Report to Chief Officer (Highways and Transportation)

Date: 27 March 2018

Subject: Report to seek a waiver of CPR 8.1 and 8.2 to enter into a contract with TRL Software Sales for the upgrade of Junctions 8 modelling software to the latest version Junctions 9 without seeking competition.

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	☐ Yes	☒ No
Are there implications for equality and diversity and cohesion and integration?	☐ Yes	☒ No
Is the decision eligible for Call-In?	☐ Yes	☒ No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	☐ Yes	☒ No

Summary of main issues

1. Junctions Software by TRL is the industry standard software for modelling of give way and roundabout junctions and is used by Developer's in their Transport Assessments to support major developments and infrastructure changes in Leeds, thus supporting the delivery of a good and efficient transport infrastructure which directly links with the Best Council Plan Priority of 'Transport and Infrastructure' and outcome of 'moving around an well-planned city easily'.

2. Junctions 9 is the latest version of the software which Developers are using but the Council currently only has Junctions 8 which is not fully compatible with the latest software. This software upgrade is required to enable the Transport Development Services, Traffic Engineering and Site Development teams to make use of the latest software for the checking and assessment of junction operation.

3. Whilst there are many alternative software options for traffic signal design and operation the Junctions software (incorporating ARCADY and PICADY) is the industry standard for the design and assessment of give way and roundabout junctions.

4. The Chief Officer of Highways and Transportation is requested to approve the waiver of Contract Procedure Rules 8.1 and 8.2 to enable the upgrade to Junctions 9.

Recommendations

The Chief Officer (Highways and Transportation) is requested to:

i) Waive Contract Procedure Rule 8.1 and 8.2 – Intermediate Value Procurements – and approve entering into contract with TRL Software Sales for an upgrade to Junctions 9 at a cost of £11,505.52 +VAT for the 4PC Network upgrade, without seeking competition.

1. Purpose of this report

1.1 This report sets out the reasons for recommending that the Chief Officer (Highways and Transportation) approves the waiver of Contract Procedure Rule 8.1 and 8.2 to enter into contract with TRL Software Sales for an upgrade to provide Junctions 9 at a cost of £11,505.52 +VAT for the 4PC Network upgrade without seeking competition.

2 Background information

2.1 Junctions 9 is a junction modelling software package and is the latest version of this industry standard model used to demonstrate junction operation in new or existing junctions of the roundabout or give way type.

2.2 This software package is used by Developer's to demonstrate how well a junction operates and whether additional traffic from proposed development / future year growth can be accommodated by the existing junction or whether improvements are needed.

2.3 The Council currently has Junctions 8 which is the previous version of the software but Developer's submissions on Junctions 9 are not fully compatible with this older version of the software.

2.4 The main user of the Junctions software is Transport Development Services as a checking tool for Developer submissions, but staff from Site Development and Traffic Engineering have also been trained in the use of the Junctions software to enable their designs and impacts to be fully assessed.

3 Main Issues

3.1 Reasons for Contracts Procedure Rules Waiver

3.1.1 Junctions is the industry standard junction modelling software. It consists of the programmes ARCADY, PICADY and OSCADY, for assessment of roundabouts, give way junctions and traffic signals. The Transport Development Services team only make use of the ARCADY and PICADY functions as UTMC favour the assessment of signals using LINSIG or TRANSYT modelling software.

3.1.2   The waiver report therefore only relates to the upgrade to Junctions9 for the ARCADY and PICADY functions of the software.

3.1.3   Transport Assessments are submitted with major Planning Applications to demonstrate the highways and transportation effects of the proposed development. The Transport Development Services team review the assessment provided including reviewing submitted models to ensure they accurately reflect the junction designs and flows. Without the appropriate modelling software the team can not run input files.

3.1.4   Developer's only submit give way and roundabout junction assessment using the Junctions software programme, even if there was alternative junction modelling software available it would not be compatible with the submissions received on Junctions9.

3.1.5   The Transport Development Services team also provide Expert Witness Advice in Planning Inquiries and often need to provide junction analysis to support the Council's Highways case. For roundabout and give way junctions this Junctions software is essential.

3.1.6   To be able to respond appropriately to Developer's and their Transport Consultants the Transport Development Services team needs access to the up to date software relevant to their submissions. This will enable better dialogue with Transport Consultants and quicker, better outcomes for resolving highways matters on major developments in the City.

3.2   Consequence if the proposed action is not approved

3.2.1   If the Junctions9 upgrade is not approved the team will continue to have access to Junctions8 but this software is not fully compatible with and does not have some of the new features available with Junctions9. Reputationally the Council is also seen to be behind the rest of the industry.

4   Corporate Considerations

4.1   Consultation and Engagement

4.1.1   No consultation has taken place outside the teams involved.

4.2   Equality and Diversity/Cohesion and Integration

4.2.1   The proposals requested in this report have no direct impact on any of the equality characteristics as it is purely an administrative function and therefore, it is not applicable to carry out an equality, diversity, cohesion and integration screening at this time.

4.3 Council policies and City Priorities

4.3.1 The ability to deal with Developer submissions quickly and fully enables timely planning permissions to be granted which supports the Council's aspiration for Inclusive Economic Growth.

4.4 Resources and value for money

4.4.1 Funding will be provided through the ICT Budget in Highways and Transportation.

4.5 Legal Implications, Access to Information and Call In

4.5.1 This decision is a significant operational decision and is not subject to call-in but will be published by the Council. The report does not contain any exemptions or confidential information under the 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 from other potential providers that it has not been wholly transparent and that they may have been unfairly denied the chance to tender for this opportunity. In terms of transparency it should be noted that European case law suggests that contracts of this value should be subject to a degree of advertising if it is considered that it would be of interest to contractors operating in another Member State. 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.

4.5.3 The EU case law has been considered in this and, due to the nature of the product, with Junctions Software being the recognised industry standard for junction design and assessment for roundabout and give way junctions, there is no viable alternative currently available. It is considered that the scope and nature of the services are such that it would not be of interest to contractors in other EU member states.

4.5.4 There is a risk of an ombudsman investigation arising from a complaint that the Council has not followed reasonable procedures, resulting in a loss of opportunity. Obviously, the complainant would have to establish maladministration. It is not considered that such an investigation would necessarily result in a finding of maladministration however such investigations are by their nature more subjective than legal proceedings.

4.5.5 Whilst making the decision, the Chief Officer (Highways and Transportation) should acknowledge the risks identified above.

4.5.6 Although there is no overriding legal obstacle preventing the waiver of CPR 8.1 and 8.2, the above comments should be noted. In making their final decision, the Chief Officer (Highways and Transportation) should be aware of

the risk of challenge to the Council and be satisfied that on balance the course of action chosen represents Best Value for the Council.

4.6 **Risk Management**

4.6.7   As identified in section 4.5 above, there is a risk to the Council in awarding a contract directly in this way. However, the Chief Officer (Highways and Transportation) considers that the risks are outweighed by the benefits of awarding a contract and the resource/value for money implications of doing so.

4.6.8   It is considered that in terms of the risk of challenge to the procurement route of this contract, the Council has taken steps to mitigate this. The contract, given its value, falls outside any remit of the EU Procurement Regulation beyond the duty to act transparently, fairly and non-discriminatorily that applies to all contracts.

5   **Conclusions**

5.1   The upgrade to Junctions9 junction modelling software is necessary to maintain an appropriate level of service in the review of Transport Assessments and modelling of new schemes.

6   **Recommendations**

6.1   The Chief Officer (Highways and Transportation) is recommended to:

i.   Waive Contract Procedure Rule 8.1 and 8.2 – Intermediate Value Procurements – and approve entering into contract with TRL Software Sales for an upgrade to Junctions 9 at a cost of £11,505.52 +VAT for the 4PC Network upgrade, without seeking competition.

7   **Background documents**[1]

7.1   None.

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[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.