

Report of Leeds FAS Project Manager

Report to Director of City Development

Date: 11 August 2014

Subject: Leeds Flood Alleviation Scheme – Report to Waiver Contract Procedure Rules for Waste Management

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|--|---|--|
| Are specific electoral Wards affected? If relevant, name(s) of Ward(s): | <input type="checkbox"/> Yes | <input checked="" 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? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: 10.4 (3) Information relating to the financial or business affairs of any particular person (including the authority holding that information). Appendix number: A and B | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

Summary of main issues

- 1 The Leeds Flood Alleviation Scheme (LFAS) is a high priority project for the City which has the aim of defending the city centre against a 1 in 75 year river flood event and the significant physical and economic damage that can result from flooding. Since becoming the Lead Flood Authority (LLFA) and taking the coordinating role of this project in Autumn 2010, the Council has continued to work with partners to develop proposals, secure external funding and drive down costs. In line with the Council's Best City ambitions, the scheme will ensure and support the further growth and regeneration of the Leeds economy, particularly in the South Bank area and also protect key transportation infrastructure and the high quality public services it supports. The movable weirs at Crown Point and Knostrop will place Leeds at the cutting edge of national flood defence schemes. The use of pioneering technology will be the first of its kind in the UK, thus raising the profile of Leeds both nationally and internationally.
- 2 Since the abandonment of the original 1 in 200 year Environment Agency (EA) scheme in 2011 on cost grounds, there has been rapid progress of this alternative scheme in terms of assembling the financial package and developing the detailed design proposals. In February 2012, the scheme cost estimate was in the region of £76m (EA's Alternative Options report dated August 2011). The expectation now is that the scheme will be delivered within the funding package of £44.8m. This report seeks approval to negotiate and enter into a contract with a recipient of the surplus material from the LFAS.

Recommendations

3. The Director of City Development is recommended to approve the waiver of Contract Procedure Rules 3.1.23, 9.1, 9.2 and 18.7 to:
 - I. enter into negotiations with LRM Properties Ltd to ensure the best terms of the agreement are reached (CPR 3.1.23); and
 - II. enter into a contract with LRM Properties Ltd for them to be the recipient of the surplus material generated from the LFAS – without subjecting the contract to competition (CPR 9.1 and 9.2); and
 - iii prior to I and ii above issue a set of Heads of Terms signalling the intention of the Council to enter into contract with LRM Properties Ltd (CPR 18.7).

1 Purpose of this report

- 1.1 To approve the waiver of Contract Procedure Rules 3.1.23, 9.1, 9.2 and, 18.7 to;
 - I. enter into negotiations with LRM Properties Ltd to ensure the best terms of the agreement are reached (CPR 3.1.23); and
 - II. enter into a contract with LRM Properties Ltd for them to be the recipient of the surplus material generated from the LFAS – without subjecting the contract to competition (CPR 9.1 and 9.2); and
 - III. prior to I and ii above issue a set of Heads of Terms signalling the intention of the Council to enter into contract with LRM Properties Ltd (CPR 18.7). These heads of terms are attached at Appendix B.

2 Background information

- 2.1 The City Council, EA and other organisations, including Canal & River Trust (CRT) are working to progress the LFAS. The approved scheme includes conveyance improvement provided by merging the river channel with the Knostrop Cut over a 580m reach upstream of Knostrop Weir (Knostrop Cut is part of the Aire & Calder canal which runs parallel to the River Aire at this location) and partial re-grading of the river between the South Accommodation Road bridge and Knostrop weir.
- 2.2 It was previously assumed that some of the arisings from these works would be re-used on site, some disposed of off-site at commercial rates and, based on discussions at the time, that around 100,000m³ would be deposited at a CRT owned Woodlesford landfill site. However it has now been confirmed that the CRT site is not licenced to accommodate this and that the material type which is covered by the licence would result in a charge to the scheme.

3 Main issues

Reason for Contracts Procedure Rules Waiver

- 3.1 In efforts to lessen the magnitude of unused spoil materials being exposed to land fill and the subsequent environmental detriment and financial consequence this would produce. The Executive Board in April 2014, were informed of on-going discussions

between officers and developers of the former Skelton Grange Power Station site to achieve a constructive and sustainable solution.

- 3.2 In order to mitigate the risk of arisings from the scheme being solely transported to landfill, costing in the region of £7.2m, work has progressed in an effort to reuse, where possible, as much of the material in close proximity to the scheme.
- 3.3 A study was undertaken on riverside locations due to be redeveloped. This identified the former Skelton Grange power station site which is in close proximity to Knostrop Cut. By utilizing the arisings at this location for site reclamation purposes and bringing forward the potential early redevelopment of the currently defunct site (Planning Permission ref 11/03705/FU), this would have positive benefits of reducing both the landfill costs to the scheme and the overall carbon footprint. Summary details of this are included as Option 2 with the attached Appendix A.
- 3.4 Other options were also considered. The next closest possible alternative site to Skelton Grange is the Woodlesford site operated by CRT. A gate fee has been proposed by the operator and the cost estimate, including any associated enabling works and transport costs are included in Option 1 in Appendix A.
- 3.5 Other alternative sites were typically located 5 to 10 miles from the work site. While no formal discussions have been undertaken with the operators of these sites, a gate fee has been estimated based on recent experience. The transport cost of disposing to these more remote sites is included in the estimate outlined in Option 3 in Appendix A.
- 3.6 The early procurement of the waste management option will reduce the risk of uncertainty in tender prices and potential for mark-up on costs, assist the spend profile of the scheme ensuring crucial funding is secured, as well as reducing the risk of delay to timescales. It is considered that by issuing the heads of terms, which set out the principal terms and conditions (attached at Appendix B), there will be sufficient confidence between the parties to enter the final agreement, thereby enabling resources to cease investigating alternative options and commit to acquiring all remaining consents and statutory approvals. Within the heads of terms, Leeds City Council costs have been limited whilst the contract remains unsigned.

Consequences if the proposed action is not approved

- 3.7 The removal of Knostrop Cut is critical to the scheme approved by the Executive Board on 4 April 2014. If these works are delayed, the city centre will not benefit from the proposed level of flood protection and the programme timescales attached to the allocated funding would not be adhered to.
- 3.8 If the arisings from the scheme were to be solely transported to landfill, the estimated cost to the Council is £7.2m. Following consideration of the alternative options included as Appendix A by the scheme's Project Board on 27 February 2014, the Project Sponsor decided that Option 2 should be progressed.

Advertising

- 3.9 This contract will not be subject to a competitive exercise due to the fact LRM Properties Ltd hold the ownership of the area affected by Option 2 and therefore there is no alternative but to contract with them if this is the option being progressed.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1. The scheme project board is in full support of the recommendations contained in this report.
- 4.1.2. Central Procurement and Highways & Transportation Procurement have been consulted on the content of this report.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 Due consideration to equality has already taken place as part of the Corporate Procurement Process. It is currently not applicable to carry out an EDCI screening or impact assessment at this time.

4.3 Council Policies and City Priorities

- 4.3.1 The scheme is consistent with the aims contained within the Council's Priority Plan and Business Plan, including:
- (i) Best City for business – supporting the sustainable growth of the Leeds economy through safeguarding jobs in the area to be protected by flood defences, and provision of direct jobs through delivery of the construction work.
 - (ii) Best City for health and well-being – supporting people to live safely in their homes. There are approximately 3,000 residential properties and 500 businesses in the floodplain of the River Aire. Much of the key infrastructure for Leeds including the Inner Ring Road and key access routes to the train station area, telecommunications and broadband facilities, and sub stations are also within the flood plain. Most of the residential properties are situated in blocks of flats on floors raised above flood level and so whilst the contents of these buildings are not at risk, the residents are vulnerable to the disruption caused by temporary loss of access. 154 businesses and 53 residential properties in central Leeds would be directly exposed to floodwater during a 1 in 75 year event and a further 101 residential properties downstream at Woodlesford.
 - (iii) Best City to live – enabling growth of the city whilst protecting the distinctive green character of the city. The scheme is within the high profile waterfront area and has a civic importance. It will also need to fit within its urban context and create a sense of place and identity.
 - (iv) Best City Region – The LFAS protects accessibility to the new south Leeds train station entrance, thus contributing to the Vision for Leeds 2030 by safeguarding the city region transport strategy by encouraging the use of sustainable travel choices to reduce congestion and progress towards a lower carbon economy.

- (v) Strong nationally and internationally – The movable weirs at Crown Point and Knostrop will make use of pioneering technology which will be the first of its kind in the UK, thus raising the profile of Leeds nationally and internationally.

4.4 Resources and Value for Money

- 4.4.1 The estimated cost associated with the recommended option is £977,000. Approval to incur this expenditure was contained in the report to the Executive Board approved on 4 April 2014.
- 4.4.2 Appendix A details options considered, and records the likely financial saving and value for money opportunity this option provides.

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.
- 4.5.2 The appendices to this report are confidential and exempt from publication in accordance with Access to Information Procedure Rule 10.4 (3), which exemption relates to: “Information relating to the financial or business affairs of any particular person (including the authority holding that information)”.
- 4.5.3 Awarding a contract direct to LRM Properties Ltd without seeking competition may leave the council open to challenge from other providers that they have not been given an opportunity to bid for this work. However, the value of contract does not exceed the EU threshold for works and due to the fact that the Council have no alternative but to enter into a contract with LRM Properties Ltd for use of the Skelton Grange site the likely risk of challenged is deemed to be very low.
- 4.5.4 Although there is no overriding legal obstacle preventing the waiver of CPRs 3.1.23, 9.1, 9.2 and 18.7 the above comments should be noted. In approving this report, , the Chief Officer (Highways & Transportation) should be satisfied that the course of action chosen represents best value for money.

4.6 Risk Management

- 4.6.1 There is significant risk that if the progression of the scheme is delayed, difficulties will be encountered in achieving the deadlines and funding could be withdrawn.
- 4.6.2 LRM Properties Ltd need to obtain a new planning consent and statutory approvals from the EA. Parties affected by this have been engaged and the anticipated programme is as follows:

| Activity | Timescale |
|---|----------------------------|
| Waste Recovery Plan Approval in Principle | 21 July – 4 August 2014 |
| Planning Consent | During September 2014 |
| Use of Construction Permit Approval | 4 August – 3 November 2014 |

5 Conclusions

- 5.1 By utilizing the former Skelton Grange power station site, the landfill costs and the overall carbon footprint of the scheme are lower than any other identified option, whilst bringing forward the potential early redevelopment of the currently defunct site.

6 Recommendations

- 6.1 The Director of City Development is recommended to approve the waiver of Contract Procedure Rules 3.1.23, 9.1. 9.2 and 18.7 to:
- I. enter into negotiations with LRM Properties Ltd to ensure the best terms of the agreement are reached (CPR 3.1.23); and
 - II. enter into a contract with LRM Properties Ltd for them to be the recipient of the surplus material generated from the LFAS – without subjecting the contract to competition (CPR 9.1 and 9.2): and
 - iii prior to I and ii above issue a set of Heads of Terms signalling the intention of the Council to enter into contract with LRM Properties Ltd (CPR 18.7)

7 Background documents¹

- 7.1 None

8 Appendices

- 8.1 Appendix A – Waste Management Options

- 8.1.1 Appendix B – Terms

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.