

**Request a waiver of CPR rule 9.1 and 9.2 to appoint Ove Arup & Partners Ltd to provide highways and transportation expertise to undertake the Highways Study - Sheepscar, Mabgate and Eastside commission, using the Highways and Transportation Services Major Schemes Framework (DN429683)**

Date: 22<sup>nd</sup> of March 2024

Report of: Principal Transport Planner (Project)

Report to: Head of Engineering & Infrastructure

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

## **Brief summary**

1. The City Region Sustainable Transport Settlement (CRSTS) is a funding agreement between the Department for Levelling Up, Housing and Communities (DLUHC) and the West Yorkshire Combined Authority (WYCA), with £8,000,000 allocated for engineering works to improve road safety and reduce casualties on roads within Leeds.
2. Alongside this, Leeds City Council in partnership WYCA, DLUHC and Homes England, has developed the 'Leeds Transformational Regeneration' (LTR) partnership focusing on the economic, social and physical growth of the city and in particular, accelerating new infrastructure, housing delivery and innovative funding strategies in six neighbourhood areas of Leeds City Centre. Two of these extend over the areas across Sheepscar, Mabgate and Eastside.
3. This commission will support the work of the Regeneration, Highways and Transportation teams on the CRSTS and the LTR Programmes for the eastern part of the city centre. The commission is to be funded by grant to the Council from the Government's Levelling Up Fund.
4. This major schemes framework involved a competitive tender through the OJEU procedure. All activities relating to this procurement are being executed in accordance with the Public Procurement Regulations 2015 and the LCC Contract Procedure Rules.
5. The Council has previously worked with Ove Arup & Partners Ltd across projects in the Regeneration, Highways and Transportation Services and has a positive experience of working relationships and the work produced. It is considered that Ove Arup & Partners is a class-leader in this area of work and can draw on international expertise from within its own

business and through associate relationships with others to ensure the highest quality of new thinking and challenge can be brought to this work. Ove Arup & Partners has acquired an embedded knowledge of the area through this prior work, something not replicable through a new appointment. This commission intends to build upon this, and subsequently the Council wishes to obtain these services to ensure quality outputs for the LTR programme to achieve deliverable projects, investible propositions and secure longer term sustained investment in place.

## **Recommendations**

The Head of Engineering and Infrastructure is recommended to:

- a) Note the scope and programme of the commission as summarised below and detailed in the Exempt Appendices of the report.
- b) Waiver of CPR rule 9.1 and 9.2 and award a contract using the Leeds City Council Highways and Transportation Services Major Schemes Framework (DN429683) to appoint Ove Arup & Partners for highways and transportation services for the Highways Study for the provision of the outputs specified within the 'Scope of Services' for this commission (Exempt Appendix 1).
- c) To note the contract start date will be the 28th March 2024, and the work will be instructed using an agreed scope of services, details of which are in the Exempt Appendices, with a fixed fee agreed of up to £100,000 from the City Region Sustainable Transport Settlement.

## **What is this report about?**

- 1 This report is seeking authority to waive of CPR rule 9.1 and 9.2 and appoint to Ove Arup & Partners (Arup) to provide highways and regeneration advice as specified in the Scope of Services using the Leeds City Council Highways and Transportation Services Major Schemes Framework (DN429683).
- 2 Leeds City Council (the Council) has an ambitious transport strategy, which aims to make Leeds 'a city where you don't need a car' and 'where everyone has an affordable and accessible zero carbon choice in how they travel'. The strategy sets out targets to increase the use of sustainable transport modes, reduce car use and adopt a Vision Zero approach to road safety aiming to eliminate deaths and serious injuries on roads in Leeds by 2040. Leeds has a track record of delivering ambitious sustainable transport schemes, which have helped to achieve this vision through rebalancing streets to prioritise sustainable transport and public realm over motor vehicle traffic.
- 3 The City Region Sustainable Transport Settlement (CRSTS) is a funding agreement between the Department for Levelling Up, Housing and Communities (DLUHC) and the West Yorkshire Combined Authority (WYCA), with £8,000,000 allocated for engineering works to achieve these ambitions, improve road safety and reduce casualties on roads within Leeds.
- 4 Alongside this, the Council is delivering a programme of work to shape a ten-year vision and delivery framework to unlock growth and regeneration in the city. This work is focussed on the city centre and city rim neighbourhoods to bring forward economic growth and housing growth opportunities, transformation of the built-environment and taking a whole place approach to ensure the delivery of vibrant and liveable places that work for all the city's residents and businesses. This work will also be important in helping to shape the Local Plan Review 2040 and the identification of the key regeneration moves needed to affect sustainable and high-quality city centre growth.
- 5 Sheepscar, Mabgate and Eastside has been identified as an area for study as part of the CRSTS programme and one of the six neighbourhoods as part of the LTR programme.
- 6 The Council does not have the full capacity or expertise to meet the requirements of the Sheepscar, Mabgate and Eastside Highways commission to deliver this work in-house
- 7 It is recommended that an external organisation, with a track record in highways and transportation strategy, is appointed to meet this need within the timescales required.
- 8 The Council will use the outputs from the Highways commission as a basis for driving and securing partnership interventions from across the public sector; for supporting collaboration with landowners, developers and investors; to shape planning policy and to inform a wider joined up vision for city centre growth and regeneration; for engagement with community stakeholders, interest groups and central government and its agencies.

- 9 To help bring forward solutions, Leeds City Council will appoint the services of a highways and transportation team to undertake the Sheepscar, Mabgate and Eastside Highways study, a detailed 'Scope of Services' for this commission is included at Exempt Appendix 1.
- 10 .
- 11 Arup has a proven track record of delivery, with local offices and proven understanding of the highways and transportation demands and opportunities in the city. It has demonstrated through prior commissions that it is highly capable of producing work to the required quality.
- 12 Arup is considered to be a class-leader in this area of work and is also able to draw on international expertise from within its own business and through associate relationships with others to ensure the highest quality of new thinking and challenge can be brought to the city. This commission intends to build upon this, and subsequently the Council wishes to obtain these services to ensure quality outputs for the CRSTS and LTR programme to enable a regeneration plan that can secure longer term sustained investment in place.
- 13 The Council has previously commissioned a highway study examining the majority of the Sheepscar, Mabgate and Eastside area - the Eastern Area Study – funded under CRSTS programme. Arup was appointed under Leeds City Council Highways and Transportation Services Major Schemes Framework (DN429683) to undertake this study. The Eastern Area Study set out a series of proposed interventions to the strategic highways network. Arup has therefore developed comprehensive and detailed knowledge and spatial expertise relating to Sheepscar, Mabgate and Eastside. It is considered that this further Highways study will expand on that work.
- 14 The proposed Highways study has significant interdependencies with the planned LTR commission, and the two pieces of work would have high value, efficiency and effectiveness if they took place concurrently. The LTR commission will rely on input and findings from the highway study, and the LTR commission will also contribute to shaping the highways outcomes, so that the commissions are symbiotic. Ideally the Highway Study consultant team would work very closely with the consultant team undertaking the LTR commission.
- 15 This lends significant weight to the proposal to appoint Arup to the Highways study. An integrated consultant team from within the same business will bring a clear and joined up understanding of the area's challenges and a golden thread connecting suggested interventions to an evidence base. It will offer significant efficiencies to both pieces of work including minimising risk, ensuring an integrated and holistic design solution and delivering time and cost benefits.
- 16
- 17 Waiver of CPR rule 9.1 and 9.2 and undertake an appointment under Leeds City Council Highways and Transportation Services Major Schemes Framework (DN429683) represents best

value for money where rates have been tested through a framework, which frontloads competition and negotiation.

- 18 Direct appointment is considered appropriate in order to assist in meeting the timeframes associated with the LTR external funding, where the outcomes of the Highway Study will be used as a basis for the development of a Regeneration Framework – it is a condition of the LTR government grant for this work, received in late February, that the work is contracted within the current financial year. There is not sufficient time to carry out a full procurement exercise.
- 19 Failure to adhere to the funding timescales may result in the funding being lost for the city, and the work not being undertaken to the quality required.
- 20 Suppliers ON Leeds City Council Highways and Transportation Services Major Schemes Framework (DN429683) were invited to submit a competitive tender for the Highways and Transportation Services Major Schemes Framework through the OJEU procedure in response to both quality (70%) and price (30%) criteria. The submissions were then assessed to determine three preferred suppliers, one of which is Ove Arup & Partners.
- 21 All activities relating to the procurement of the Highways and Transportation Services Major Schemes Framework were executed in accordance with the Public Procurement Regulations 2015 and the LCC Contract Procedure Rules. This represents best value for money and rates have been tested through a framework, which frontloads competition and negotiation. This allows for a quick appointment to be made and enables continuity from the original work.

**A fee proposal prepared by Arup is attached at Exempt Appendix 2 of this report. The fee proposal includes the details of the sub-consultants that will support the team in order to meet the expertise required for this commission. This includes a programme demonstrating how the team will meet the timescales required and a pricing schedule. What impact will this proposal have?**

- 22 This proposal will mean that the Council has access to the resources and expertise required to undertake the work and achieve the key deliverable outlined in Exempt Appendix 1. This will be used by the Council to support collaboration and delivery and to maximise opportunities for regeneration by planning investment which makes a greater contribution to the city's social and economic objectives.
- 23 This commission will have a key interface with the LTR commission and will influence and be informed by this emerging work. This work will also be an important input into the shaping of the Leeds Local Plan 2040 Review and the identification of the key regeneration moves needed to affect city centre growth.

**How does this proposal impact the three pillars of the Best City Ambition?**

Health and Wellbeing       Inclusive Growth       Zero Carbon

24 This proposal will contribute towards achieving all three pillars of the Best City Ambition

- **Health and Wellbeing** – This commission will set out a range of highway design options which will contribute towards improving the health and wellbeing of existing and future residents

including promoting active travel, interventions to the highway network to reduce air pollution and enhancing green and blue infrastructure.

- **Inclusive Growth** – This commission will be informed by a robust socio-economic baseline analysis and will set out interventions which will identify opportunities to support the city’s inclusive growth ambitions including physical and social inclusivity.
- **Zero Carbon** - This work will identify opportunities which seek to reduce carbon emissions and improve environmental sustainability, including re-imagining the highway network, promote public transport and enhance active travel provision.

### **What consultation and engagement has taken place?**

Wards affected: Burmantofts & Richmond Hill, Little London & Woodhouse, Chapel Allerton, Gipton and Harehills and Hunslet & Riverside

Have ward members been consulted?       Yes                       No

25 The Leader of the Council and Executive member for Sustainable Development and Infrastructure have received regular briefings and updates on the Leeds Transformational Regeneration proposals and are supportive of the approach.

26 Ward members have been briefed on the overall LTR programme and will be engaged in more detail as this work progresses, as with all relevant stakeholders.

### **What are the resource implications?**

27 The Regeneration Service will client the project and provide input to the project alongside colleagues from other Council departments, including Planning, Highways, Economic Development, Asset Management, Projects and Programmes and Land and Property.

28 Arup will be responsible for sub-contracting and managing the interface with the sub-consultants working on this project and therefore additional resource is not required by the Council for this.

29 The project will be funded through the CRSTS Programme which is funded by grant from the DLUHC.

### **What are the key risks and how are they being managed?**

30 A number of factors have been considered including:

- The funding is provided by central government and the project must meet the timescales required for spend. Approving the direct appointment from the framework will mean the Council and wider LTR partnership would have access to essential external skills and knowledge to progress the work to the timescales noted above. If not approved, the funding would be lost for the city.

- Given the fast-moving nature of this work, work not being delivered to the required quality also poses a risk to this work. This is being mitigated by defining clear and quality outputs from the outset. Regular reviews will be set in place throughout the commission and open communication with the project team and the client team will address any concerns promptly, with a clear link through to internal governance and assurance.
- There may not be sufficient internal capacity from the Council to resource, contract manage and client the work. To mitigate this, key personnel will be identified to resource this work and expected outputs and responsibilities will be communicated with the project and client team.
- There is a finite, externally funded, budget for the work. On this basis there cannot be overruns on the work which lead to additional fee. The consultant team will flag issues of this nature early and will work to a clear scope and set of outputs. Additional work will be identified and may form a separate scope at a later point.

### **What are the legal implications?**

31 All activities relating to this procurement are being executed in accordance with the Public Procurement Regulations 2015 and the LCC Contract Procedure Rules. The Council is proposing to make a direct appointment of Arup based on the reasons outlined in this report as a direct award.

32 The specification including cost options are exempt or confidential under the access to information rules detailed in the constitution. The appendices 1 and 2 are exempt for the following reasons as outlined in the Council's constitution at part 4(f), and at 10.4 (3). This notes that 'It is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed, due to information relating to the financial or business affairs of any particular person (including the authority holding that information).' The scope contains cost information, that is commercially sensitive, and would therefore disclose information relating to the commercial position of external organisations. The scope also includes confidential information relating to the business activities of LTR partners, which at this point in time are subject to non-disclosure agreement with the Council. For these reasons, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

33 Awarding the contract directly to a single supplier could leave the Council open to a potential claim from other suppliers to whom this contract could be of interest, in that it has not been wholly transparent. In terms of transparency, it should be noted that case law suggests that the Council should always consider whether contracts of this value could be of interest to contractors and, if it could, the opportunity should be subjected to a degree of advertising. It is up to the Council to decide what degree of advertising is appropriate. In particular, consideration should be given to the subject-matter of the contract, its estimated value, the specifics of the sector concerned (size

and structure of the market, commercial practices, etc) and the geographical location of the place of performance.

34 The Chief Officer (Highways and Transportation) has considered this and because Ove Arup & Partners have defined specialisms and historical knowledge of works previously completed or ongoing, the Chief Officer is of the view that the scope and nature of the services is such that it would not be of interest to other providers. It is considered that the risk of challenge, identified at paragraph 33 above, is low.

35 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 the final decision, the Chief Officer (Highways and Transportation) should be satisfied that the course of action chosen represents best value for money.

## **Options, timescales and measuring success**

### **What other options were considered?**

36 A number of other options were considered but rejected including:

- Option 1 – Carry out a new procurement exercise. This option was discounted as it would not be possible under the timescales for delivering outputs required for the LTR programme and would not align with the spend requirements of the project.
- Option 2 – Internal production of the Highways Study - Sheepscar, Mabgate and Eastside. This option was discounted due to insufficient internal capacity, resource and expertise to produce a framework within the timescales required.
- Option 3 - The need to 'do nothing' option was considered and rejected as this would not meet the Council's ambitions and the funding would be lost for the city.

### **How will success be measured?**

37 Success will be measured on Arup completing all elements of the commission as set out in Exempt Appendix 1 to the required budget and within the agreed timescale.

### **What is the timetable and who will be responsible for implementation?**

38 The consultants will be appointed by the 28th March 2024. The initial contract duration is approximately 25 weeks followed by a period of stakeholder engagement undertaken by the Council (length of time to be determined). Following completion of the engagement, the consultant will be required to make any relevant amendments to the report.

39 The Head of Regeneration will be responsible for implementing the contract management.

## **Appendices**



- **Exempt Appendix 1** – Highways Study - Sheepscar, Mabgate and Eastside Scope of Services
- **Exempt Appendix 2** – Fee Proposal
- **Appendix 3** – Reason for Waiver

#### **Background papers**

- None

## Appendix 3

### What is your reason for waiving CPRs?

There is a genuine, unforeseeable emergency meaning there is no time to go through a procurement process e.g. to deal with the consequences of extreme weather.	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
To purchase supplies or services on particularly advantageous terms due to liquidation/administration.	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Requirement to put a contract in place with a current provider whilst a review of the services is completed.	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Ran out of time to undertake a new procurement exercise	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<p>Other (please provide summary here)</p> <p>Appointing Ove Arup and Partners to achieve the LTR time constraints and working with the Regeneration team to utilise existing contacts, knowledge and expertise built up over a number of years regarding the many complex issues around the Sheepscar, Mabgate and Eastside areas.</p>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No