

1. This report seeks approval to deliver a traffic island sponsorship management contract via a third-party provider and to delegate authority to the Corporate Director of Communities, Environment and Resident Services to directly award an ESPO Framework concession contract to CP Media for a period of 4 years and to increase contributions to the existing Medium Term Financial Plan budget (MTFP) by £15,000 to deliver on the 2024-25 MTFP savings targets.
2. The author of the report has confirmed that Greenspace & Natural Environment Service has managed traffic island sponsorship for more than 40 years and operated as a platform for traffic Island sponsorship sales. The Report emphasised that due to cost cutting exercise around 2014-2015, resulted in horticultural schemes for traffic island planting reduction as this was implemented to deliver savings and Traffic Island sponsorship management responsibilities were redistributed to staff within the service to fulfil these duties alongside existing duties. Given, that the services were previous run inhouse, it is therefore, incumbent on the writer of the report to comply with the Council's Constitution, in particular Article 18.24, of the constitution, on why it is necessary to outsource the service as opposed to continue utilising the inhouse services.
3. The management of traffic island sponsorship would be carried out by the awarded specialist within the field under the concession contract that will assume all the financial risk associated with a concession, to manage the sale of traffic Island sponsorship, obtaining any necessary planning permission consents and sponsorship signage collateral. The writer of this report has confirmed that this proposal will realise a reduction in spending on signage and increase income generation potential. This approach would meet the Council Constitution best value requirement.
4. Despite the Contract value not meeting the threshold at which the Concession Contract Regulations 2016 apply, the proposal however, comprises a concession contract falling within the technical definition in regulation 3 of the Concession Contract Regulation 2016, and understand from the author of the report that the contract opportunity involves the transfer to the concessionaire of an operating risk in exploiting services encompassing demand or supply risk or both and the part of the risk transferred to the concessionaire involves real exposure to the whims of the market, such that any potential estimated loss incurred by the concessionaire is not merely nominal or negligible. It is understood that the successful concessionaire provider will assume operating risk, under normal operating conditions, and it is not guaranteed to recoup the investments made or the costs incurred in operating the services, which is dependent upon advertising and sponsorship sales for the roundabouts, the subject-matter of the concession contract.
5. Despite the concession not meeting the financial threshold for the Concession Regulation 2016 to apply, the principles of treating economic operators equally and without discrimination and acting in a transparent and proportionate manner must be complied with throughout the procurement process. The proposed route to market involving a direct award under an ESPO Framework will ensure compliance with these principles. Use of the framework also

ensures the key procedural principles must be applied to the procurement process such as those highlighted in the Crown Commercial Services Handbook for the Concession Contracts Regulations 2016 Microsoft Word - 20160607 Handbook for the Concession Contracts Regulations 2016 final.xml (publishing.service.gov.uk).

6. Due to the nature of the services, there is also a request that the financial information contained in the report be exempt from publication under paragraph 3 of Schedule 12A, to the Local Government Act 1972, as it contains information relating to financial or business affairs of the Council and, commercially sensitive information of the supplier, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
7. Section 19 of the Freedom of Information Act 2020 requires every public authority to adopt and maintain a Publication Scheme. The Council has based its Publication Scheme on the Information Commissioner Office Model Publication Scheme, which gives clear guideline on which information the Council publishes. Having considered the request for exemption of publication under Section 19 of the Freedom of Information Act 2020, the exemption holds merit.
8. In making the award the Council must also meet its responsibility to ensure that the advertisements and sponsorship service complies with the council's advertisement and Sponsorship Policy, under the Concession Contract terms and Conditions to ensure that the Council is operating a responsible service.

Subject to the above comments, the proposal does not raise any significant legal concerns.

Advice provided by: Vendie Charles

Role: Solicitor

Date 17/1/2024.