

**Report of Chief Officer (Highways and Transportation)**

**Date: 09.06.20**

**Subject: Report to seek a waiver of CPR 8.1 and 8.2 to enter into a contract with Matchtech and Hydco Ltd for specialist advice on the Strategic Flood Risk Assessment without seeking competition**

Are specific electoral wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If yes, name(s) of ward(s):		
Has consultation been carried out?	<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
Will the decision be open for call-in?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, access to information procedure rule number:		
Appendix number:		

**Summary**

**1. Main issues**

- The use of Hydco Ltd highly specialised expertise will enable the Strategic Flood Risk Assessment to be delivered in an effective and timely manner and provides the best value for money for the Council whilst enabling it to meet the Best Council Plan 21st Century Infrastructure commitment.
- A Strategic Flood Risk assessment (SFRA) is required by Leeds to advise both the Council and Environment Agency on potential areas of flood risk both in terms of planning applications and current and future site allocations. This is a complex and multi-agency task that requires expertise and deep knowledge of different hydraulic models, mapping and datasets utilised for this work.
- Hydco Ltd are able to provide a niche specialism in terms of the mapping and modelling expertise for an SFRA and an initial soft market testing has provided a very limited response and demonstrated the very specialist advice that Hydco Ltd can offer.
- The current SFRA (2007) is now significantly out of date due to many changes since its creation, this includes changes to the base flood maps, Climate Change predictions and the FAS schemes.

## **2. Best Council Plan Implications**

- The use of Hydco Ltd to provide specialist support for undertaking an SFRA in Leeds will enable Leeds City Council to maximise the benefit of having modelling expertise within the FRM team to assist project management. In doing so, it supports the Best Council Plan priorities of 21st -Century Infrastructure and Inclusive Growth.

## **3. Resource Implications**

- The technical expertise provided by Hydco will maximise utilisation of existing resources and identify cost savings within the scoping of the brief and the management of consultants.

## **Recommendations**

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

- a) Waive Contract Procedure Rule 8.1 and 8.2 – Intermediate Value Procurements – and approve entering into contract with Matchtech and Hydco Ltd on a six month basis from the 4th May 2020 until 31st October 2020 (up to an expected maximum value of £35k) without seeking competition.
- b) approve the expenditure on the procurement of work by consultants listed in a.)

### **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 a contract with Matchtech and Hydco Ltd until 31st October 2020 without seeking competition.

### **2. Background information**

- 2.1 The Leeds Strategic Flood Risk Assessment is now significantly out of date (2007) and should be updated after major flood events and/or significant flood alleviation scheme implementation or new climate change policies. In addition to these and crucially since 2015, Leeds City Council acts as the Lead Local Flood Authority with a direct responsibility for planning, mapping and managing surface water flood risk. This change has made others (i.e. the Environment Agency) reluctant to invest on the surface water flood risk and mapping. This necessitates that local authorities including Leeds to take a more proactive role in preparing up-to-date and reliable flood data bases/maps and local guidelines (e.g. SFRA) to appropriately allocate land for development and tackle urban flood risk in more effective way in a longer time frame.
- 2.2 There is an urgent need and requirement for an updated SFRA in collaboration with Planning, however a key impediment to its progression has been having the very specialised and niche expertise to aid development the brief and utilisation of existing resources. The utilisation of the Hydco expertise would now enable the progression of that work to progress at pace.

### **3. Main issues**

- 3.1 Whilst the above explains the importance of a SFRA and why one is required, undertaking a SFRA is a complex, timely and costly process and has been delayed due to the complexity of the task and the co-ordination of various stakeholders. In order to help move this forward and potentially reduce costs, the utilisation of technical expertise has been required to assist with the understanding and coordination of the work which is why Flood Risk Management are requiring the expertise of Hydco Ltd.
- 3.2 A comprehensive SFRA is estimated to be a costly process in part due to the updating and new modelling of watercourses which may be required to be undertaken. In examining how costs may be reduced, the proposal is for Hydco Ltd to assist with the assessment and assimilation of the existing information. For example FRM and the Environment Agency possess a range of valuable mapping and data sources which could be utilised as part of this process.
- 3.3 To maximise the use of these and internal expertise, it is proposed that the project management of the SFRA requires both experience of working on SFRA's but also has significant modelling expertise and advice. Hydco Ltd provides the modelling expertise to assist with the scoping of the SFRA modelling, undertake the hydraulic modelling, updating the existing flood maps and resourcing the optimum external resources required and assist project management of the production of the SFRA. Also Hydco provides significant technical understanding and experience with regards to Climate Change scenarios.

### **3.4 Reasons for Contracts Procedure Rules Waiver**

- 3.4.1 Hydco Ltd (Dr Vahid Tayefi) possesses a doctorate in flood modelling (specifically development of 2D flood modelling and assessment of climate change impact on flood risk) and his research included the development of a 2D flood model currently being used by the Environment Agency for producing the national flood maps and will be utilised as part of the SFRA work. Dr Tayefi has undertaken and led a range of nationally recognised flood-related frameworks including SFRA (with local authorities) and CFMP (Catchment flood management plans, Environment Agency). He has worked with the EA on the development of a number of flood related guidelines and have reviewed many projects on behalf of public bodies (e.g. EA, councils).
- 3.4.2 Hydco Ltd has extensively worked on the impact of climate change on flood risk in the UK. As a significant part of the SFRA, Hydco Ltd is expected to provide specialist support in defining and implementing the climate change scenarios for updating/producing surface water flood risk maps (Existing the EA surface water maps do not take the impact of climate change into account). Specialist support by Hydco Ltd in this respect will maximise the use of in-house resources for creating these maps as potential cost savings.

### **3.5 Consequence if the proposed action is not approved**

- 3.5.1 If LCC were not to draw upon the support services of Hydco Ltd, the Council would not have the opportunity:
- to deliver and updated SFRA for use by the council and its partners in a timely manner.
  - to inform the scope and shape the SFRA brief with best practise and

- avoid further delays to the scoping and moving forward of the SFRA
- to lose potential cost savings in terms of maximising the ability to refine the scope and making best use of resources
- to maximise utilisation of both Leeds City Council and Environment Agency flood datasets and mapping facilities
- to maximise the in-house resources in undertaking significant parts of the SFRA (potential cost savings and sharing the knowledge), and
- to promote enhanced engagement with the external stakeholders particularly in technical aspects.
- To maximise the latest understand and research on Climate change flood mapping.

3.5.2 Without this technical assistance, the benefits of the Strategic Flood Risk Assessment will not be fully realised. This will impact on the ability of both Flood Risk Management and planning to offer accurate advice on planning applications, informing future land allocations and ensuring they are backed up with robust evidence for any external examination and Public Inquiry scrutiny and ultimately impacting on the ability of the City to ensure its future resilience to flooding.

## **4. Corporate considerations**

### **4.1 Consultation and engagement**

4.1.1 Engagement with the Environment Agency has been undertaken to identify best use of resource and to share best practise. Flood Risk Management and Planning officers have been consulted.

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

4.2.1 The use of this third party engineering resource is currently not applicable for an Equality, Diversity, or Cohesion and Integration Screening Impact assessment. These do not need to be undertaken at this time.

### **4.3 Council policies and the Best Council Plan**

4.3.1 The use of Hydco Ltd to provide specialist support is an important aspect of the effective and timely SFRA delivery as described above

4.3.2 Flood Risk Management supports the inclusive growth commitment and supports the Council's 21st- Century infrastructure commitment by contributing to the flood resilience within the City and improving the city's infrastructure and future resilience to flooding.

#### Climate Emergency

4.3.3 Leeds City Council has committed to becoming carbon neutral by 2030 and has produced the Leeds Climate Commission roadmap and Best Council Plan to aid this process. The Council is working with its partners to reduce its carbon emissions and deliver infrastructure which is resilient to Climate change and reducing flood risk as a result of climate change is a key area of priority for the Council.

4.3.4 Weather patterns are predicted to change with both increasing volumes of rainfall, storm durations and variability are likely to increase the risk of flooding within the City. Understanding the impacts of the Climate Change both in terms of the areas of

flood risk is vital in terms of planning future infrastructure provision and ensuring new development is resilient to flood risk.

#### **4.4 Resources, procurement and value for money**

- 4.4.1 Specialist support from Matchtech and Hydco Ltd until 31st October 2020 is not expected to exceed £35,000. The technical expertise provided by Hydco will maximise utilisation of existing resources and identify cost savings within the scoping of the brief and the management of consultants.
- 4.4.2 Funding will be provided initially from the FRM core budget whilst also examining any funding sources for undertaking the SFRA.
- 4.4.3 Hydco Ltd also provides advice to the FRM team in terms of development control (reviewing and advising on planning applications), providing training sessions and supporting the SFRA.
- 4.4.4 Best value for money will be obtained by sharing best practise with other Local Authorities in West Yorkshire and the Environment Agency.

#### **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. 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.
- 4.5.2 The EU case law has been considered in this and, due to the nature of the product, with Hydco Ltd providing the specialist support for LCC 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. 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.
- 4.5.3 Whilst making the decision, the Chief Officer (Highways and Transportation) should acknowledge the risks identified above. 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**

- 4.6.1 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.
- 4.6.2 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 use of Hydco Ltd to provide specialist support for undertaking an SFRA in Leeds will enable Leeds City Council to maximise the benefit of having modelling expertise within the FRM team to assist project management. In doing so, it supports the Best Council Plan priorities of 21st -Century Infrastructure and Inclusive Growth.

## **6. Recommendations**

- 6.1 The Chief Officer (Highways and Transportation) is requested to:
- Waive Contract Procedure Rule 8.1 and 8.2 – Intermediate Value Procurements – and approve entering into contract with Matchtech and Hydco Ltd on a six month basis from the 4th May 2020 until 31st October 2020 (up to an expected maximum value of £35k) without seeking competition.
  - Approve the expenditure on the procurement of work by consultants listed in a.)

## **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.