

**Report of Head of Projects and Programmes****Report to Chief Officer Culture and Sport****Date: 17<sup>th</sup> April 2019****Subject: Proposed new Gym and Middleton Leisure Centre**

Are specific electoral wards affected? If yes, name(s) of ward(s): Middleton Park	<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?	<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: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**Summary of main issues**

1. On February 13<sup>th</sup> 2019 Leeds City Council Executive Board approved an injection of funds into Capital Scheme 33055 and provided Authority to Spend from this scheme to fund the provision of a new gym at Middleton Leisure Centre.
2. In accordance with Contracts Procedure Rule 3.1.6, this report seeks approval of the strategy to procure a contractor to carry out the works from the Yorbuild2 framework, based on an evaluation model of 100% cost criteria.
3. The proposed works support the Best Council Plan 2018/19-2020/21 in particular the priority area of Health and Wellbeing by supporting healthy and physically active lifestyles.

**Recommendations**

The Chief Officer Culture and Sport is recommended to approve:

- The proposed procurement strategy to procure a contractor through the Yorbuild2 Framework and the call for competition process as set out in paragraph 4.5.5 of this report.
- The proposed evaluation model of 100% of marks based on cost.

## **1. Purpose of this report**

- 1.1 The purpose of this report is to seek authority for the strategy and evaluation model to procure a contractor in line with CPR 3.1.6 through a call off under the Yorbuild2 Framework for a new Gym at Middleton Leisure Centre.
- 1.2 The report outlines the process of, and seeks approval for, the procurement of a contractor to construct a new gym and carry out modifications to Middleton Leisure Centre via the Yorbuild2 framework, and provides information on the tender process to demonstrate compliance with Contract Procedure Rules with regard to the proposed procurement process.

## **2. Background information**

- 2.1 On February 13<sup>th</sup> 2019 Executive Board approved an injection of £1.146m, inclusive of fees and contingency into capital scheme 33055 and authorised expenditure of the same amount for the construction of a new gym at Middleton Leisure Centre.
- 2.2 The proposal is to develop a new 75 station gym and re-modelled entrance area at Middleton Leisure Centre.
- 2.3 The leisure market is substantial, and increasing revenue now offers the service a significant contribution to sustainability. The proposed works at Middleton will contribute to improving the service wide revenue position.
- 2.4 Middleton Leisure Centre is ideally located within the Middleton Park Ward which is an area of high population density, including a new private housing development within 10 minutes travel time. Levels of physical activity are low as demonstrated in studies showing Adult Participation in Sport and Active Recreation in the Leeds area.
- 2.5 The proposal to construct a new gym and re-model the Leisure Centre entrance are based on learning/insight about physical inactivity. The proposal would improve staff interaction with users, and encourage a broader range of participants. The gym will increase throughput and therefore income for the centre and will allow more local people to access the centre and improve their health through physical activity.

## **3. Main issues**

- 3.1 The procurement of a contractor to carry out the works at an estimated construction cost of circa £865,000 will need to be a robust and considered process to ensure the Council receives a tender that can deliver the best value for money and complete the works within the programme.
- 3.2 This report seeks authority under CPR 3.1.6 for the procurement of a contractor to carry out the construction works to Middleton Leisure Centre. It is proposed that this will be carried out under a call for competition from Yorbuild2 Framework under Lot2.
- 3.3 Following a procurement workshop on 18<sup>th</sup> June 2018 attended by NPS Leeds, and officers from Procurement, Active Leeds and Asset Management it is proposed to utilise an evaluation model of 100% of the evaluation marks on cost. It should be noted that all of the contractors in the Yorbuild2 framework have already been evaluated on quality criteria relevant to this project. The risks associated with this

construction are assessed as low by the project team and fully designed packages will be issued at tender stage.

- 3.4 The strategy to procure a contractor via a single stage traditional route was proposed at the procurement workshop referred to above and agreed by the Sports Capital Programme Board on 8<sup>th</sup> October 2018.
- 3.5 NPS Leeds have been appointed to complete the design, develop supporting tender documentation and manage the subsequent contracts for the development of the Gym.
- 3.6 Middleton Leisure Centre will remain open and operational throughout the work, with alternative entrances to be provided whilst a new entrance is developed.

#### **4. Corporate considerations**

##### **4.1 Consultation and engagement**

- 4.1.1 The Executive member for Environment and Active Lifestyles was consulted on the 17<sup>th</sup> December 2018 and is supportive of the proposals for a new Gym at Middleton Leisure Centre.
- 4.1.2 Ward members for Middleton Park were consulted on 21<sup>st</sup> December 2018 and are supportive of the proposals for a new Gym at Middleton Leisure Centre.

##### **4.2 Equality and diversity / cohesion and integration**

- 4.2.1 An equality screening exercise has been carried out. The outcome is that an Equality Impact Assessment is not appropriate for the approvals requested in this report.

##### **4.3 Council policies and best council plan**

- 4.3.1 The procurement in this report will contribute to the Best Council Plan 2018/19-2020/21 and in particular the priority area of Health and Wellbeing by supporting healthy and physically active lifestyles.
- 4.3.2 Best City Plan (2015-20) – one of the 20 priorities is “promoting physical activity”
- 4.3.3 The proposal also contributes to the Health and Wellbeing strategy by tackling health inequalities.
- 4.3.4 Sports Leeds Strategy (2013-2018) – tackling health inequalities is firmly embedded as a key concern, their aim to support “the inactive” to become active.
- 4.3.5 Health and Wellbeing strategy (2016-2021) – physical activity is one of only 12 priorities for the Leeds Health and Wellbeing Board (and the only lifestyle risk factor identified individually within a specific priority) – “more people, more physically active, more often”.
- 4.3.6 Spending money wisely through competitive tendering.
- 4.3.7 Working with communities and Best City for communities.

#### 4.4 Resources and value for money

- 4.4.1 This procurement will be carried out in an open and transparent manner in line with Public Contract Regulations and Contract Procedure Rules, whilst ensuring competition is sought to identify best value throughout the works and contract term.
- 4.4.2 The contractor will have relevant skills, technical expertise and knowledge that will ensure all works are completed with regards to Health & Safety and environmental consideration. The works will operate on the agreed tender price with clear costs and ways of working laid out in the tender process.
- 4.4.3 The proposed 100% cost evaluation will ensure that value for money is prioritised and quality will be safeguarded through the completeness of the design and tender documentation and the selection of a contractor from the Yorbuild2 framework.

#### 4.5 The Procurement Options

- 4.5.1 **Do Nothing** – The funding approval and authority to spend on the proposed works was provided by the Executive Board on 13<sup>th</sup> February 2019 as a key decision. CPR rules now require a procurement exercise to be carried out. Work is due to start on site in August 2019 and a contractor needs to be in place to achieve the timescales laid out in paragraph 4.5.6 below.
- 4.5.2 **Internal Service Provider** – In line with CPR 3.1.4 the Internal Service Provider have been approached to carry out the work and are unable to support with the nature of the construction work and the timeframes needed for the work to be completed.
- 4.5.3 **Waive Contracts Procedure Rules** – The value and scope of the works requires that a competitive tender process is adhered to allowing the Council to specify a contractor at the most cost effective price. The process of a Waiver may open the Council to challenges from contractors that were not invited through a fair tendering process. This challenge could then delay the construction and lead to an extra costs being incurred outside of the budget.
- 4.5.4 **Procure using LCC Tender** – this route would provide an opportunity to test the market through a competitive exercise. A pricing document, specification and architects plan/drawings would be provided by NPS (the architect planning the works). Contractors would be chosen from the Constructionline Government approved list of contractors via expression of interest. These suppliers are pre-qualified and this would make it easier for LCC to select suppliers suitable for the works and focus on the price competition of the tender. This route is to be considered if an expression of interest (EOI) from contractors on the Yorbuild2 framework (which is the preferred council option for works of this specification) are not able to bid for the work or do not respond to the EOI.
- 4.5.5 **Procure using Yorbuild2 Framework (Recommended)** – this framework will allow Leeds City Council to have a call for competition with eight (8) suppliers that are listed in Lot 2 (£250,000-1,000,000) of the Yorbuild2 Framework West. These suppliers have been through a competition involving a balance of cost and quality to attain places on this framework. The use of Yorbuild2 approved framework is the Council's default approach for major refurbishment and new build. An expression of interest was issued to all suppliers in Lot 2 of the Framework and seven (7) of the contractors responded positively to being considered and tendering for the works. All seven of the contractors have the technical capability and capacity to carry out

the work, should they be successful in the tender stage. The proposed timetable for the this procurement is below;

<b>Date</b>	<b>Process</b>
13 <sup>th</sup> February 2019	Key Decision Approved (Design and Cost Report)
17 <sup>th</sup> June 2019	Tender Out
29 <sup>th</sup> July 2019	Tender Closed
2 <sup>nd</sup> August	Tender Evaluation completed
30 <sup>th</sup> August 2019	Contract Award
9 <sup>th</sup> September 2019	Work Starts
April 2020	Work completed

#### **4.6 Legal implications, access to information and call-in**

- 4.6.1 The recommendations contained in this report constitute a Significant Operational Decision under articles 13.4.b and 13.5.b of the Council's constitution as they are the consequence of a previous key decision and are not eligible for call-in.
- 4.6.2 There are no grounds to keep the contents of this report confidential under the Access to Information Rules.

#### **4.7 Risk management**

- 4.7.1 There is a risk that the tendered price may exceed the available budget. The proposed competitive tender exercise based on 100% cost evaluation will mitigate this risk and an appropriate level of contingency and risk premium has been included in the cost estimate.
- 4.7.2 A risk register will be maintained and managed throughout the project.
- 4.7.3 Surveys have been arranged including; a demolition and refurbishment asbestos survey, CCTV draining survey, ground investigation survey and utility scan to minimise the risk of unknown factors arising during construction.
- 4.7.4 Procurement risks include no suppliers returning a tender, which will be mitigated by using Yorbuild2 framework which contains 8 suppliers who have been selected due to their capabilities to complete works of this specification and price. Initial enquiries with 8 suppliers will be made with an expression of interest.
- 4.7.5 Delay to works – this will be mitigated by providing a programme with the tender documents. The procurement process will ensure time is available as a contingency so that any delays in this process do not impact on awarding contract and start dates.

## **5 Conclusions**

- 5.1 Having regard to the nature of the proposed works, the programme constraints of the project, the Councils approach to risk transfer, and the desire as far as possible to achieve cost certainty, the report advises that the preferred option is that the Council should pursue the appointment of a contractor via a call to competition with the suppliers in Lot 2 of the Yorbuild2 framework.
- 5.2 This will allow a contractor to be appointed after an open and transparent tender process has taken place to ascertain the best supplier by price to carry out the works to the specification and standards required by Leeds City Council.

## **6 Recommendations**

- 6.1 The Chief Officer Culture and Sport is recommended to approve:
- The proposed procurement strategy to procure a contractor through the Yorbuild2 Framework and call for competition process as set out in paragraph 4.5.5 of this report.
  - The proposed evaluation model of 100% of marks based on cost.

## **7 Background documents<sup>1</sup>**

- 7.1 None.

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<sup>1</sup> 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.