

## Report of the Portfolio Holder for Economic Development and Asset Management

### ENDORSEMENT OF STAPLEFORD TOWN DEAL DELIVERY BOARD PROCUREMENT DECISION

#### 1. Purpose of Report

The purpose of this report is to give formal endorsement to a procurement and budget decision made by both the Stapleford Town Deal Executive Board and the Town Deal Delivery Board. Broxtowe Borough Council needs to ratify this decision as overall Accountable Body for the programme.

#### 2. Recommendation

**Cabinet is asked to RESOLVE that:**

- 1. The Stapleford Town Deal's Executive and Delivery Boards' decisions to appoint VIA EM to design the whole town highway improvement scheme; provide detailed designs and construct the replacement car park on Derby Road be endorsed.**
- 2. An exemption to the Council's Contract Procedure Rules be approved to allow for the contract to be awarded without a full tender process being carried out.**

#### 3. Detail

The Stapleford Town Deal (STD) Executive Board is a private / public partnership board which until recently provided monthly strategic direction and governance of the £21.1 million Programme. With five of the six projects having their finances approved, the governance has been refined. The Executive Board agreed a revised Local Assurance Framework, (LAF), effectively a Town Deal constitution and regulatory protocol. This was scrutinised by the Department of Homes Levelling Up and Communities (DHLUC) who concurred there was no need for further more detailed scrutiny.

The LAF contains procurement guidance which for the most part mirrors the Council's Procurement Strategy, but has slightly more flexibility in the way that tight spending deadlines imposed by the Government are legislated for. A meeting of the Executive on 23 September 2022 used this process to award work to VIA EM. The LAF also created a Delivery Board to oversee timescales, manage risk and support project delivery. This Board comprises Senior Officers of the Borough Council plus the private sector Chair and meets every six weeks or more urgently if necessary. In September 2022 the STD Executive Board used the LAF and appointed Nottinghamshire County Highways teckal, VIA EM to design the Highways improvement works in the town centre. A small award was also made to design the new car park on Derby Road with a possibility of an extension to build the car park itself. Details of the contract values are covered

in a confidential appendix 4, to avoid the dissemination of commercially sensitive information.

The Town Deal Executive and Delivery Boards agreed that consistency was key; this is to say that car park and highway improvement designs should have common features and be aligned to the detail of on road parking and regulations concerning vehicular access, traffic flows and turning requirements the design of the new car park by VIA EM was seen as a logical and sensible action by the Board and has agreed to their designing the car park which has been done.

Given that the provision of the new car park is vital to facilitate the creation of the next stage of the Victoria Street Enterprise Hub and is slightly behind programme there was support to commission VIA EM to build the car park once the design has attained planning permission. The STD Executive agreed that speed was important. Subject to satisfactory performance and the design meeting objectives, the Executive are favourable to an option to make a further award for the detailed design, planning and construction of the car park providing it had the approval of the STD Delivery Board. The Delivery Board concurred, but stipulated that the decision to award on a single tender basis must be ratified by Cabinet.

VIA EM's have now produced the construction proposal for this car park's design. The revised price has been tested against Faithful and Gould and PAGABO rates who have judged it reasonable, it includes a project management fee and an agreed element of profit. There is a programme contingency and the costs can be met entirely from the STD without risk to the Council. VIA EM have given assurances that they will use local Nottinghamshire contractors to support the Town Deal. A preferred design is attached at appendix 3.

The Delivery Board are favourable to proceed at pace with the car park development using a direct award to VIA EM but in the best standards of public accountability should be subject to scrutiny by Cabinet. The works are valued at the amount stated within appendix 4, which is confidential. At this amount an exemption to the Council's Contracts Regulations can be approved by Council, the relevant Committee or the Chief Executive Officer, or duly nominated substitute, if a tender process is not carried out for contract awards above £25k. The value for the works is below the Public Contracts Regulations 2015 (PCR 2015) mandatory tendering threshold for Works (approximately £4.44m) and therefore in the opinion of the Council's Procurement and Contracts Officer is compliant.

Should Cabinet be minded to ratify the Stapleford Town Deals' decision, officers will draw up contractual terms to ensure the car park can be built subject to planning permission in 2023.

#### 4. Financial Implications.

The comments from the Head of Finance Services were as follows:

The Council was successful in its bid for the Government's Towns Deal funding with the aim of regenerating and revitalising the town of Stapleford. The £21.1m funding for the Stapleford Town Deal, which will be received over the project delivery period, is being invested in six core projects. The schemes have been budget profiled and included in the Capital Programme accordingly. There are no financial implications at this stage, with the additional costs quoted expected to be contained within the overall Towns Fund programme. Any significant budget implications for the Council going forward would require approval by Cabinet.

The advice of the Council's procurement expert has been sought and considered to ensure compliance with the Council's Contract Procedure Rules. The value for the works is below the Public Contracts Regulations 2015 (PCR 2015) mandatory tendering threshold for Works (approximately £4.44m). However, with the works being valued at the sum in appendix 4, an exemption to the Council's Contract Procedure Rules is required, which can be approved by Council, relevant Committee or the Chief Executive Officer or duly nominated substitute, if a tender process is not carried out for contract awards above £25,000.

#### 5. Legal Implications

The comments from the Monitoring Officer / Head of Legal Services were as follows:

The Head of Legal Services has consulted with the Contracts and Procurement Officer and the comment is:

The exemption requires compliance with relevant legislation, the Council's constitution and Local Assurance Framework document that governs the Stapleford Town Deal Executive Board.

The value of the works does not meet the threshold in the Public Contract Regulations 2015 and as such these Regulations do not apply. However, as the works exceed the medium value of £25,000, Clause 1.2 of the Contract Procedure Rules of the Constitution states:

Every contract and the procedures relating to the selection of tenderers and the obtaining, opening and evaluation of tenders or quotations shall comply with these Procedure Rules and no exception from any of the following provisions of these Procedure Rules shall be made otherwise than by the direction of the Council or by Cabinet or by the Chief Executive or duly nominated substitute.

As the Local Assurance Framework document is based on the Council's constitution the same provision as above applies in relation to this.

Therefore, the proposed exemption is compliant with the aforementioned requirements.

6. Human Resources Implications

The comments from the Human Resources Manager were as follows:

Not applicable

7. Union Comments

The Union comments were as follows.

Not applicable.

8. Data Protection Compliance Implications

Not applicable.

9. Equality Impact Assessment

Not required.

10. Background Papers

Nil