

RECORD OF DECISION MADE UNDER DELEGATED AUTHORITY

*PART 1 – PUBLIC DOCUMENT

Any interest to declare/ or conflict and any dispensation granted N/A

SERVICE DIRECTORATE: Place

1. DECISION TAKEN

- 1.1 To appoint Varsity Consulting to act as the Employers Agent for North Herts Council on the leisure decarbonisation project. This includes carrying out tasks of Quantity Surveyor, Cost Consultant and Contract Administrator.

2. DECISION TAKER

- 2.1 Sarah Kingsley, Service Director - Place

3. DATE DECISION TAKEN:

24 September 2024

4. REASON FOR DECISION

- 4.1 To ensure the Council has specialist support in order to administrate the NEC contract, ensure the Council is receiving value for money & best price from Willmott Dixon Construction as well as assist the council in delivering the desired outcomes of the project. Varsity Consulting have experience of working on Salix de-carbonisation projects as well as experience of working on a number of successful leisure projects in other councils.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 To carry out a competitive tender via the Council's E-sourcing system for the services required. Due to the project timescales and need to ensure we do not cause further delays to the programme, or our ability to claim Salix funding the competitive tender route this is not an option.

6. CONSULTATION (INCLUDING THE EFFECT ON STAKEHOLDERS, PARTNERS AND THE PUBLIC)

- 6.1 The Executive Member for Environment and Leisure has been consulted.

7. FORWARD PLAN

- 7.1 This decision is not a key Executive decision and has therefore not been referred to in the Forward Plan.

8. BACKGROUND/ RELEVANT CONSIDERATIONS

- 8.1 The latest round of public sector decarbonisation funding (PSDS) opened In November 2022. The Fund offers public sector organisations the opportunity to apply for funding which will help decarbonise their buildings. Therefore applying to the fund allows the council an opportunity to decarbonise part of its estate with a much reduced capital outlay. Detailed applications have to be prepared for the scheme, including heat decarbonisation plans and further technical, risk and governance assessments.
- 8.2 The Greater South East Net Zero Hub subsequently agreed to provide grant funding to the Council, for activity which would support our readiness to put in an application to the latest round of PSDS.
- 8.3 Willmott Dixon were subsequently appointed through the SCAPE Framework and in consultation with the Net Zero Hub, to provide heat decarbonisation plans and support through the PSDS process for an application to decarbonise of our three leisure centres.
- 8.4 We have since entered into a Pre-Construction Service Agreement (PCSA) with Willmott Dixon to start the process of drawing up detailed designs for the project and submit a planning application for the proposed works.
- 8.5 With Willmott Dixon now developing detailed designs which will require updated costing compared to the proposed Feasibility Stage cost, it is critical that we have an Employers Agent working for the council to challenge Willmott Dixon on the proposed materials and ensure the council is receiving the best price possible. Once we enter into the NEC Construction Contract with Willmott Dixon, it will be critical to have an Employers Agent working for the council to ensure that both the council and Willmott Dixon are meeting their obligations under NEC, as there are clauses on both sides that if not met could result in claims for delay damages from either party.
- 8.6 Varsity Consulting were subsequently appointed through the Constellia and AEC Framework to provide the required Employers Agent services for North Herts Council.

9. LEGAL IMPLICATIONS

- 9.1 Under 14.6.4 (a) (ii) of the Council Constitution, Service Directors have a general authorisation for “entering into contracts to carry out works and/or for the supply of goods and services within approved budgets”.
- 9.2 Consultation with Legal took place to ensure the AEC framework – Agri-Epi Centre meets the “contracting authority” definition criteria as laid out in the PCR 2015. Further, the company not only complies with Subsidy Control rules (which it must in order to receive public grant funding,) but that it also conducts its procurement activities as defined under public procurement legislation such as the PCR 2015 and its Scottish legislative equivalents.

10. FINANCIAL IMPLICATIONS

- 10.1. North Herts Council has been awarded £7,743,224 by Salix to carry out works to decarbonise Royston Leisure Centre, Hitchin Leisure Centre and North Herts Leisure Centre. As per the council’s accepted application for the grant funding we need to make £6,165,240 of claims before the close of financial year 2024/25 and £1,577,960 of claims before the end of financial year 2025/26.
- 10.2. Varsity Consulting’s fee for the project works will be £168,600. Capital funding of £170,000 has been allocated to the procurement of an Employers Agent to assist the council in managing and administrating the pre-construction and construction phases of the project and the costs are therefore within budget.

11. RISK IMPLICATIONS

- 11.1 Good Risk Management supports and enhances the decision-making process, increasing the likelihood of the Council meeting its objectives and enabling it to respond quickly and effectively to change. When taking decisions, risks and opportunities must be considered.
- 11.2 There is a risk that if we do not appoint an Employers Agent that Willmott Dixon will be able to increase the total cost of the project unchallenged, by choosing to use high-cost premium products unnecessarily. Also, there is a risk that the council is opening itself up to unlimited delay damages claims due to ineffective contract administration.

12. EQUALITIES IMPLICATIONS

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2 There are no equalities implications arising from this report.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 As the recommendations in the report relate to a contract value of £168,600, Social Value has been taken into account under the AEC Framework which boosts social value through the use of Small and medium-sized enterprises helping better achieve social value outcomes. In addition, the supplier appointed under the Constellia framework has committed to make a donation to Letchworth Foodbank at Christmas, and supply and plant a tree for the project in a location of the Councils choosing.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1.1 There are no Environmental implications associated with the appointment of Varsity Consulting.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 Varsity Consulting were appointed in recognition that the council does not employ specialist staff who could produce works and reports such as cost consultant and quantity surveyor.

16. BACKGROUND PAPERS

- 16.1 None

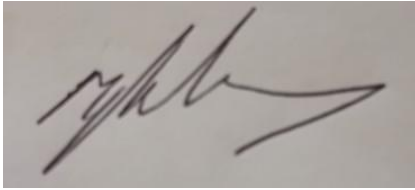
17. APPENDICES

- 17.1 None

NOTIFICATION DATE

27 September 2024

Signature of Executive Member Consulted



Date 27/09/2024

Signature of Decision Taker



Please Note: that *unless urgency provisions apply* EXECUTIVE decisions cannot be implemented until 5 clear working days have elapsed after the decision has been taken to allow for scrutiny call-in.

Call-in does not apply to NON-EXECUTIVE DECISIONS