

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:

3958

Author:

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Department:

Development and Growth

Contact:

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Subject:

Procurement of a contractor to carry out public realm improvements around the new Nottingham College and Car Park and Bus Station sites

Total Value:

Nil (Type: Nil)

Decision Being Taken:

To approve dispensation (in accordance with Financial Regulation 3.29) from the need to conduct a tender process in accordance with Contract Procedure Rule 4.1.2, to award a contract to Thomas Bow Limited to carry out public realm works around the new Nottingham College site and Carrington Street.

Reasons for the Decision(s)

Changes to alter the way traffic uses the highway network around the Broadmarsh area have been ongoing since 2016. These highway changes form part of the Southside Transport Strategy and will remove all traffic from Collin Street, and general traffic from Canal Street. These closures are scheduled to take place in August 2020 and will enable delivery of public realm thereafter.

The Executive Board meeting held on 16 June 2020 approved acceptance of a Department for Transport Grant Award of £153million for the delivery of the Transforming

Cities Funding (TCF) Tranche 2 Programme. This programme includes a specific allocation of £20million that will enable delivery of improved public realm around the Broadmarsh Area, linking new developments across the south of the City including the Railway Station, new college, new car park and bus station, and redeveloped castle.

Although funding for this project has only recently been confirmed, parts of the public realm programme are required urgently to ensure that their delivery aligns with adjacent developments. In particular, the areas in the vicinity of the new College, and Carrington Street, adjacent to the new Car Park building. Thomas Bow has been providing Early Contractor Input (ECI)

to ensure that a delivery programme is in place, which coordinates with adjacent schemes, including the highway changes in the Broadmarsh Area. To gain the full benefit and continuity of this ECI input, Thomas Bow is therefore best placed to deliver these works. The Executive Board meeting of 16 June 2020 delegated authority to the Corporate Director for Development

and Growth to appoint preferred suppliers and contractors to deliver the programme. Dispensation from Contract Procedure Rule 4.1.2 and the requirement to carry out a tendering process is being applied to this award of contract, in accordance with Finance Procedure Rule 3.29. It is considered that use of Thomas Bow for this contract represents value for money for delivering a project of this size within the Council's project timescales. Thomas Bow also currently delivers works under a number of contracts awarded by the Council that have been tested in the market, and pricing will be subject to the scrutiny of the Council's professional team, including its Quantity Surveyor.

Other Options Considered:

1) To use the Highways Framework for this contract: The Highways Framework that the Council currently has in place would require a mini competition to be undertaken. There is insufficient time to undertake a mini competition while also meeting the timescales of adjacent development, and this would also risk losing continuity benefits through the ECI and adjacent Highways works. For these reasons, this option was rejected.

2) To undertake an open tender procurement exercise for a full programme of Public Realm works: There is currently insufficient clarity as to the requirements for the wider Broadmarsh scheme, and this will not be determined in time to enable delivery to meet the timescales of adjacent developments. For these reasons, this option was rejected.

Background Papers:

None

Published Works:

Executive Board Report 22 December 2015 (<https://committee.nottinghamcity.gov.uk/ieListDocuments.aspx?CId=177&MId=5040&Ver=4>)
 Executive Board Report 16 June 2020 (<https://committee.nottinghamcity.gov.uk/ieListDocuments.aspx?CId=177&MId=8431&Ver=4>)

Affected Wards:

Citywide

Colleague / Councillor Interests:

None

Dispensation from Financial Regulations:

Yes

Consultations:

Those not consulted are not directly affected by the decision.

Crime and Disorder Implications:

This decision is not considered to have any specific crime and disorder implications. The scheme design has been developed to reduce and remove opportunities for crime and disorder.

Equality:

EIA not required. Reasons: The decision does not set out proposals for changes to a policy, service or function.

Social Value Considerations: Not applicable, as the value of the contract will be below the EU threshold.

Decision Type: Officer

Executive Decision? Yes

Scheme of Delegation Reference Number or Other Source of Delegation: Executive Board Resolution, June 16 2020, Minute 8(3)

Subject to Call In: No
The call-in procedure does not apply to the decision because the value of the decision is below the call in threshold.

Advice Sought: Legal, Finance, Procurement

Legal Advice: The Executive Board on 16 June 2020 delegated authority to the Corporate Director Development and Growth to appoint contractors to deliver the Transforming Cities Programme of works utilising the fund accepted under that report. This decision is to record the delegated decision of the Corporate Director to appoint Thomas Bow to carry out the works as specified in this report, and that such award is made under a dispensation. Both decisions are in accordance with the authority that has been delegated. As per the procurement advice set out below, the proposed appointment is considered to be legally compliant, and the reasons for making such an award are as set out in the report. There are no further legal issues arising from the report.

Advice provided by Naomi Vass (Senior Solicitor) on 09/07/2020.

Finance Advice: The expenditure incurred within this decision is contained within the current approved Capital Programme, therefore no amendment to the capital programme is required. The project manager is required to ensure that the grant conditions within the grants used to fund this capital expenditure are fully complied with to mitigate the risk of clawback. This decision requires dispensation from Financial Regulation 3.29 from the need to conduct a tender process in accordance with Contract Procedure Rule 4.1.2.

Advice provided by Tom Straw (Senior Accountant - Capital Programmes) on 10/07/2020.

Procurement Advice: The proposed value of the contract is £4.5million, which is below the current threshold at which an OJEU tender is required, and so a direct award using a dispensation to Contract Procedure Rule 4.1.2 does not conflict with either national procurement legislation or the Council's rules. However, given the value, care must be taken to ensure that any variations to the contract or additional works leading to an increase in value do not exceed the threshold, as that may create a breach of the Public Contracts Regulations 2015.

Advice provided by Jonathan Whitmarsh (Lead Procurement Officer) on 02/07/2020.

Signatures:

Chris Henning (Corporate Director for Development and Growth)
SIGNED and Dated: 07/08/2020
Laura Pattman (Strategic Director of Finance) - Dispensation from Financial Regulations
SIGNED and Dated: 18/08/2020
Chief Finance Officer's Comments: