

Report of Minerals Waste and Contaminated Land Manager

Report to Director City Development

Date: 13th August 2014

Subject: Procurement of works to install a bridge and build a section of cycleway at Skelton, Leeds and manage and maintain both

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Garforth and Swillington	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. Funding has been obtained to make a start on the proposed Temple Newsam to Rothwell Cycleway. The full route needs to overcome two problems – crossing the River Aire and crossing the canal.
2. A scheme has been devised to take the cycleway across the river on a new purpose made bridge which will connect this new route to the Trans Pennine Trail. The sequence of works needed to install the bridge involves a number interlocking elements of work.
3. It makes practical sense to let the entire works as a single contract, together with the duty on the contractor to maintain both the cycleway for 25 years and the bridge for 40 years. A single provider, Sustrans (a cycling charity) is equipped to undertake these works.

4. Recommendation

The Director of City Development is recommended to approve the waiver of the following Contracts Procedure Rule(s):

CPR 9.1, and 9.2 and award a contract to Sustrans in the sum of £394,860.

1. Purpose of this report

- 1.1 This report explains that the council wishes to procure the fabrication of a steel bridge and its installation across the river at Skelton, together with a short length of connecting cycleway. It explains that the most effective means of procuring these works is via a contract with the cycling charity Sustrans.
- 1.2 To approve the report to waive Contract Procedure Rules 9.1 and 9.2 and award a contract to Sustrans in the sum of £394,860 without subjecting the matter to competition.

2 Background information

- 2.1 The council has been seeking a way to cross the valley in this vicinity for 28 years. The proposed cycleway route between Temple Newsam and Rothwell requires a means of crossing both the River Aire and the Aire & Calder Navigation (the canal). A feasibility study in 2011 examined different options for crossing the river both in cost terms and our ability to deliver each taking into account such matters as land ownership and access. This route with a bridge over the river where there is a weir was judged to be affordable within the budget, on council land and with fewest access issues to address.
- 2.2 The Capital Scheme includes funding originally of £450,000 obtained from the Coal Authority of which £31,000 has been spent repairing the bridleways which form the northern approach to this proposed cycleway.
- 2.3 There are numerous elements to this project/ work of crossing the river including:
 - Securing a right of passage over adjacent land for plant and equipment
 - Carrying out ground investigations (incl. drains and culverts) of the route and the location of the bridge
 - Repairing and strengthening a 1.5 mile access track to accept the weight of heavy vehicles
 - Constructing a cycleway across a flood relief channel
 - Designing a suitable bridge and procuring its fabrication by competitive tender (The charity would be the owner of the bridge)
 - Designing and constructing foundations for the bridge
 - Managing the delivery of the bridge to site and its installation across the river
 - Constructing a further section of cycleway
 - Managing the two lengths of cycleway for 25 years and ensuring they are kept in reasonable condition
 - Deploying volunteers to assist and advise users and carry out tasks such as litter picking.
 - Managing the bridge for 40 years and making sure it is kept safe and in reasonable condition, removing graffiti etc.

The feasibility looked at unit costs for reinforcing tracks to take the weight of machinery, the cost of installing foundations and the cost of fabricating and installing a similar bridge in the Manchester area. In discussion with Sustrans and on the basis of

information provided by them and evaluated by officers with experience of this type of work this gave an assessed cost of up to £318,801 and a further £76,059 will be used to fund maintenance over 40 years. This latter figure is derived from an NPV Analysis of the annual maintenance liability of the bridge totaled over 40 years. This construction cost is anticipated to be the worst case scenario and if there is good weather at the time the works are carried out it is likely that some of this cost will not be incurred. As stated elsewhere, any underspend will in any event be returned to the council.

- 2.4 Planning permission for the work was obtained in July 2013 and since then officers have been working on ways to deliver the scheme. Assistance has been obtained from the cycling charity Sustrans, with whom the council has a successful record of partnership working on other lengths of cycleway. The charity owns and manages over 1500 bridges of a very wide range of size and style in England and manages hundreds of miles of cycleways.

3 Main issues

Reason for Contracts Procedure Rules Waiver

- 3.1 Only the council and Sustrans are known who can design, construct, own and manage all elements of this project.
- 3.2 Three internal service providers have been asked if they wish to be considered for the work, as a whole, for the budget available. Sufficient documents were sent to Property Maintenance at Seacroft, Parks & Countryside Service and Highways department and asked to indicate any interest within two weeks. The former has declined and no indication received from the others.
- 3.3 It should be appreciated that the works are not an assemblage of distinct tasks which can be bolted together. They overlap and interlock and would be most efficiently carried out as a whole. For example, it is the weather which will dictate the works necessary to reinforce the access track and the manager should be free to decide what level of work is appropriate and not for a specific standard to be achieved regardless. It should be understood that any and all underspend will be returned to the council and not retained by the contractor, which would be the case in a commercial tender situation. Sustrans would also manage and maintain the works and own the bridge, which, if procured any other way, they would not be able to do.
- 3.4 A specified bridge could be designed by others and procured but the design to be used is tried and tested and its construction will in any case be subject to competitive tender and Sustrans will be required to demonstrate this. The bridge will be delivered to site once constructed by the winning contractor. Given the specification, others could design and construct the bridge foundations, though this is a small element of the works. However, the way all the works are integrated would mean that whoever takes responsibility for the bridge would have to perform the whole works as well as maintain and manage them for 40 years.

- 3.5 Upon assessment by Rights of Way, Transport Policy and Bridges officers the cost of the works provided by Sustrans was found to represent value for money, based on previous work the council has commissioned.
- 3.6 Other than the bridge and the commuted sum costs the next biggest item is aggregate including concrete, most of which will be placed over a geotextile membrane. These materials will be obtained competitively from suppliers in Leeds. It is worthy of note that the project would not have got this far by this date without expert contributions from Sustrans' engineers for which no charge has been made. As a Sustrans delivered project the cycleway will benefit from management and public liaison from Sustrans' Volunteers and from Sustrans' publicity via its web site.
- 3.7 In summary, it is considered that this project should be delivered as one piece of work so that the whole exercise is effectively managed by one provider ensuring that all parts of the projects are delivered within the agreed budget and timescales. Sustrans has delivered similar schemes satisfactorily for the authority examples of which include Thorp Arch-Walton Cycleway, Yeadon-Guiseley Cycleway and a section of the Aire Valley Cycleway. Their proven track record and financial stability provides confidence that the organisation can sustain the longevity of the maintenance required as part of this scheme. In this sense there is no organisation able to deliver this work other than the council itself, theoretically, acting as project designer, project manager and maintainer of the works created.

Consequences if the proposed action is not approved

- 3.8 It is absolute imperative that this work be completed within and preferably lower than the budget available. In view of expertise within Sustrans and its willingness to engage in developing the scheme at no cost to the project the scheme has been brought to the point of procurement without erosion of the budget.
- 3.9 In view of there being no identified single provider of both the works and the management requirements of this project (other than Sustrans) the only other means of delivering the works and management in their entirety would be either;
- (a) to devise a full set of tender documents for the entire works and management including the provision of and maintenance of the bridge for 40 years and submit to tender the whole project or,
 - (b) break down the project into discrete parts and commission them separately.
- 3.10 Tendering the whole works would require more information about the physical environment for example more extensive and detailed surveys. This would add substantially to costs. Sustrans has already evaluated the terrain and the estimates take this into account.
- 3.11 Breaking the project down so parts could be opened up to other parties to bid would require a similar level of documentation and also require the appointment of a separate project manager to co-ordinate everyone again at significantly greater

cost to the scheme. The potential for disputes over elements of the work between contractors is also opened up.

- 3.12 Both these alternatives would add to costs and also delay further the works taking place. As the Wyke Beck Way is now complete it is unable to achieve its potential until these works are also complete.
- 3.13 Lastly, Sustrans would not be able to operate and manage the cycleway as well as provide and maintain the bridge if they are constructed by a third party to standards that do not meet Sustrans' requirements and which have not been closely monitored by them during the works. Thus Sustrans would not bid for any of the works, which would be a perverse outcome, given that they are the acknowledged leaders in this field of expertise.

4 Corporate Considerations

4.1 Consultation and Engagement

An officer project group was reconvened in 2010 to take forward this project. At the time LCC did not even own the land. Group comprised of Asset Management, Transport Policy, Parks & Countryside, Planning Service and Sustrans, with support from Legal Services. Consultation and liaison has taken place with the Environment Agency, Yorkshire Water Services, RWE Npower, the Canal and River Trust and the Wyke Beck Valley forum. Local members and the cabinet member have been kept apprised as things have developed. The anticipated works were subjected to publicity during the course of the planning application process in 2013.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 Due regard has been taken to equality as part of this proposal. This additional section of cycleway is essentially the provision of cycling infrastructure, which can also be used as a public footpath and is open to everyone equally... The new path will be of benefit to relevant protected characteristic persons also such as people pushing prams and people in wheelchairs in view of the smooth running surface and absence of obstructions (e.g. lamp posts). There are no steps and the maximum gradient is quite shallow.

4.3 Council Policies and City Priorities

- 4.3.1 Development of the core cycle network supports the Local Transport Plan objectives to improve connectivity to support economic activity and improve the quality of life through the Healthy and Wellbeing City Priority Plan – helping people be more active.
- 4.3.2 Completion of Stages 1 and 2 of this project will link the city north to south and provide access from both ends into the Trans Pennine Trail. and hence into the city centre and also into the large employment areas of Cross Green. This waiver only applies to Stage 1.

4.4 Resources and Value for Money

- 4.4.1 The project has been priced based on a physical evaluation of landform and an understanding of the work which will be required. As a one-off project the main comparators are unit costs for groundworks and bridge costs based on the fabrication of similar bridges elsewhere. The bridge design is based on one fabricated for a scheme in Stockport. The groundworks costs fall within an expected price range and the bridge estimate is provided by Sustrans, a leader in the provision of cycleway bridges.

Financial provision exists for the carrying out of these works and the budget includes maintenance for 40 years.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 This report is a significant operational decision and is not subject to Call In. There are no grounds for treating the contents of this report as confidential with the Council's Access to Information Rules.
- 4.5.2 In approving this waiver without subjecting the contract to competition, there is a risk of challenge to the Council that it has not been transparent, as other potential providers have not been given the chance to tender for this opportunity. It is suggested, due to the matters set out at section 3 above, that the risk of challenge is low in this instance.
- 4.5.3 Although there is no overriding legal obstacle preventing the waiver of CPR 9.1 and 9.2, the above comments should be noted. In making their final decision, the Director of City Development should be satisfied that the course of action chosen represents best value for money.

4.6 Risk Management

- 4.6.1 There is not considered to be a significant risk associated with the fulfillment of a contract between Sustrans and the council, in view of the charity being an experienced contractor of this type of work. On the other hand tendering the whole of the works or tendering each element separately runs the risk of a significant escalation in costs, contract issues where different elements of work carried out by separate contractors connect and thirdly the inability of the council to recoup any underspend. The main risk is the weather – which would apply equally to each way of procuring the works.

5 Conclusions

- 5.1 The cycling charity Sustrans is willing and able to carry out all parts of this contract within the budget available and can demonstrate that it has successfully carried out similar and identical works elsewhere, including for Leeds City Council. Due to the matters set out at part 3 of this report it is considered that only Sustrans is able and willing to carry out the full works for this scheme. There are considerable financial and logistical advantages from entering into this contract with Sustrans as a sole provider which are set out in this report.

6. Recommendation

- 6.1 The Director of City Development is recommended to approve the waiver of the following Contracts Procedure Rule(s):

CPR 9.1, and 9.2 and award a contract to Sustrans in the sum of £394,860.

7 Background documents¹

- 7.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.