



## **RECORD OF DELEGATED DECISION**

### **Contract Exemption Form**

This form is used to record officer decisions. The constitution details who can take delegated decisions.

The Officer must obtain a fully approved exemption in advance of awarding a contract, and must ensure that the actual spend does not exceed the total value stated in the approved exemption.

<b>1. Name &amp; Title of Officer:</b> (who is taking the Decision)	<b>Sarah Legge</b> <b>Local Plans Manager</b>
<b>2. Decision Reference No.</b>	<b>CEX113</b>
<b>3. Contract Title / Subject Matter:</b>	<b>Award of Contract for Restoring Your Railways, Strategic Outline Business Case to support enhanced connectivity between Melton and Nottingham</b>
<b>4. Contract Type:</b>	<input type="checkbox"/> Goods <input checked="" type="checkbox"/> Services <input type="checkbox"/> Works
<b>5. Key Decision</b>	<b>Yes</b>
<b>6. Type of Decision:</b>	<b>Public</b>
<b>7. Decision Taken:</b>  1. Authority to use a Contract Exemption as detailed below.	

## 8. Contract Details:

Service area	<b>Growth &amp; Regeneration</b>
Short contract description	<b>SOBC for Restoring Your Railways</b>
Length of Exemption (months)	<b>12 months</b>
Exemption start date	<b>1<sup>st</sup> March 2021</b>
Exemption end date	<b>28<sup>th</sup> February 2022</b>
Total exemption value (£)*	<b>Up to £80,000 (Quote for the work is £69,645+VAT. Initial contract for £7,500+VAT already completed, total spend of £77,145+VAT – budget £80K+VAT)</b>
Cumulative value of all previous Exemption requests (if applicable)	<b>None</b>

\* Where the total value of the contract is £5,000 or more, the resultant contract must be added to the Contract Register to ensure compliance with Transparency Regulations.

An award notice is required on Contracts Finder for all Contracts with a total value of £25,000 or above. Welland Procurement is responsible for such award notices. Officers must formally advise Welland of the award details, so that they can publish the award notice.

## 9. Exemption Details:

<b>Type of Exemption:</b>	<input checked="" type="checkbox"/> New Requirement <input type="checkbox"/> Change to Existing Requirement <input type="checkbox"/> Replacement to Existing Requirement <input type="checkbox"/> Other
<b>Which rule are you seeking an exemption from?</b>	<input checked="" type="checkbox"/> To advertise <input checked="" type="checkbox"/> To follow a competitive process
<b>Name of Proposed Provider:</b>	WSP
<b>Has the requirement been subject to a previous Exemption?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes [If yes give details below]
<b>Applicable Exemption:</b>	
<i>If the justification being relied upon is as detailed in here, the relevant Service Director will</i>	<input checked="" type="checkbox"/> (2) There is a sound business case and/or an independent review that there is no value for money in running a full

<p><i>need to approve the exemption prior to it being submitted to the Director for Corporate Resources and the Director of Governance and Regulatory Services for approval.</i></p>		<p>procurement process. Supporting evidence will need to demonstrate market testing and enquiries to other suppliers. This should not be used to avoid competition or where decisions to procure have been postponed and there are insufficient timelines to procure.</p>
<p><b>Details of benchmarking or market testing carried out</b></p>		<p>Previous work undertaken by this contractor, and their wider knowledge of the area.</p>
<p><b>How will value for money be secured?</b></p>		<p>WSP have quoted for the work at a rate below that which is quoted on the ESPO Framework, further highlighting the value for money in directly awarding the contract to them.</p>

## **10. Reasons for Decision:**

The Council was made aware at the beginning of 2021 that it had been successful in securing grant funding from the Department of Transport (DfT) Round 2 Restoring Your Railways (RYR) fund to create a Strategic Outline Business Case (SOBC). The bid was submitted by the MP in Autumn 2020, following the completion of the Melton to Nottingham Connectivity Study in Summer 2020 by WSP. That study was procured via the County Council's LLITM Framework, and was jointly funded by the LLEP and Melton Borough Council. The grant provided by DfT is for 75% of the costs up to £50,000. If the maximum of £50,000 is used from DfT, an additional c.£30,000 will be required for match funding. MBC has agreed to commit £15,000, and Charnwood BC also £15,000.

There is a very challenging timeline associated with the work required by the DfT RYR, with monthly meetings, a review point in April 2021 and the submission of the Strategic Outline Business Case required in June 2021.

As will be set out in the Portfolio Holder Decision Record, a number of alternatives for procurement have been considered:

### **Framework Procurement**

Existing Frameworks which the Council has access to (CCS, Pagabo, NEPO) do not allow for direct award, so would not sufficiently accelerate the procurement process, only easing the contract / legal work once a contractor is procured.

Officers completed paperwork to allow access to the ESPO Framework as it allows direct award. There are many companies on that Framework who could undertake the work. Upon close inspection, other companies appear to be able to offer a lower daily / hourly rate than WSP, however it is apparent that they would need to undertake a large amount of work (therefore incurring significant costs) to get 'up to speed' with the project and the amount of background work that has been undertaken to date. The Framework does not allow for this nuance in terms of prior knowledge, and it is therefore very difficult to undertake an accurate comparison between companies on the Framework on a solely hourly/daily rate basis. If there was no previous history, a

simple comparison of day / hourly rates would be considered appropriate, however it is not considered appropriate in this circumstance for this reason.

Previously, the Melton to Nottingham Connectivity Study was procured through the County Council's LLITM Framework. Whilst this allowed for quick procurement, the costs were high which impacted on value for money. Additionally, it is considered appropriate for procurement to be undertaken separately from the County Council on this occasion.

### **Tender/RFQ**

As explained above, the time constraints on the completion of this work are so significant that there is no time to be able to undertake a formal RFQ for quotations to undertake the work. We could not run a tender until we knew what the SOBC would need to contain, and that work has only now been completed. DfT require that that SOBC is submitted in June/July 2021. Even if a tender was set up today, it is unlikely that we would have consultants in place before the work is required to be completed.

It is therefore proposed, given the in-depth, specialist involvement that WSP have had in the project to date, and the challenging time constraints imposed by DfT that the contract is awarded to WSP to undertake the creation of the full SOBC and submission to DfT.

Additionally, WSP have quoted for the work at a rate below that which is quoted on the ESPO Framework, further highlighting the value for money in directly awarding the contract to them.

### **11. Authority / Legal Power:**

See legal comments below

### **12. Background Papers attached?**

(Background papers are to be attached (unless exempt))

**Bid submitted to DfT**

### **13. Alternative options available / rejected:**

1. Use frameworks to procure (CCS, Pagabo, NEPO), however these do not allow for direct award, and would require quotations taking time
2. Request for quotations from wider suppliers, but insufficient time available to undertake this
3. Getting another contractor on board, however they would need time to be brought up to speed with the existing, comprehensive study
4. ESPO Framework allows for direct award, but only on a comparison on hourly / daily rates which does not take account of the significant amount of time that a company other than WSP would need to be 'brought up to speed' with the work already undertaken in both the existing Connectivity Study and the

Scoping and Project Management recently undertaken in support of the creation of the SOBC.

#### 14. Implications:

(Please ask the respective professional officers ((a) Legal, (b) Finance and (c) Human Resources) for their assessment of the potential implications of this decision. You should also consult any other relevant officers if you think the decision will have an impact on their areas of responsibility.)

<p><b>Legal</b></p>	<p>The Council has the power to enter into contracts in order discharge its functions (Local Government Act 1972, s111 and the Local Government (contract) Act 1997, s1).</p> <p>The Local Government Act 1972 requires the Council to have regulations for how it enters into contracts. In addition to complying with all relevant UK and EU legislation every contract entered into on behalf of the Council must also comply with the Council’s Contract Procedure Rules and the Council’s Financial Regulations. The Contract Procedure Rules provide exemptions but the exemptions listed do not apply to procurements valued above the relevant EU Threshold.</p> <p>Exemptions must be approved by the Director for Corporate Services and the Assistant Director for Governance &amp; Democracy and are subject to one of more of the criteria being fulfilled.</p>
<p><b>Finance</b></p>	<p>The cost of the works has been approved as part of the budget for 2021/22</p>
<p><b>HR</b></p>	<p>No HR Implications</p>

#### 15. Signature of relevant Service Director:

Where justification (2) is being relied upon, the relevant Service Director will need to approve the exemption prior to it being submitted for further approval

**Pranali Parikh – Director for Growth and Regeneration**

**Approved by email 29.03.21**

<b>16. Signature of Decision Maker:</b> Please do no 'pp' for a Senior Officer	<b>Dawn Garton - Director for Corporate Services</b> <b>Approved by email 29.03.21</b>
<b>17. In Consultation with:</b>	<b>Kieran Stockley – Assistant Director for Governance and Democracy</b> <b>Approved by email 29.03.21</b>
<b>18. Date:</b>	<b>29.03.21</b>

Please send all decision for publication to: Democratic Services at [democracy@melton.gov.uk](mailto:democracy@melton.gov.uk) .

<b>19. Decision Reference No.:</b>	
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**20. Exempt or Confidential Background Information:**

(Use this section to include any exempt or confidential information that should not be published or placed on the Council's website but is needed to support the decision. The information in this section will only be shared within the Authority as appropriate.)

For further support or guidance please contact Natasha Taylor – Democratic Services Manager or Democratic Services at [democracy@melton.gov.uk](mailto:democracy@melton.gov.uk).