



East Street Refurbishment – Procurement and Delivery

SUMMARY

- 1.1 This report sets out the method for procurement and delivery of the East Street Refurbishment scheme. The major issues it seeks to address are:
- an early contractor appointment and associated waiver of Contract Procedure Rules in order to complete the construction work before the target date of September 2007
 - the form of contract that should be used.
 - The cost of delivery of the scheme
- 1.2 Subject to any issues to be raised, I support the following recommendations.

RECOMMENDATION

- 2.1 To approve the addition to the capital programme of the East Street Refurbishment scheme to the 2006/7 and 2007/8 capital programme at a total estimated cost for the two years of £2.1million subject to Council approval of the capital programme on the 1 March 2007.
- 2.2 To approve the waiver of standing orders and Tarmac National Contracting Limited be appointed as Principal Contractor.
- 2.3 To approve the procurement of the scheme via a jointly developed cost reimbursable contract with an agreed fee percentage for overhead and profit to be agreed with the Principal Contractor.
- 2.4 To approve the unsupported borrowing of £1.7 million towards the East Street scheme subject to Council approval of the capital programme on the 1 March 2007.

REASON FOR RECOMMENDATION

- 3.1 To provide funding for the East Street Refurbishment scheme.
- 3.2 To deliver East Street Refurbishment scheme before the opening of the Westfield Shopping Centre in September 2007.



DERBY CITY COUNCIL

COUNCIL CABINET 20 FEBRUARY 2007

Report of the Corporate Director of Regeneration and Community

Capital Strategy 2007/8 to 2009/10

SUPPORTING INFORMATION

1.1 On 19 December 2006 Cabinet approved:

- in principle the addition to the capital programme of the East Street Refurbishment scheme to the 2006/7 and 2007/8 capital programme at a total estimated cost for the two years of £1.6m, subject to Cabinet approval following receipt of tender prices
- the commencement of spending on the East Street refurbishment scheme design fees only, at a total estimated cost of £100k funded from corporate capital reserves.

1.2 The East Street pedestrian area needs refurbishing by next September. The completion of the scheme would coincide with the opening of the extended Eagle Centre which will create a huge surge in visitors to Derby. East Street is a primary pedestrian route and its current appearance does not reflect the image the Council wants to project for the city. The proposed project would remove clutter and refurbish East Street, Exchange Street and Albion St.

Appointment of Principal Contractor

- 1.3 In order to deliver completion of the East Street Refurbishment by the target date construction would have to commence on site in early March 2007.
- 1.4 For this commencement date to be achieved leaves insufficient time to carry out a detailed design followed by a tendering process. Therefore appointment of a contractor will be required via an alternative procurement strategy.
- 1.5 Various alternative procurement options have been investigated and are detailed in appendix 2. The recommended route is to award the contract to a strategic partner, Tarmac National Contracting Limited. Tarmac is currently working for the Council carrying out Highway Maintenance works on the Inner Ring Road Maintenance Scheme and was awarded this project via a tendering process. There are other contracting partners for the scheme but Tarmac have the strongest procurement connection being Principal Contractor for the Inner Ring Road Maintenance scheme.

- 1.6 Through discussions with the major material supplier for the scheme and other local authorities Tarmac has been highly recommended as providing a high quality scheme when dealing with the laying of Yorkstone paving.
- 1.7 Awarding the project to Tarmac would require the waiver of standing orders. This is seen as the best option as there is a strong procurement link to a previous tendering process.

Form of Contract

- 1.8 The contract strategy is best established by defining areas of risk. The overarching areas are Time, Quality, Whole Life Cost and Health and Safety. See Appendix 3 for a draft risk register.
- 1.9 For East Street Refurbishment project the key risks include:
- the contract could overrun
 - that quality delivered by the Contractor may not be to the required standard
 - that the overall cost of the scheme could exceed the budget.
- 1.10 Effective risk management would place the scheme risks with the party in the best position to manage those risks.
- 1.11 The normal payment options within a contract are:
- i) priced contract (with activity schedule or bill of quantities)
 - ii) target contract (with activity schedule or bill of quantities)
 - iii) cost reimbursable contract (with agreed contractors fee percentage)
- 1.12 Options i) and ii) would require the contractor to supply a price for the works prior to commencement with option ii) requiring an additional agreement stage to establish the target cost.
- 1.13 Option iii) would have the benefit of allowing the scheme to commence on time and allow early contractor involvement. This would enable build-ability issues and phasing to be established and allow early consultation with stakeholders.
- 1.14 The down side is that, other than an outturn estimate, the price is unknown at the point of award, but in many ways this is also the case in options i) and ii). Due to the nature of the works and as the site is likely to have undefined restrictions and/or instructed changes by the Engineer then no contract could provide price certainty.
- 1.15 It is therefore recommended that a cost reimbursable contract be used to cover these works.

Scheme cost and Funding

- 1.16 Since Cabinet last considered the scheme on 19 December, it has been possible to get a better understanding of the cost, and it is now expected that the total cost would be in the region of £2.1 million.

- 1.17 Through the current design process a number of constraints on delivery have been identified that has caused the initial scheme estimate to increase. As the design / investigation work would not be complete prior to construction commencing there is a risk that other constraints will be identified after a contract has been let.
- 1.18 Therefore it is not possible to provide a fixed cost for the construction of the scheme.
- 1.19 Design work to date and discussions with contractors has established a construction cost of £1.85m. With staff design time, supervision and a ten percent contingency it is recommended that a total project budget of £2.1 million be allocated.
- 1.20 The design stage has started at an estimated cost of £100k with funding now approved from corporate capital reserves.
- 1.21 The Council has applied for £250k funding from Derby and Derbyshire Economic Partnership towards the costs of the scheme. It is expected that the outcome of the bid will be known by the time of the cabinet meeting.
- 1.22 The Council already has £50,000 secured in a Section 106 Agreement with the Co-op as a contribution towards the scheme.
- 1.23 With the money already committed, secured and bid for, the capital sum required for 2007 would be £1.7 million.

OTHER OPTIONS CONSIDERED

2. Refer to appendix 2.

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Background papers:	None
List of appendices:	Appendix 1 - Financial Appendix 2 – Procurement Options Appendix 3 – Risk Register

IMPLICATIONS

Financial

1.1 On 19 December 2006 Cabinet approved:

- in principle the addition to the capital programme of the East Street Refurbishment scheme to the 2006/7 and 2007/8 capital programme at a total estimated cost for the two years of £1.6m, subject to Cabinet approval following receipt of tender prices, this was to be financed from corporate unsupported borrowing with a bid from DDEP for £250k awaiting approval.
- the commencement of spending on the East Street refurbishment scheme design fees only, at a total estimated cost of £100k funded from corporate capital reserves.

1.2 Since then a revision of costs has been undertaken and a breakdown of the funding and current status is shown below.

Funding	£000's	Status of funding
Corporate Reserves	100	Approved
DDEP	250	Awaiting approval
Section 106	50	In reserves
Unsupported borrowing	1,700	Agreed in principle £1.5m
	2,100	

1.3 This report seeks approval for unsupported borrowing of £1.7m. An unsuccessful bid for DDEP funding would increase the unsupported borrowing requirement to £1.95m.

Legal

2. None directly arising.

Personnel

3. None directly arising.

Equalities impact

4. None directly arising.

Corporate Priorities

5. The process set out for approval is intended to deliver a capital programme that is consistent with corporate objectives and priorities.

Procurement Options

i) Highways Term Maintenance Contract (HMTc)

The current contractor for the HMTc is Morrison Highway Maintenance (MHM). There is a strong procurement link to MHM as a detailed tender process has previously been carried out to establish best value.

The scope of this HMTc would not cover a scheme such as East Street.

The current HMTc expires on 3 Aug 2007 which is earlier than the programmed completion of the East Street works. MHM have tendered for the new HMTc but have not been successful and will not progress through to the later stages of the tender process.

Pros: strong procurement link

Cons: contractor does not have expertise in this type of work and, current HMTc expires 3 August 2007.

ii) Direct appointment of a single contractor

This would allow a quick route to appointing a contractor; to progressing works on site; to start establishing working arrangements; and to carrying out detailed consultation with stakeholders. It would also minimise staff costs in carrying out assessments of potential contractors. The significant risks to DCC are that the quality and cost of delivery are unknown. To establish that the contractor chosen was suitable, references for any potential contractor would be needed.

Pros: quick appointment route, early contractor input, early consultation.

Cons: no link to current DCC procurement process.

iii) Previously appointed contractor

Procurement rules allow award of a follow-on contract for similar type works of similar value to be directly awarded to a contractor, within one year of that award. There are currently no contractors that fall into this category. It may be an option therefore to extend the period of one year or remove the "similar nature" element in order to approach a contractor that has carried out work for DCC eg works carried out that included footways, carriageways, block and slab paving etc some three years ago.

Pros: previous tender process has been carried out to establish contractors' position within the industry as providing value for money and quality, quick appointment as above.

Cons: costs would not be linked to the previous contract.

iv) Use of another Local Authority's procurement process

By approaching local authorities/contractors that have carried out similar work and gone through an associated tender process, DCC would be able to demonstrate that

an assessment of the contractors quality and cost competitiveness has already been established.

Pros: previous tender process to establish contractors cost and quality, early contractor involvement benefits.

Cons: does not follow DCC procedures.

v) Use of a strategic partner eg, contractors for works at Westfield, IRRIMS, Connecting Derby

The national industry agenda is to drive forward improved efficiencies and early contractor involvement. This could be achieved by establishing a strategic partner who can deliver repeat business for a client whilst providing quality and a cost effective delivery.

The strategic partnering route could enable, not only the delivery on the East Street Refurbishment scheme, but also future projects. Strategic partnering would also reduce the cost of scheme delivery by eliminating the procurement process and establishing early contractor involvement.

Pros: early contractor involvement and associated benefits, procurement savings, future schemes could be delivered more efficiently.

Cons: no link to current procurement standing orders. Costs would not be linked to any previous contract. Need for references linked to specific scheme requirements.

Risk Register			
Risk	Effect	Risk to successful delivery	Mitigation
Working restrictions (time / location / access / etc) placed on the contractor by DCC as client and Highway Authority, and other stakeholders are not fully defined and may change through the construction process.	Delay to completion and additional cost.	High	Establish early contractor involvement to investigate potential restrictions to methods of working. Carry out as much consultation as time will allow prior to commencement on site
Statutory Undertakers Services that require diverting. This can be very time consuming as the work is carried out by the individual utilities contractors. Programming of this work can also produce delays.	Delay to completion and additional cost.	Medium	Establish costs and programmes from utilities prior to commencement of the main works.
Unexpected existing site conditions.	Delay to completion, additional cost and H&S issues.	Medium	Carry out as much site investigation works prior to commencement as time will allow. Engage early contractor involvement in order for them to speed up this process.
The extents of the scheme may change that would require additional works leading to additional costs and delays.	Delay to completion and additional cost.	Low	Ensure communication through the Prince 2 methodology defines the extents.
Unforeseen complications arising during the construction process requiring additional resources to keep the project on target.	Delay to completion and additional cost.	Medium	Carry out as much site investigation works prior to commencement as time will allow. Engage early contractor involvement in order for them to speed up this process.
Quality of workmanship could be affected by tight timescales and potential night working.	Quality Whole life cost	Medium	Ensure as much work is carried out during the day as possible. Ensure contractor sufficient resources. Carry out this prior to award of a contract.