

Report to Cabinet

Accessible Oldham Framework Contract

Portfolio Holder:

Councillor Brownridge – Cabinet Member Neighbourhoods and Culture

Officer Contact: Helen Lockwood (Deputy Chief Executive) and Carol Brown (Director – Environmental Management) of Executive Director

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22nd March 2021

Reason for Decision

To delegate authority to Helen Lockwood (Deputy Chief Executive) in consultation with the Leader to award the Accessible Oldham Strategic Partnership Agreement and reserve supplier agreement, and delegate authority to the Director of Environmental Management in consultation with the Director of Finance and the Director of Legal Services to award the individual call off orders for the separate projects, due to the urgency to deliver a programme of works in accordance with the funding timeline constraints.

Executive Summary

The Transportation and Planning Team in collaboration with Unity Partnership have successfully bid for several capital funded multi-disciplinary highway improvement programme of work, namely Growth Deal 3 (GD3) and Mayor's Cycling and Walking Challenge Fund (MCF). The funds (cumulatively amounting to circa £16.5m) are managed by Transport for Greater Manchester (TfGM) under the overarching administration of Department for Transport (DfT).

For Oldham Council to deliver the programme it was considered necessary to seek a mid-term (4 years) Strategic Partner (Partner) to assist the Delivery Team at key stages of the design and construction work. The current method of delivery of the highway construction work is described below which can take upwards of 12 weeks from tender stage to

commencement on site. Ultimately, in order to deliver the GD3 and MCF programme within the set timeframe, a more streamlined method of procuring construction work is required. The intention is that individual projects will be procured via a Call Off procedure under the Strategic Partnership Agreement. This will require Director sign off (in liaison with the Directors of Finance and Legal Services) rather than an individual Cabinet report for each element of work.

The Accessible Oldham Strategic Partnership Agreement is scheduled to be advertised by the Commercial Services Team before the end of the year and it is expected to be available for use in March/April 2021. An initial sift will be undertaken with a shortlist of three Contractors being invited to enhance/review their respective bids with one being awarded as the outright winner.

Recommendations

It is recommended that delegated authority is given to:

- The Deputy Chief Executive in consultation with the Leader to award the Strategic Partnership Agreement and Reserve Supplier Agreement, in consultation with the Director of Finance and Director of Legal Services
- The Director of Environmental Management in consultation with the Director of Finance, and the Director of Legal Services to award the individual call off contracts for the separate works packages under the Strategic Partnership Agreement and Reserve Supplier Agreement.
- The Director of Legal Services to affix the Council's seal to the Strategic Partnership Agreement and Reserve Supplier Agreement any incidental and ancillary documentation and also to the individual call off contracts under the Strategic Partnership Agreement and Reserve Supplier Agreement any incidental and ancillary documentation.

Accessible Oldham Strategic Partnership Agreement

1 Background

1.1 The key Accessible Oldham scheme objectives are to:

- Facilitate development and the regeneration of Oldham Town Centre;
- Improve the attractiveness of the town centre for pedestrians and cyclists;
- Maintain the integrity of the highway network within and around the town centre.

The objectives align to the Growth Deal 3 priorities and regional initiatives such as the GM 2040 Transport Strategy and Growth and Reform Plan.

1.2 The Transportation and Planning Team in collaboration with Unity Partnership have successfully bid for several capital funded multi-disciplinary highway improvement programmes of work, namely Growth Deal 3 (GD3) and Mayor's Cycling and Walking Challenge Fund (MCF). The funds (accumulatively circa £16.5m) are managed by Transport for Greater Manchester (TfGM) under the overarching administration of Department for Transport (DfT).

1.3 It was apparent during the bidding process that TfGM have increased their expectations with regards to information being provided by Local Authority Bidders at all stages of the process and thus increased their scrutiny of cost, risk and resource, at design stage and operationally. For Oldham Council to adapt and proactively address the changes to the process it was considered necessary to seek a mid-term (4 years) Strategic Partner (Partner) to assist the Delivery Team at key stages of the bidding process through Early Contractor Involvement (ECI) and fast-track, where applicable, the construction of projects, to meet the expectations demands of the overseeing organisations .

1.4 The rationale behind the improvement is evident when reviewing the existing route to market. The current CHWSF Framework has seven civil engineering Lots available, each with a focus on specific civil engineering disciplines, for example highways, structures and drainage. Typically, a scheme is offered to a group of six Contractors via one Lot. The prospective Bidders submit costed bids for evaluation. Following the evaluation process a report is distributed for comments, which are compiled into a report and placed on the Cabinet approvals list to seek consent to award the Contract. This typically can take up to ten to twelve weeks due to the process which in turn increases risk to delivery when working to fixed deadlines imposed by TfGM and/or DfT.

2 Current Position

2.1 In order to mitigate the risks of the programme slippage, Growth Deal 3 (GD3) and Mayor's Cycling and Walking Challenge Fund (MCF) programmes have been combined to fund the creation of a Strategic Partnership Agreement and Reserve Supplier Agreement using an NEC4 Framework Contract as the basis of the

agreement with a view to award works packages funded by either GD3 and MCF, but not exclusively, to a single Contractor. Unity Partnership has engaged external expertise to assist in the creation a Contract and supporting information that meets the current/future demands and flexibility which Oldham Council requires and includes Social Value (TOMS) to ensure the Contractor aligns its aspirations with those of Oldham Council. It is expected that the benefits will provide the Delivery Team with the necessary support with current and future bidding opportunities whilst also providing Oldham Council with a Partner. It also enables construction work to begin a great deal sooner than the traditional route as projects will be issued via a Call Off procedure and awarded through a delegated decision process. The proposed way forward is to seek the approval of the Director of Environmental Management rather than an individual Cabinet report for each element of the works programme.

- 2.2 The Accessible Oldham Strategic Partnership Agreement was advertised by the Procurement Team on the 13th January 2021 and due to the tendering process, it is expected to be available for use in May/June 2021. Traditionally, at this time of year, local elections and PURDAH are scheduled which increases the risk of delay to the Contract being awarded thus jeopardising the delivery of the various construction projects.
- 2.3 The current agreement with TfGM is for the delivery of GD3 projects (circa £1m) of works by March 2021 with the remaining £5m being completed by March 2022. In order to achieve these timescales, several smaller projects have been issued to Oldham Council's Highways Operations Service, with the remaining projects currently being developed in readiness for delivery from April 2021 onwards.
- 2.4 The Procurement Strategy adopted by the Commercial Services Team is a competitive procedure with negotiation, which affords an opportunity for both Contractor and Oldham Council to discuss the details and the commercials should it be required to ensure that a robust bid is submitted. An initial sift will be undertaken with a shortlist of three Contractors being invited to enhance/review their respective bids with one being awarded as the outright winner and a reserve contractor. This report will be signed off by the Leader and Deputy Chief Executive.
- 2.5 A selection procedure is set out within the contract for each 'work order'. A quotation procedure is also set out. The Council retains the right not to issue the work order should the Client's Representative not be content to do so based on cost, programme or any other reason.
- 2.6 The appointed Contractor will be continually monitored for performance based on the following criteria:
 - Health and Safety
 - Social Value
 - Time
 - Cost
 - Quality

If performance criteria is not met then the Council will retain the option to allocate the construction work to the reserve Contractor. There is also provision for a reserve Contractor to be utilised in the event that the primary Contractor is unable to perform its obligations under the contract.

3 Options / Alternatives

3.1 Option 1 - Delegated authority is given to:

- the Deputy Chief Executive in consultation with the Leader to award the Strategic Partnership Agreement and Reserve Supplier Agreement.
- the Director of Environmental Management in consultation with the Director of Finance and the Director of Legal Services , in consultation with the Director of Finance and Director of Legal Services to award the individual call off contracts for the works packages under the Strategic Partnership Agreement and Reserve Supplier Agreement if necessary.
- the Director of Legal Services to affix the Council's seal to the Strategic Partnership Agreement and Reserve Supplier Agreement any incidental and ancillary documentation and also to the individual call off contracts under the Strategic Partnership Agreement and Reserve Supplier Agreement any incidental and ancillary documentation.

This would minimise the time taken to award the Strategic Partnership Agreement and call off contracts under the Agreement and be ready to commence the project on site without any unnecessary delay.

3.2 Option 2 – Wait until the contractor is selected and seek approval to award the Strategic Partnership Agreement and Reserve Supplier Agreement once the outcome of the evaluation is known. There would therefore be a delay in implementation of the projects and potential delay in the delivery of certain aspects of the programme which must meet the tight timescales under the GD3 funding agreement.

4 Preferred Option

4.1 Option 1 is the preferred option namely:

Give delegated authority to:

- the Deputy Chief Executive to award the Strategic Partnership Agreement and Reserve Supplier Agreement in consultation with the Leader.
- the Director of Environmental Management in consultation with the Director of Finance and the Director of Legal Services to award the several call off contracts under the Strategic Partnership Agreement. and Reserve Supplier Agreement if necessary
- the Director of Legal Services to affix the Council's seal to the Strategic Partnership Agreement and any supporting documentation and also to the individual call off contracts under the Strategic Partnership Agreement and any incidental and ancillary documentation.

5 Consultation

5.1 A public consultation was carried out in from late 2018 to March 2019 including the following activities:

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- Member Approval - Presentation of options to Leader of Council, Portfolio Holders and Executive Members to seek support for preferred options and approval to commence public consultations.
 - Business Support - Presentation of preferred options to Town Centre Manager, key businesses and wider business group to seek support for proposals.
 - Taxis - Separate exercise to engage with taxis association. Facilitated by licensing team.
 - Social Media / Press Release - Notification of exhibition and consultation on website.
 - Website - launched with background to programme and indicative concept plan. Consultation questionnaire.
 - Ward Meetings – Presentation of plans
 - Public Exhibition – Presentation of overall concept with consultation questionnaire and collation of consultation responses. The vent publicized and carried out over 4 weeks. Two prominent locations were identified in the Town Centre and stands were erected promoting the programme. Responses were recorded as well as off line comments.

5.2 Key Stakeholder Engagement was carried out in parallel with the public consultation. The aim was to directly involve businesses considered likely to be most affected by the proposals. Businesses were encouraged to comment on the ambition of the proposal which is primarily to encourage walking and cycling and improve access to Oldham Town Centre. The Stakeholders took the opportunity to comment on wider issues relating to their specific service or business as well providing detail on operational requirements and safety within the Town Centre.

5.3 The following consultees were identified and individual face-to-face meetings arranged to discuss the proposals with the following organisations:

- Retailers – Iceland, Max Spielman, Up Steps and neighbouring businesses off Lord Street;
- Town Centre Business Partnership – a consortium of business figure heads representing the businesses of Oldham Town Centre;
- Local taxi representation;
- TfGM Traffic Services / Bus Operators;
- Oldham Council Response Services;
- Oldham Council Grounds Maintenance;
- Oldham Council Highway Maintenance;
- Oldham Council Street Lighting;
- Oldham Council Street Cleansing;
- Oldham Disability Access Groups.

5.4 A record of consultation comments was kept of the feedback and summarised in brief below:

- Improvements should be made to improve access for those disabled and those with young children as well as for cyclists and pedestrians.
- Efforts should be made to encourage greater engagement with young people.
- Feedback received around accessibility for disabled and or those with young children should be taken into consideration when planners commence.

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- Bus operations – significant costs to the bus operations were identified should the initial proposals be delivered. There was also a reluctance to alter the operation of the current bus station due to a recent fatality and ongoing safety concerns. Therefore, without fundamental changes perhaps associated with a new development of the Civic site the proposals for a pedestrian link would not be feasible within this programme. The Civic package has since been dropped to a reserve list.
 - Taxis – Proposals as part of the Civic Hub package included the relocation of taxis to improve pedestrian access and facilitate effective operation of an existing loading facility. A modified design may be required in the future and will be determined at detailed design stage.
 - Town Centre Play Area and Strategic Landscaping Area – A key element of the consideration to improve access on Market Place is to rationalise the space set aside for Town Centre Play Area & Strategic Landscaping Area. Whilst these offer a key contribution to the town centre, they result in a significant barrier to free movement in a key area of the Town Centre.

6 Financial Implications

- 6.1 The appointment of a Strategic Partner via the Accessible Oldham Framework should streamline the procurement of the works to be undertaken as part of the Accessible Oldham Capital Programme and enable the completion of the works within the grant funding timescales. The total value of the works that will be awarded via this Framework will be dependent on the levels of grant funding available for works and will include both Growth Deal and Mayors Challenge fund grants. The total value of works could be in the region of £25-30m.
- 6.2 The procurement will ensure that the most economically advantageous tender is selected and enable Value for Money to be achieved for the Accessible Oldham works. The revenue costs of conducting the tender exercise will be met from within existing budgets.

(James Postle)

7 Legal Services Comments

- 7.1 The Council has sought external legal advice in relation to the drafting of a Strategic Partnership Agreement using a NEC4 single contractor framework agreement as a basis for the Agreement with the call off contracts for the individual works packages. This is a variation on the usual NEC4 single contractor framework agreement with the purpose of providing the selected contractor with the assurance of exclusivity for the works projects under the delivery programme in exchange for the facility to consult the contractor as and when required on the buildability certain aspects of the project designs.
- 7.2 However, in view of the exigencies of the Covid 19 pandemic the Council will keep a reserve supplier in hand under the provisions of a Reserve Supplier Agreement with a view to calling upon the services of the reserve supplier in the event that the Strategic Partner is unable to deliver a works package at any given time owing to the prescribed circumstances outlined in the Strategic Partnership Agreement. Both

suppliers will be clear about the precise terms of engagement of the reserve supplier so that the benefits of the Strategic Partnership Agreement are not undermined.

7.3 The Strategic Partnership Agreement will incorporate the preferred supplier's selected social value measures which will be regularly monitored and enforced using the terms and conditions of the Agreement.

7.4 The Council will be following its Contract Procedure Rules in the Council's Constitution and advertise the opportunity to the open market via and OJEU notice if the tender documentation is ready for publication before the end of the year. However, it will have to follow the recent amendment legislation published by the government in October 2020 in readiness for Brexit if the opportunity is published after 1st January 2021 and publish the notice in "Find a Tender."

(Elizabeth Cunningham Doyle)

8. Co-operative Agenda

8.1 The scheme supports the Council's vision to deliver a co-operative future where everyone does their bit to create a confident and ambitious borough. It will help to deliver the strategic objective to create an inclusive economy where people and enterprise thrive by investing in the town centre and supporting the delivery of key regeneration projects that are growing the business base, creating jobs and transforming opportunities.

9 Human Resources Comments

9.1 Not Applicable

10 Risk Assessments

Project Risks

10.1 In accordance with the GMCA governance process, a Quantified Risk Assessment has been undertaken at a programme level using the 'Monte Carlo' assessment method, in conjunction with TfGM's Risk Manager, which has identified a P80 risk allowance of circa £1.2 million (or circa 20%) of the GD3 funding. This risk allowance will be held by Oldham as scheme promoter and will sit within the £6 million Growth Deal allocation.

Council Risk Comments

10.2 The risk to the Council is that there is slippage on this programme of work resulting in external funding for these works based on a tight timescale for delivery given the success in bidding from the GMCA. As such the report sets out a proposed manner of delivery which will mitigate this risk

(Mark Stenson)

11 IT Implications

11.1 NONE

12 **Property Implications**

12.1 NONE

13 **Procurement Implications**

13.1 Procurement activity will be carried out in line with the relevant European Union's procurement rules as implemented by UK legislation and UK statutory provision, together with Oldham Council's Contract Procedure Rules (under Section 135 of the Local Government Act 1972).

13.2 A project specific suite of documents has been drafted based on NEC 4 Framework Contract incorporating an Ethical and Compliance Policy encompassing Social Value, apprenticeships and training, National Minimum Wage, National Living Wage and Real Living Wage and SMEs.

13.3 The successful suppliers will be expected to deliver locally and will be monitored to ensure commitments are carried through accordingly.

13.4 The Accessible Oldham works will be managed through Unity Partnership and the Council's Commercial Procurement Unit - Commercial Services, to improve supplier performance and provide reporting and measuring against project deliverables.

14 **Environmental and Health & Safety Implications**

14.1 Environment: The proposals in the Growth Deal 3 programme will support the ambition for Oldham Town Centre to be an exemplar sustainable and low carbon town centre with a number of pedestrian and cycle improvements.

15 **Equality, community cohesion and crime implications**

15.1 None

16 **Equality Impact Assessment Completed?**

16.1 No
An EIA has not been undertaken on this project as it is not expected to have a negative impact on any of the protected groups. It is expected to have a positive impact on some protected groups as it will be designed in accordance with the relevant guidance in the Design Manual for Roads and Bridges and in compliance with all DDA standards which will mean improved accessibility and safety for non-motorised road users including those with a sensory disability, those in wheelchairs and those with prams and pushchairs.

17 **Key Decision**

17.1 Yes

18 **Key Decision Reference**

18.1 NC-08-20

19 **Background Papers**

19.1 NONE

20 **Appendices**

20.1 NONE