

ABERDEEN CITY COUNCIL

COMMITTEE	Enterprise, Planning & Infrastructure
DATE	6 th November 2012
DIRECTOR	Gordon McIntosh
TITLE OF REPORT	AWPR – Advance Works & Services
REPORT NUMBER:	EPI/12/242

1. PURPOSE OF REPORT

The purpose of this report is to inform Elected Members of the outcome of the appeal process and to seek approval to procure the Works & Services required in advance of the Main Works construction of the Aberdeen Western Peripheral Route (“AWPR”), including approval of the estimated expenditure relating to advance Works & Services .

2. RECOMMENDATION(S)

It is recommended that Committee: -

- (a) Note the disposal of the appeal against the decision of Scottish Ministers to approve the AWPR scheme by the United Kingdom Supreme Court;
- (b) Note the conclusion of the statutory approvals process for AWPR by Scottish Ministers in accordance with the Roads (Scotland) Act 1984; and,
- (c) Per Standing Order 1 (3), Members approve the procurement of the advance Works & Services detailed within the exempt information Annexe A to this report, deemed necessary to expedite the commencement of construction of the AWPR, and also approve the estimated expenditure for each contract (with a +10% allowance to account for variation in tender estimates).

3. FINANCIAL IMPLICATIONS

Funding for the AWPR has been the subject of agreement between Aberdeen City Council, Aberdeenshire Council and the Scottish Government with a signed Memorandum of Understanding. The Works and Services required for the AWPR will be paid for through this ongoing joint funding agreement, as detailed within report CG/12/08 by the Head of Finance to Full Council on 10th October 2012.

4. OTHER IMPLICATIONS

- 4.1 The delivery of the AWPR will achieve a number of the objectives and policies listed in Aberdeen City Council's "The Smarter City" policy statement and also the Single Outcome Agreement. This includes, for example, the provision of a sustainable transport system and promotion of Aberdeen as a city to invest, live, work and export from.
- 4.2 Environmental and sustainability issues associated with the AWPR were considered during the Environmental Impact Assessment of the proposed scheme as published in the 2007 Environmental Statement, and examined during the subsequent Public Local Inquiry (PLI) and with appropriate mitigation measures being confirmed within the Ministerial Decision Letter of 21st December 2009.

5. MAIN ISSUES

- 5.1 With the judgment of the UK Supreme Court on 17th October 2012 (Case Reference: UKSC 2012/0098), the appeal by Mr. William Walton against the decision of Scottish Ministers of 21st December 2009 to approve the AWPR was unanimously dismissed, and the AWPR scheme has now completed its statutory authorisation process.
- 5.2 Aberdeen City Council, in its capacity as the appointed Agent of Scottish Ministers in relation to the AWPR scheme, published a Prior Information Notice ("PIN") on 19th October 2012 in the Official Journal of the European Union ("OJEU") and the Public Contracts Scotland web portal relating to the Main Works construction contract of the AWPR scheme.
- 5.3 In order to, variously, de-risk specific elements of the scheme; meet on-going ecological and environmental commitments; and, to facilitate the earliest possible commencement of construction of this long delayed scheme, it is proposed that a range of advance Works & Services are procured and delivered to ensure that the AWPR is delivered in as short as possible timeframe.
- 5.4 Members should note that, per Standing Order 1(6)(b), Chief Officers of the Council approved the expenditure and acceptance of a Supplementary Ground Investigation tender, following advertisement in OJEU (reference 2012/S 20-032228), notwithstanding the fact that the amount of the tender was marginally in excess of the original estimated expenditure amount to meet the exigencies of the Service.
- 5.5 Aberdeen City Council's Standing Orders in Relation to Contracts and Procurement (approved by Full Council on 30th June 2010 – Article 15 refers) and Financial Regulations shall apply to all Works and Services procured. This includes adherence to the European Treaty principles of transparency, equal treatment and non-discrimination, proportionality

and mutual recognition which apply to all procurement activity regardless of value.

- 5.6 Where the estimated or aggregated value of contracts is within 10% of the relevant European Union (“EU”) threshold, and/or where the contract may potentially be of interest to economic operators elsewhere in the EU, then such contract opportunities will be advertised in the OJEU. Where the estimated or aggregated value is below this threshold, then contracts (and all sub-contracts) will be advertised via the Public Contracts Scotland (www.publiccontractsscotland.gov.uk) web portal.
- 5.7 The utilisation of the Public Contracts Scotland portal for the advertisement of all sub-OJEU threshold contract opportunities has the potential to expose contract opportunities to Scottish and other Small to Medium Enterprises (and, of course, secure better value for money for Aberdeen City Council as a purchaser). This is especially important in the current difficult economic climate and in addition to ensuring consistency with the existing EU procurement law requirement that contracts should be the subject of “adequate publicity”.
- 5.8 The anticipated advance Works & Services to be procured are listed in Annexe A elsewhere within Elected Member’s report pack. It is important to note that Annexe A contains exempt information as described in paragraph 8 of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973, enacted by the Local Government (Access to Information) Act 1985, and is therefore not included within the main body of this report as were it to do so, there would be disclosure to the public of exempt information as defined in the Schedule.
- 5.9 This is because the report refers to the amount of expenditure proposed to be incurred by the Council for a number of contracts for the provision of works and services (including, amongst others, archeological services, ecological and other advance works) where disclosure to the public of the amount herein referred to would be likely to give an advantage to a person or organisation entering, or seeking to enter, a contract with the Council.
- 5.10 Approval is sought to go out to tender for each contract specified in Annexe A and approval of the estimated expenditure (with a +10% allowance to account for variation in tender estimates) in accordance with Council Standing Order 1 (3).
- 5.11 It should be noted that the above Services and Works are entirely separate from the Main Works contract which is the subject of a separate OJEU procurement process as outlined in report EPI/12/056 to Members of this Committee dated 31st January 2012 (Article 46 refers).



6. IMPACT

- 6.1 Corporate - The AWPR will provide access to the Park & Choose and rail freight transfer sites around the periphery of Aberdeen and improve access to national and European transport networks, reducing the peripherality of the Aberdeen City and Shire. It will remove traffic from unsuitable rural and urban roads in and around Aberdeen and will improve road safety. By cutting congestion it will reduce journey times and improve journey time reliability.
- 6.2 Public - The AWPR will provide a boost to the north-east economy increasing business, employment, leisure and tourism opportunities.

7. BACKGROUND PAPERS

None.

9. REPORT AUTHOR DETAILS

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