N/A

Legal

The Council's contract manager has been consulted on the proposed contract

Specific Wards

N/A

7.0 Background papers, appendices and other relevant material

7.1 Appendix 1 – Financial information (confidential)

7.2 Report no. 138 to Council, 25 July 2018:

<https://democracy.eastherts.gov.uk/documents/s45372/Hertford%20Theatre.pdf?j=5>

7.3 Report no. 181 to Council, 23 October 2019:

<https://democracy.eastherts.gov.uk/documents/s50442/Hertford%20Theatre%20Growth%20and%20Legacy%20Scheme%20-%20Design%20Proposals%20and%20Funding.pdf?j=2>

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