

Report of Senior Project Manager Sustainable Energy and Air Quality

Report to the Chief Officer Sustainable Energy and Air Quality

Date: 12th October 2020

Subject: Waiver of Contract Procedure Rules (CPR's) 8.1 and 8.2 to award a contract for undertaking technical, financial and economic feasibility studies relating to the expansion of the Leeds Pipes District Heating Network

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<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
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? If relevant, access to information procedure rule number: Appendix number: N/A	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary

1. Main issues

- The council's city wide District Heating Network (Leeds Pipes) had been designed and constructed to enable expansion into new areas of the city, where it is recognised that sufficient heat demand exists and where the extension is technically feasible. The Southbank is an area that is prime for a DHN network, with significant redevelopment planned for the area over the next 10 years and as such consideration has been given to a Phase 3 extension.
- Given the geography of the Southbank and the extent of the existing DHN it is considered that both a Phase 3E (East) and Phase 3W (West) extension are potential options. To understand the technical, financial and economic viability of either of these extensions it is critical to carry out feasibility studies that can inform a business case.
- Grant funding has been secured from the Heat Network Delivery Unit (HNDU) and the West Yorkshire Combined Authority's (WYCA's) Energy Accelerator programme that will fund these feasibility studies. A requirement of the grant funding is that the consortium of organisations that comprise the Energy Accelerator are to carry out the studies. As such a waiver of the council's CPRs is required to directly appoint Sweco UK Ltd to undertake feasibility studies for Phase 3E and Phase 3W.

2. Best Council Plan implications (see the [latest version of the Best Council Plan](#))

- Supporting the aspirations set out in the Best Council Plan 2019/20 – 2020/21, the feasibility studies help support the future development of Phase 3E and Phase 3W DHN extensions that will provide significant economic, social and environmental benefits to the city of Leeds, including:
 - Reducing CO₂ emissions associated with the RERF and contributing to our ambitious CO₂ reduction targets in support of the recently declared “Climate Emergency”;
 - Improving air quality by making ageing gas boilers redundant;
 - Supporting fuel poverty by reducing fuel bills by circa 10% for residential customers;
 - Creating construction, operation and maintenance jobs and retaining wealth in the local economy; and
 - Supporting the expansion of superfast broadband across the city by installing empty telecommunication ducts throughout the route of the DHN.

3. Resource implications

- HNDU funding and Energy Accelerator funding provides the council with the funds to carry out feasibility studies at zero financial cost to the council. Given the current spending freeze due to COVID-19, the grant funding provides the only means of understanding the feasibility of future DHN extensions to the Southbank.
- The Energy Accelerator is providing a capped level of support totalling £131,534 via their pre-procured framework of consultants, including the Carbon Trust, Addleshaw Goddard and Sweco.
- The full HNDU grant of £53,600 will be transferred from HNDU to the council who will then pay Sweco UK Ltd directly.

Recommendations

- a) The Chief Officer, Sustainable Energy and Air Quality is recommended to waive Contract Procedure Rules 8.1 and 8.2 - Intermediate value procurements - using the authority set out within CPR 1.3 to enter into a contract with Sweco UK Ltd for a period of 6 months with a value of £53,600.

1. Purpose of this report

- 1.1 This report seeks a waiver of CPRs 8.1 and 8.2 using the authority set out in CPR1.3 in order to enter into a contract with an external contractor, Sweco UK Ltd to carry out feasibility studies in connection with the viability of a Phase 3E and Phase 3W extension to the Southbank.

2. Background information

- 2.1 The DHN has been designed and constructed to enable new customers to connect to the existing routes as well as being designed to extend into additional areas of the city where connection opportunities are identified.
- 2.2 Following expansion into the city centre via the phase 2 network, it is considered the Southbank area of the city holds further opportunity for expanding the supply of low carbon heat to additional customers. Significant regeneration proposals in the area through the planned development of up to 8,000 new homes in addition to commercial spaces and hotels, make it a prime area for DHN. The geographic extent of the Southbank and route of the existing DHN mean that separate extensions are achievable. Split into Phase 3 East (Holbeck) and Phase 3 West (Hunslett), these 2 separate extension opportunities were identified during initial DH planning stages and early engagement has taken place with customers who have expressed strong interest in a connection.
- 2.3 To further understand the potential of these areas there is a requirement to carry out detailed feasibility studies. The information gained through these studies will help inform the council's business case for both of the phase 3 extensions and will also play a key role in supporting bids to secure funding to enable the expansions to take place.

3. Main issues

- 3.1 Two separate grants totalling £185k have been secured for funding a package of work for the provision of technical, financial and economic feasibility studies. Firstly a bid to the Heat Network Delivery Unit (HNDU) was successful in securing a £53,600 grant with a funding agreement having been agreed. In addition, a separate bid to the regional Energy Accelerator Programme (managed by the West Yorkshire Combined Authority (WYCA)) was also successful in securing an additional £131,534 grant.
- 3.2 The Energy Accelerator provides support and funding for low carbon projects using a consortium of pre-procured consultants, including the Carbon Trust, Addleshaw Goddard and Sweco. This means that Sweco UK Ltd will carry out technical, financial and economic feasibility studies. A waiver of the council's CPRs is therefore required to appoint Sweco directly as the funding restricts the council from being able to conduct a competitive procurement exercise.
- 3.3 HNDU are aware of this requirement and have agreed that their grant can be transferred to the council to pay for Sweco UK Ltd's services.
- 3.4 Sweco UK Ltd were successful in securing their technical advisor role on the Energy Accelerator Programme by being successful in an OJEU compliant tender exercise carried out by WYCA. This provides assurance that Sweco have been appointed to the consortium through a competitive process through which they have been evaluated on quality and price, which subsequently provides value for money for the council.
- 3.5 Given the economic pressures and the current council spending freeze as a result of COVID-19 the grant funding and the direct appointment of Sweco UK Ltd represents good value as it ensures the work is carried out at zero cost to the council. Sweco have undertaken previous work relating the Leeds Pipes DHN and have a good understand of the project and its potential.
- 3.6 Following the approval of the waiver a contract will be entered into between the council and Sweco using the council's standard contract documents and will be published on YORtender and Contracts Finder.

- 3.7 The contract shall be for a period of 4 months, commencing on the 14th December 2020 and expiring on the 15th April 2021.
- 3.8 Should the recommendation to waive CPRs not be approved the council will be at risk of losing the grant funding and the expertise and resources provided by Sweco. The technical, financial, and economic studies would require funding through other financial sources which would not be possible due to the current spending freeze. Not having the outputs from these studies would significantly impact on the council's ability to attract construction funding to expand the DHN into the Southbank and restrict the provision of low carbon heat to these areas.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 The executive member for Climate Change, Transport and Sustainable Development has been kept updated on plans for future Phase 3 extensions as the DHN has developed, along with the Director of Resources and Housing.
- 4.1.2 PACS have been consulted regarding the application of the council's CPRs and the award of a contract to Sweco UK Ltd.
- 4.1.3 HNDU and WYCA have been engaged with regarding the funding and scope of the project.
- 4.1.4 A number of potential heat customers within the Southbank have been engaged to determine the potential of supplying heat. The interest gained through this engagement has led to the funding applications for the feasibility studies.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 An equality impact assessment was completed as part of Phase 1 and Phase 2, and was recently updated as part of the Executive Board report in July 2020 regarding a funding bid to support the construction of a Phase 3E extension.
- 4.2.2 The DHN will have a positive impact on equality as it will support the compassionate city equality objective by reducing fuel poverty, helping to increase life expectancy, improving mental health and wellbeing and reducing health inequalities.

4.3 Council policies and the Best Council Plan

- 4.3.1 The extension of the DHN supports the aspirations set out in the Best Council Plan and the overall vision of becoming the best city and best council in the UK. In particular, the project helps deliver the Best Council Plan 2019/20 to 2020/21 priority on Sustainable Infrastructure with a focus on:
- Improving air quality, reducing pollution and noise; and
 - Promoting a more competitive, less wasteful, more resource efficient, low carbon economy.
- 4.3.2 In addition, the council is committed to reducing citywide carbon emissions, having declared a climate emergency in March 2020, committing to be net zero by 2030.

- 4.3.3 KPIs of the Best Council Plan 2019/20 – 202/21 will measure progress and achievements using – amongst others - carbon emissions across the city and level of CO₂ emissions from council buildings and operations. The extension of the DHN will help achieve positive results for these KPIs.
- 4.3.4 The council has achieved legal compliance for the air quality in the city, however it remains committed to going beyond the legal requirements in order to achieve greater benefits for the environment and public health. The DHN will provide a contribution towards reducing air pollution generated by heating systems in the city.
- 4.3.5 This scheme will also allow the council to demonstrate its ability to be enterprising and to act as an enabler for growth.

Climate Emergency

- 4.3.6 The DHN will help maximise CO₂ emissions reductions associated with the RERF and contribute to the citywide CO₂ reduction targets. Using the heat generated at the RERF will provide carbon savings through reducing the consumption of gas or electricity. Depending on the ratio of RERF to gas boiler use, a range of 0.079kg CO₂/kWh to 0.109kg CO₂/kWh is expected, compared to 0.216kg CO₂/kWh for gas.

4.4 Resources, procurement and value for money

- 4.4.1 Funding has been secured for a package of work for the provision of technical, financial and economic feasibility studies. A bid to the Heat Network Delivery Unit (HNDU) was successful in securing £53,600 with a funding agreement having been agreed. To support this grant, an additional bid the regional Energy Accelerator managed by the West Yorkshire Combined Authority (WYCA), for a package of work capped at £131,534 was also successful.
- 4.4.2 The Energy Accelerator provides support via its pre-procured framework of consultants, meaning that a competitive procurement cannot be carried out and a waiver to the councils CPRs is required.
- 4.4.3 Given the economic pressures and the current council spending freeze as a result of COVID-19 the grant funding and the direct appointment of Sweco UK Ltd represents good value as it ensures the work is carried out at zero cost to the council.

4.5 Legal implications, access to information, and call-in

- 4.5.1 This is a significant operational decision which is not subject to call-in. There are no grounds for keeping the contents of this report confidential under the Access to Information Rules. A waiver of the Council's CPRs is required to allow this contract to continue without competition on an interim basis.
- 4.5.2 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 Although there is no overriding legal obstacle preventing the waiver of CPR 8.1 and 8.2, the content of the report should be noted. In making their final decision, the Chief Officer Sustainable Energy and Air Quality should be satisfied that the approved course of action represents best value for the council.

4.6 Risk management

4.6.1 Should the recommendation to waive CPRs not be approved the council will be at risk of losing the grant funding and the expertise and resources provided by Sweco. The technical, financial, and economic studies would require funding through other financial sources which would not be possible due to the current spending freeze. Not having the outputs from these studies would significantly impact on the council's ability to attract construction funding to expand the DHN into the Southbank and restrict the provision of low carbon heat to these areas.

5. Conclusions

5.1 The Leeds Pipes DHN has the opportunity to expand beyond its current extent and build upon the recent phase 2 branch expansion. The Southbank area of the city with its potential for significant redevelopment provides an excellent opportunity for new branch extensions to provide heat to this area. Successful funding applications to HNDU and the Energy Accelerator have secured access to a framework of pre-procured consultants to carry out feasibility studies to understand the viability of a Phase 3E and Phase 3W extension, which can be used to support business cases for their development.

5.2 The pre-procured framework of consultants that comprise the Energy Accelerator, mean that Sweco UK Ltd will undertake the feasibility studies without the council undertaking a competitive procurement. As such a waiver to the councils CPRs is required to directly appoint Sweco UK Ltd and benefit from the funding that has been secured.

6. Recommendations

6.1 The Chief Officer, Sustainable Energy and Air Quality is recommended to waive Contract Procedure Rules 8.1 and 8.2 - Intermediate value procurements - using the authority set out within CPR 1.3 to enter into a contract with Sweco UK Ltd for a period of 6 months with a value of £53,600.

7. Background documents¹

7.1 N/A

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.