

Edinburgh Tram - Appointment of Contractor for the Multi-Utilities Diversion Framework Agreement (MUDFA)

The City of Edinburgh Council

21 September 2006

1 Purpose of report

- 1.1 To report on the assessment of the tenders for the Multi-Utilities Diversion Framework Agreement (MUDFA) and to seek approval for **tie** to award the contract.

2 Summary

- 2.1 The first stage in the construction and delivery of the Edinburgh Tram Network is the diversion/protection of the utility plant along the route of the tram, in advance of the construction of the tram infrastructure.
- 2.2 **tie** have obtained the agreement of the major utility companies to the appointment of one contractor to undertake all of the diversion/protection works except for those which are deemed to be technically complex or sensitive.
- 2.3 **tie** has taken the procurement process for this contractor forward and selected a contractor through a tendering exercise. This contractor has submitted a competitive price and demonstrated that they are competent to undertake the work.
- 2.4 The MUDFA contract is in 2 stages: the first stage being the pre-construction phase which involves the MUDFA contractor and **tie** refining the scope and the costs of stage 2, the construction stage. Once these costs have been refined they will be fed into the business case which will be submitted to the Council for approval. This step has been allowed for in the MUDFA contract and the contract can be terminated during the pre-construction stage without penalty. Although it should be noted that the MUDFA contractors pre-construction costs would be required to be paid until the date of termination.

3 Main report

- 3.1 The objective of the MUDFA contract is to appoint a contractor who will act as a single point of responsibility for the construction works associated with the utility diversions which are required for the tram network.
- 3.2 **tie** has sought the agreement of the major utility companies and the owners of the utility plant to the concept of a single contractor undertaking the utility diversions. **tie** has entered into agreements with the various companies and these agreements set out the works which the MUDFA contractor will be permitted to carry out in respect of each organisations' apparatus, the standard of these works and the cost of the indemnities.
- 3.3 The utility companies have reserved the right to undertake works associated with high-pressure gas mains, high voltage power cables and certain telecom cabling works due to technical complexity and sensitivity. Some other minor utility companies such as telecom providers remain outwith MUDFA at this stage. The MUDFA contractor will be responsible for co-ordinating these works, which will be carried out by the minor utility companies or their contractors. The utility companies have provided **tie** with budgetary costs for this work.
- 3.4 In addition to the obligations relating to good industry practice and the MUDFA contractor carrying out the works to reasonable level of skill, care and diligence, the MUDFA contractor will be required to use best endeavours to
 - a Ensure a high level of safety to both the public and within the works
 - b Maximise construction productivity by reference to international best practice;
 - c Undertake the works in a manner which will minimise the delays and disruption to the travelling public and the business community;
 - d Minimise the diversionary works to any affected utility apparatus;
 - e Minimise out-turn costs.
- 3.5 The MUDFA contractor will work with the Systems Design Services provider for the Edinburgh Tram Network already appointed by **tie** to ensure that due consideration is given to buildability, optimum and cost effective construction methods and temporary traffic management.
- 3.6 The MUDFA contract is structured into 2 stages: stage 1 is the pre-construction services period where the MUDFA contractor works with **tie** and its consultants to refine the scope and refine the costs for stage 2, the construction phase. Information from the pre-construction phase will be incorporated into **tie's** final business case, which will be submitted to the Council and other key stakeholders for final approval. The MUDFA contract contains the right for **tie** to terminate the contract during the pre-construction stage without penalty, although it should be noted that the MUDFA contractors pre-construction costs would be required to be paid until the date of termination. Therefore the commitment to the construction stage will not arise until after approval of the final business case.

3.7 The procurement process for the appointment of a MUDFA contractor followed the statutory process set down within the European Union. The contract was advertised in the European Journal on the 30 September 2005 and following submissions of interest an assessment process was used to select four tenderers. The initial tenderers were :-

Balfour Beatty
United Utilities
Alfred McAlpine Infrastructure Services
Morgan Est (Morgan Est were subsequently joined by Thames Water in Joint Venture)

3.8 The four tenderers were required to submit the following information within their tender submission:-

- a Responses to a range of technical questions relating to method statements, safety, quality control, traffic management, stakeholder management and reinstatement;
- b A project programme
- c CVs for the project team
- d Priced bill of quantities
- e A fully marked up contract and schedules
- f A completed insurance questionnaire

3.9 Following the evaluation of the tender submissions two tenderers were selected to proceed to the Clarification and Refinement Process (CARP). The two tenderers selected to proceed to the CARP were superior in a number of categories including a significantly more competitive price and better value. CARP involved an intensive period of negotiation and the submission of a best and final offer from each of the two tenderers. The tenderers taken through to this stage were Alfred McAlpine Infrastructure Services and Morgan Est-Thames Water Joint Venture. As the contract award process is not complete, it has been necessary to use code names for commercial negotiation reasons to preserve the confidentiality of the preferred tenderer. The code names "Harris" and "Lewis" have been used by the tie during the CARP process and these names have been continued in this report.

3.10 Each tender and the CARP submission was evaluated by the tie team against robust evaluation criteria in the following key areas:-

- Technical & safety;
- Project team;
- Programme and project execution proposals;
- Commercial;
- Legal; and
- Insurance.

tie has produced a report entitled 'Evaluation of the ITN Tender Submissions for the Procurement of the Multi-Utility Diverions Framework Agreement (MUDFA) Contractor in respect of the Edinburgh Tram network dated 18 August 2006 ("the Evaluation Report"), which summarises the evaluation process. This report is a background paper to this report.

- 3.11 The result of this process was that the Lewis submission was deemed to be ahead of Harris in every category except insurance where both tenderers submitted similarly good proposals.
- 3.12 With regards to contract cost an analysis of the final offers are summarised in the following table (the tenders are expressed as a percentage of the pre-tender estimate) :

Description	% Score	Comments
Pre-Tender Estimate	100	
Harris	89.0	For acceptance within 90 or 210 days
Lewis	86.5	For acceptance within 210 days
Lewis	84.0	For acceptance within 90 days

- 3.13 It was not possible to finalise the scope of the work prior to the tender process and indeed this will not be finalised until the MUDFA contractor has been appointed and the deliverables set out for the pre-construction stage are fulfilled. However it is estimated that the total value of the contract will be in the order of £50 million and the pre-construction stage will be in the order of £1 million.
- 3.14 The Evaluation Report will have to be approved by the Scottish Executive before the MUDFA contract can be awarded. It will therefore be submitted to the Scottish Executive for consideration by Scottish Ministers once the Council has confirmed approval.

4 Financial Implications

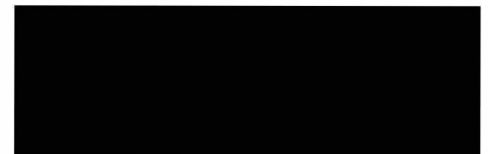
- 4.1 The cost of the MUDFA contract will be met from the overall tram funding package consisting of a £45m contribution from the Council and an index linked grant of £375m plus inflation uplift from Transport Scotland, as reported to the Council on 26 January 2006. An assessment of the overall affordability of the project will be included in appraisal of the Draft Final Business Case, which will be reported to the Council in December.
- 4.2 Should the Final Business Case be rejected, the Council will have to meet its share of stage 1 (pre-construction) from revenue budgets. This is estimated to be around £0.1m. The revenue costs associated with terminating the tram project will also be considered in the report on the Draft Final Business Case.

5 Conclusions

- 5.1 The MUDFA is drafted in a way that enables the contract to be awarded at present, prior to the approval of the Business Case for the tram, while still allowing the Council to terminate the contract in advance of the construction phase without penalty. This allows the project to proceed on programme while the Business Case is finalised and presented to the Council for approval.

6 Recommendations

- 6.1 It is recommended that the Council:
- a Grants approval to **tie** to appoint the contractor known as Lewis to undertake the MUDFA contract, subject to Scottish Executive approval
 - b Notes that the contract award complies with the Edinburgh Tram Network programme
 - c Notes that the information from the pre-construction stage will be required for the business case, which will be submitted to the Council for approval and that the MUDFA contract can be terminated during the pre-construction stage without penalty. Although it should be noted that the Mudfa contractors pre-construction costs would be required to be paid until the date of termination.



PP Andrew Holmes
Director of City Development

Appendices	None
Contact/tel	Duncan Fraser - 0131 4 [REDACTED]
Wards affected	All
Background Papers	tie report entitled 'Evaluation of the ITN Tender Submissions for the Procurement of the Multi-Utilities Diversion Framework Agreement (MUDFA) Contractor in Respect of the Edinburgh Tram Network' dated 18 August 2006