

Subject: Waiver of Contract Procedure Rules No 8.1 and 8.2 to award a contract to Locality for the provision of Morley Town Investment Plan Phase 2 Communication Services

Date: 14 June 2021

Report of: Regeneration Services

Report to: Chief Officer Asset Management and Regeneration

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

What is this report about?

Including how it contributes to the city's and council's ambitions

- In preparing the Morley Town Investment Plan, Leeds City Council procured Locality to carry out communications and engagement work which helped to guide the development of the seven projects outlined in the Morley Town Investment Plan.
- Locality were procured through a competitive tender procurement using YORtender and the contract was funded through MCHLG capacity funding. The original value of the commission was for £48,065. The contract ended on 31 January 2021 when the Morley Town Investment Plan was submitted to MCHLG. On Wednesday 3 March 2021 the Council was informed that the bid to the Town's Fund for Morley had been successful and that £24.3million had been awarded.
- Further guidance has now been issued and the next phase of the bid process will require detailed full business cases with finalised costs to be developed in line with a robust assurance process and consistent with HM Treasury Green Book methodology. Further community engagement will be required for each of the seven projects in the Town Investment Plan as part of this process.
- Locality have embedded knowledge and relationships which will be crucial when carrying out communication and engagement in the coming twelve months.
- £3.75million of funding has been brought forward from the total award of £24.3million, to support the next stage of business plan development for the Morley Town Deal. This report proposes that £49,088 is used to secure Locality to carry out further communications and engagement support via a direct award. This is a capped fee based on a detailed quote.

- The Town Investment Plan for Morley will provide £24.3 million of funding to Leeds City Council to undertake a programme of investment and regeneration in this part of South Leeds.
- The combined impact of projects delivered through the Town Investment Plan will have wide ranging and substantial Best Council Plan positive impacts, including the delivery of inclusive growth benefits.
- This will encompass skills, employment and business growth outputs; positive environmental and climate change impacts; health and wellbeing benefits; supporting the city's COVID-19 recovery and wider impacts.

Recommendations

- a) In respect of Morley Towns Fund, the Chief Officer of Asset Management and Regeneration is recommended to approve the waiver of Contracts Procedure Rules No 8.1 and 8.2 – Intermediate Value Procurement and award a contract to Locality in the sum of £49,088. The contract shall commence in in July 2021 further to Chief officer approval and expire on 31 March 2022.

Why is the proposal being put forward?

- 1 This report is to request that Contract Procedure Rules 8.1 and 8.2 are waived and that a direct award is made to Locality to provide communication and engagement support in stage 2 of developing the Morley Town Investment Plan.

What impact will this proposal have?

Wards Affected: Morley North, Morley South

Have ward members been consulted? Yes No

- 2 The Town Investment Plan for Morley will provide £24.3million of funding to Leeds City Council to undertake a programme of investment and regeneration in this part of South Leeds.

What consultation and engagement has taken place?

- 3 Locality undertook a major consultation exercise to help inform the development of the Town Investment Plan bid for Towns Fund monies.
- 4 The Morley Town Deal Board has been consulted regarding the reappointment of Locality and are supportive. The Board is made up of local residents, local businesses, voluntary organisations, the Executive Member for Infrastructure and Climate, Ward Members, Morley Town Councillors and the MP for Morley.
- 5 Leeds City Council's Procurement and Commercial Services has been consulted regarding the reappointment of Locality and are supportive.
- 6 Detailed consultation will be undertaken at every stage of the process, particularly during 2021 as projects are designed in detail, subject to the government's response to the submitted Town Investment Plan.

Equality and diversity / cohesion and integration

- 7 As Town Investment Plan projects are developed an EDCI screening will be undertaken to assess potential impacts from proposed projects and as appropriate, further equality, diversity, cohesion and integration impact assessments may be undertaken on specific projects. These assessments will be reviewed and updated through the process of developing projects during the development of the Town Investment Plan and through the detailed design process

What are the resource implications?

- 8 The contract will be entirely funded by central government grant funding. Applicants to the initial procurement in August 2020 were evaluated on cost as well as quality. This contract marks a continuation of that work.

What are the legal implications?

- 9 This is a Significant Operational Decision which is not subject to call-in. The report itself does not contain any exempt or confidential information under the Access to Information Rules.
- 10 The value of the direct award detailed within this report is below the threshold for the application of the Public Contracts Regulations 2015 for the procurement of public services contracts and therefore it is not subject to the full EU procurement rules. However, the Contracts Procedure Rules 8.1 and 8.2 require competition for procurements valued between £25k and £100k and the invitation of at least four written tenders. A waiver of these Contracts Procedure Rules is required to award a contract direct to Locality. Awarding new contracts direct to the provider in this way could leave the Council open to a potential claim from other potential providers, to whom this contract could be of interest, 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 in other EU member states, and if it could, the opportunity should be subject to a degree of European wide advertising.
- 11 It is up to the Council to decide what degree of advertising would be 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.
- 12 The Chief Officer of Asset Management and Regeneration has considered this and, due to the nature of the services being delivered, the relatively low value of the contract, the substantial knowledge which Locality possesses in regards to this project and relationships already built with the council and its stakeholders, is of the view that the scope and nature of the services is such that it would not be of interest to providers in other EU member states.
- 13 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.
- 14 Although there is no overriding legal obstacle preventing the award of this contract in this manner, in making their final decision, the Chief Officer of Asset Management and

Regeneration should note the above comments and be satisfied that the course of action chosen represents best value for the Council.

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

- 15 A risk management plan will be produced in parallel to the Town Investment Plan. Revenue implications to the Council will be mitigated and it will be a key objective of project development to ensure interventions are revenue neutral.

Does this proposal support the council's 3 Key Pillars?

Inclusive Growth Health and Wellbeing Climate Emergency

- 16 The Morley Town Deal offered a key opportunity for Leeds City Council to secure up to £25 million of funding to invest in an ambitious regeneration programme in this part of South Leeds with major Best Council Plan implications.
- 17 The Morley Town Investment Plan will deliver substantially against the Best Council Plan and Leeds Inclusive Growth Strategy, with particular benefits at a local level in Morley, and wider impacts across South Leeds, the wider district and region.
- 18 The Leeds Inclusive Growth Strategy (LIGS) sets out an ambition to ensure all people and communities can contribute towards and benefit from our economy, tackling inequality and supporting all sections of our society into better jobs. The LIGS also sets out an objective to support people to live healthy and active lives, providing the necessary infrastructure to enable this, and to raise skills levels and increase productivity.
- 19 These ambitions are aligned to the overall objectives of the Towns Fund and can be specifically realised through the Town Investment Plan for Morley. This Plan identifies low skills levels, low levels of greenspace provision, connectivity challenges and poor health outcomes as key areas of focus for the town. The Investment Plan seeks to address these challenges through a programme of projects and interventions which will create long term and sustainable change.
- 20 The Town Investment Plan for Morley will address health challenges through the provision and improvement of infrastructure which will enable the population of the town to live healthier and more active lives. In addition, specific interventions may be targeted at improving local infrastructure for the elderly, including the accessibility of the train station, housing provision and the town centre environment. This will build upon existing local strategies to create a dementia friendly town.
- 21 Morley also has lower overall skills levels than the wider district. Projects and interventions are being explored which may address this through employer backed programmes and local skills initiatives.
- 22 A key objective of the Town Investment Plan will also be to improve local economic resilience, supporting recovery from COVID-19. Projects and interventions will focus on supporting the creation of employment opportunities and improving the accessibility of employment for the local community.
- 23 Morley has lower green space provision than many other parts of the city and has among the lowest tree canopy coverage. These deficits have an impact on health and wellbeing and on local air quality and the city's carbon emissions. The Town Investment Plan will explore opportunities to address this challenge through the provision of new and high quality greenspace, tree planting and encouraging modal shift.

- 24 The Morley Town Investment Plan will directly seek to address the quality and provision of green space and tree coverage in Morley, in addition to exploring opportunities to encourage modal shift and create green infrastructure routes from the town to wider economic centres
- 25 In addressing these areas of need the Town Investment Plan will have positive impacts on biodiversity and carbon emissions and will uplift the quality of the local environment for residents and visitors to the town.

Options, timescales and measuring success

a) What other options were considered?

- 26 The initial contract terms were driven primarily by funding certainty provided by the capacity funding through MCHLG. The initial contract expired on 31 January 2021 with the submission of the Morley Town Investment Plan. On 3 March 2021 the Council was informed that the bid had been successful and the Morley had been awarded £24.3million, meaning that the Council can now move into the next phase of business case development.
- 27 Capacity funding has become available through MCHLG to support the development of the seven projects outlined in the Morley Town Investment Plan. It is proposed that a direct award to Locality be given for the provision of communication and engagement support for the development of business cases for these projects.
- 28 As an appropriate competitive process has been undertaken as recently as August 2020 we have assessed what other providers can offer. Locality were successful in that process. The services required have not changed, or the disciplines and scope of work, although it is extended in timescales and quantity.
- 29 The work provided by Locality during phase 1 was to an extremely high standard. A large amount of consultation and report writing was turned around against extremely tight deadlines, helping to shape the delivery of the Morley Town Investment Plan. Their work was essential to the development of the Plan.
- 30 Applicants to the initial procurement in August 2020 were evaluated on cost as well as quality. The phase 1 work was delivered within budget, demonstrating a strong value for money case for continuing to work with Locality. Leeds City Council still has some of the initial capacity funding remaining to support the phase 2 work, in addition to the extra funding to be provided by central government.
- 31 As with the procurement carried out in August 2020 there is no internal service provider who could produce the work that Locality will be carrying out.
- 32 Locality have embedded knowledge and stakeholder relationships from the work undertaken in the first stage and this should be carried into the next stage of work based on the rates agreed through the competitive process in August 2020. Undertaking an additional procurement for the continued services is not therefore deemed appropriate given the previous competition and given that Locality have already developed the key knowledge and relationships required for the extended contract.

33 For these reasons a direct award to Locality is the most appropriate means of securing the required support. Once approval to award has been obtained a contract will be entered into using the Council's standard tender documentation.

b) How will success be measured?

34 Monitor and evaluating the success of the phase 2 communications and marketing activity will be conducted at various milestones as the project grows. Methods for measuring activity will include:

- the performance to our Commonplace and Leeds City Council campaign webpages.
- the number of email sign-ups to our Commonplace news items.
- the readership and number of responses to our blog posts and news items.
- the performance of our social media activity (including any paid promotion).
- the number of stakeholders accessing our social media toolkit.
- the number of attendees to our stakeholder events
- the level and tone of media coverage around the projects.

c) What is the timetable for implementation?

35 The contract shall commence on 14 June 2021 and expire on 31 March 2022. Phase 2 work will consist of the following:

36 At a programme level:

- Communications and engagement advice and support to the Leeds City Council programme team comprising:
 - Production of a Stakeholder Engagement Plan
 - Implementation / delivery of the agreed Communication Plan
 - Supporting communications by others (Town Centre Manager, Town Deal Board, Project leads, LCC comm's)

37 At a project level:

- Communication and engagement advice and support to project teams comprising:
 - Production of a project Stakeholder Engagement Plan
 - Production of a project Communication Plan
 - Implementation / delivery of above plans

38 Phase 2 may also include wider communications support as required.

Appendices

39 Appendix 1 - Waiver CPR

Background papers

40 None

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 type="checkbox"/> No
To purchase supplies or services on particularly advantageous terms due to liquidation/administration.	<input type="checkbox"/> Yes	<input 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 type="checkbox"/> No
Ran out of time to undertake a new procurement exercise	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p data-bbox="105 875 639 909">Other (please provide summary here)</p> <p data-bbox="105 987 1050 1178">The initial contract terms were driven primarily by funding certainty provided by the capacity funding through MCHLG. Leeds City Council now have an opportunity to bid for additional funding but need to commit this via a contract before the end of the financial year.</p> <p data-bbox="105 1256 1023 1447">As an appropriate competitive process has been undertaken as recently as August 2020 we have assessed what other providers can offer. Locality were successful in that process. The services required have not changed, or the disciplines and scope of work, although it is extended in timescales and quantity.</p> <p data-bbox="105 1525 1050 1715">Locality have embedded knowledge from the work undertaken in the first stage and this should be carried into the next stage of work. This includes project specific knowledge, evaluation/baselining exercises, familiarity with the bid and the key stakeholders, partners and delivery organisations.</p>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No