



**RECORD OF DELEGATED DECISION (OFFICER)**

**CONTRACT EXEMPTION**

<b>1. Decision Reference No.</b>	<b>CEX 314</b>	
<b>2. Name/Title of Officer</b>	<b>Pranali Parikh, Director for Growth and Regeneration</b>	
<b>3. Email address of Officer</b>	<b>pparikh@melton.gov.uk</b>	
<b>4. Contract Title / Subject Matter:</b>	<b>Contract Exemption - Asset Development Programme Contract Extension</b>	
<b>5. Type of Decision:</b> (The decision will be published in its entirety unless it contains exempt information as described in Section 1.4 of the <a href="#">Council's Access to Information Rules</a> )	<b>Public</b>	
<b>6. Key Decision?</b>	<b>No</b>	
<b>7. Contract type:</b>	<input type="checkbox"/>	Goods
	<input checked="" type="checkbox"/>	Services
	<input type="checkbox"/>	Works
<b>8. Decision Taken:</b>		
<p>1. Authority to use a Contract Exemption as detailed below;</p> <p>2. Authority to award and enter into any necessary agreements with [Supplier].</p>		
<b>9. Contract Details</b>		
Service area	Corporate Property & Assets	
Short contract description	To undertake design, costing and surveying services, including lease negotiations and options appraisals, planning advice and any other associated professional advice, to support the Council's Asset Development Programme	
Length of Exemption (months)	Up to 8 months	

Exemption start date	01/02/2023
Exemption end date	30/09/2023
Total exemption value (£)*	Up to £50,000
Cumulative value of all previous Exemption requests (if applicable)	The previous decision record was for the total commission to be £67,000. (CEX 179). It wasn't an exemption.

\* 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 £20,000 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.

## 10. Exemption Details

<b>Type of Exemption:</b>	<input type="checkbox"/> New Requirement <input checked="" 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 type="checkbox"/> To advertise <input checked="" type="checkbox"/> To follow a competitive process
<b>Name of Proposed Provider:</b>	The Scape/Perfect Circle framework
<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>	<input type="checkbox"/> (1) No genuine competition: proprietary or patented goods or services; requirement of such a specialist nature that it can genuinely only be fulfilled by one person or organisation; compatibility with existing goods or services is required and where those existing goods or services can only be sourced from the same supplier.
<i>If the justification being relied upon is as detailed in here, the relevant Service Director will 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>	<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 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.

	<input type="checkbox"/>	(3) Genuine emergencies: critical preventative or remedial work where there is a real and imminent risk to the safety of people or property arising from hitherto unforeseen 'catastrophic' events or incidents, for example fire, bombing, landslide etc.
	<input type="checkbox"/>	(4) Urgent Situations not of the Council's own making: the urgency must have been reasonably unforeseeable (e.g. existing supplier going into liquidation) and genuinely be a case of time is of the essence. Urgency arising from the Council's own making (e.g. lack of planning) shall not justify an exemption. Where this exemption is used, a compliant procurement must be implemented as soon as possible.
	<input type="checkbox"/>	(5) Collaborative/Joint Procurement: where another authority/public body is acting as the 'lead buyer' and provided that the Officer can demonstrate those arrangements comply with relevant Regulations and best practice.
	<input type="checkbox"/>	(6) Grants which the Council may receive or make: except where the grant is the form of payment for a contract for services where the Council specifies the output or outcomes to be delivered. The awarding of grants by the Council or on behalf of the Council must be carried out under the principles of openness, fairness, non-discrimination and value for money. Officers cannot choose to treat procurement as a grant in order to avoid conducting a competitive process.
	<input type="checkbox"/>	(7) Contracts for the execution of either mandatory works or provision of goods or services which must be provided by Statutory Provider other than the Council. This includes but is not limited to public utility companies and other legal authorities.
<b>Details of benchmarking or market testing carried out</b>		The contract was secured in February 2022 via the framework arrangement.
<b>How will value for money be secured?</b>		Extension of the previously properly procured contract will help with the continuity of the project and will save time for procurement as well as for new consultants to get to the grips of complex evolution of the project so far. This will in return save money and time for the Council.

## 11. Reasons for Decision:

The Council is required to make optimum use of its corporate assets in keeping with its statutory duty for “best value”. The Council approved the first phase of ADP in April 2020. Since then a series of changes have been made to the scope of the programme following relevant cabinet approvals over the last three years. In accordance with these approvals, changes were made to the instructions and brief for the consultants at relevant stages. In February 2023, the Cabinet approved a further iteration and sought more work to refresh the demand analysis, impact assessments and options appraisals. To fulfil these commitments, further work needs to be undertaken. The capacity and skill set within the corporate property team is limited to undertake such multi-disciplinary works. Therefore external advice through framework is sought. The team of consultants including architects, planners, cost consultants, quantity surveyors, estate surveyors and property agents have been working on this project over the last couple of years. It is proposed to extend the current contract to complete this phase of works by continuing to work with the same team to maintain continuity and reduce the time and cost for the Council in appointing a new team.

## 12. Authority / Legal Power:

(Please detail where your authority comes from e.g. Committee Minute, Constitution or Legal power i.e. what enables you to take this course of action)

At the 16 December 2020 Cabinet meeting, the following was noted, recommended and approved:

**APPROVED** to Delegate authority to the Director for Growth and Regeneration in consultation with the Portfolio Holder for Growth and Prosperity to procure and appoint consultants and contractors to enable the use of this funding;

Following on from the meeting above, the Capital Programme was approved by Council on 24 February 2021 (Item CO70).

**CPR 16.4 Exemptions must be approved by the Director for Corporate Services and the Assistant Director for Governance & Democracy**

## 13. Background Papers attached?

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

**No  
CEX 179 (for reference)**

## 14. Alternative options available / rejected:

(Briefly summarise what other options, if any, are available or considered and why they were rejected.)

1. Undertake the work in-house: The works proposed to be undertaken through this extension of the contract require a wide ranging skill set including design, planning, cost-consultancy, surveying as well as experience of property development work in specific commercial and leisure sectors. This level of skills and experience are not available within the current corporate property and assets team.
2. Not use the exemption and undertake a new procurement exercise to complete the works: This would mean appointment of a new set of consultants who will need time to grasp the details and complexities of the work done so far which would cost the Council time and money.

## 15. Implications:

<b>Legal</b>	<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>[Legal Approval – 6 June 2023]</p>
<b>Finance</b>	<p>The cost of this extension of the current contract is estimated at £49,601.58 which can be funded from the currently approved budget for the Asset Development Programme.</p> <p>There is a risk that as the councils match funding is through capital receipts if the current work doesn't lead to a development of an asset or improvement works, the costs incurred may need to be charged through the revenue budget which would then need to be funded from a different source.</p> <p>[Finance Approval – 1<sup>st</sup> June 2023]</p>
<b>HR</b>	<p>There are no HR implications of this decision.</p> <p>[HR Approval - date 2023]</p>

<p><b>Procurement</b></p>	<p>The Scape/Perfect Circle framework has been identified as a suitable procurement method for the appointment of the consultants in keeping with the contract procedure rules.</p> <p>Following publication of this Decision, and award of the contract, the Council's Contract Register will need to be updated, and a Contracts Finder Award Notice will be published (discuss with Welland Procurement).</p> <p>MF: Assuming the exemption is for the variation exceeding the 10% value threshold on variations in the CPR's (Section 17.2) as the use of a Scape framework makes it compliant under a new agreement in terms of procurement process. As such happy to approve.</p> <p>[Procurement Approval – 05/06/23]</p>	
<p><b>16. Signature of relevant Service Director:</b> 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</p>	<p><b>Pranali Parikh</b> <b>Director for Growth and Regeneration</b></p>	
<p><b>17. Signature of Decision Maker with authority to sign (See Section 12):</b></p> <p><b>CPR 16.4 Exemptions must be approved by the Director for Corporate Services and the Assistant Director for Governance &amp; Democracy</b></p>	<p>Signature redacted</p> <p><b>Dawn Garton</b> <b>Director for Corporate Services</b></p>	
<p><b>18. Consultation with:</b></p> <p><b>CPR 16.4 Exemptions must be approved by the Director for Corporate Services and the Assistant Director for Governance &amp; Democracy</b></p>	<p>Signature redacted</p> <p><b>Alison McKane</b> <b>Interim Assistant Director for Governance &amp; Democracy</b></p>	
<p><b>19. Date:</b></p>	<p><b>07 June 2023</b></p>	

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