

Nottingham City Council

Business Case

Project Title: Derby City Council – Transport Services for Older People and People with Learning Disabilities

Lead Department: Communities



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DOCUMENT CONTROL

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1.0 EXECUTIVE SUMMARY

Derby City Council (DCC) has a range of transport requirements that support the delivery of services to the residents of Derby.

The existing contracts for the transport services required by their People Services Directorate are held by a Lincolnshire based company called Essential Fleets Services and are due to expire on the 26th March 2016. Essential Fleet Services are pulling out of the passenger transport market and DCC has failed to source a suitable alternative supplier through the formal tendering process.

DCC outsource all of their transport services and have approached Nottingham City Council (NCC) to manage the services detailed in Table 1.0 below on their behalf for an initial period of 12 months.

Table 1.0 – Service Scope

Service	Current No. Clients	Maximum No. to be Transport on Any Given Day
Transport services for older people to Morleston Street Day Centre	33	30
Transport services for people with dementia to Morleston Street Day Centre	15	8
Transport services for people with learning disabilities with additional access requirements to the Inspire Unit	25	18

Under the commercialism agenda, Passenger Transport Services has proposed to increase external income opportunities in the 2016/17 financial year, initially through partnership working with the University of Nottingham and Nottingham Trent University.

To support this agenda, NCC are putting forward a proposal to manage the transport services on behalf of DCC, as it would promote partnership working and provide an additional source of income to support the Council's commercialism aspirations.

It would also present an opportunity for further joint ventures with DCC in the following areas:-

1. SEN (Special Educational Needs) transport
2. Schools transport
3. High dependency transport
4. School swimming transport
5. Vehicle maintenance
6. Commercial waste
7. Parking Services

Furthermore, joint working would support the current proposal to create a single Combined Authority through devolution and would help the D2N2 to realise its vision of a

more prosperous, better connected and increasingly resilient and competitive economy.

Last year it cost DCC £535,000 to provide the services detailed in Table 1.0 and it is reasonable to expect that this figure would be higher in the 2016/17 financial year due to inflation and increased staff costs associated with the implementation of the National Living Wage in April 2016.

NCC has put forward a proposal to operate the services for a minimum period of 12 months at a cost of £526,743. This would provide NCC with an additional external income of approximately £86,000 per annum and would represent a saving of 1.5% to DCC based on the 2015/16 operating figures. However, the saving to DCC will be much greater in real terms, once inflation, increased staff costs and costs associated with delivering the scheme within stringent timescales are taken into account.

This figure is based on TUPE transferring the existing staff on their current terms and conditions (T&Cs) and would increase if the staff were transferred on NCC T&Cs (please see Table 2.0 for details).

Table 2.0 – Cost to Provide Adult Transport Services to DCC

Financial Year 2016/17	At TUPE Rates (£)	AT NCC Rates (£)
<u>Staff</u>		
TUPE Staff	202,995	230,447
Supervisor	30,556	30,556
Uniform / PPE (£150/ staff member)	3,150	3,150
DBS – (£44/staff member)	924	924
CPC Training (£100/driver – 8 D/D1 staff)	800	800
<u>Vehicles</u>		
Rent (9 vehicles @£1,079.62 / vehicle / month)	116,600	116,600
Fuel (£12.00/ day – 260 days x 8 vehicles)	24,960	24,960
Insurance (£7/day – 190 days)	13,300	13,300
<u>Premises</u>		
NCC back office costs	7,225	7,225
Operating base (supplied by Derby)	0	0
<u>Other</u>		
<u>Contingency</u>	40,000	40,000
Management fee	86,233	93,592
Total Cost to DCC	526,743	561,555

Legal Services have recommended NCC enter into a contract with DCC rather than undertaking the work under a Service Level Agreement, as it will enable the use of indemnity clauses to protect the Council from financial loss arising out of the contract being terminated after the initial 12 month period. This would include redundancy costs and pension strain.

Subject to approval, NCC has the resources in place to commence the contract from

Tuesday the 3rd May 2016. Details of the processes involved with providing the service have been set out in Section 3 of this document entitled 'Scope' and the risks associated with delivering the project in such a short timescale has been highlighted in Section 5.

2.0 STRATEGIC FIT

Over the past four years, NCC has made savings totalling £123 million across its services. Since 2010 the City Council will have faced £150 million reduction in its overall budget and more significant cuts in funding are expected over the next four years.

As a result, the Council has had to become more commercial and efficient to bridge the ever increasing short-fall in funding and to enable them to continue providing their citizens with the best service possible. This has included entering the energy sector by creating Robin Hood Energy, who compete with private sector energy companies and will, over a period of time, generate surplus income which will be reinvested into Council community projects.

It has also included reviewing existing services to identify potential efficiency savings. For example, NCC provides transport to its most vulnerable citizens to enable them to access mainstream services and schools so they have a more inclusive role within the community. Since 2012 the service has undergone a substantial commercial transformation improving quality as well as efficiency, which has resulted in internal savings to Adult Services of £750,000 and an improved net position of the service by £1.1 million.

By growing commercially, the service has been able to subsidise its internal customers allowing for Nottingham's most vulnerable citizens to continue accessing a great transport service when it's needed most. Growing the service also means we can provide Nottingham jobs for Nottingham people at the living wage and not the minimum wage.

Providing passenger transport services on behalf of other Local Government Authorities (LGAs) will achieve economies of scale and will enable the Council to pass on a percentage of the savings to the other LGAs in the interest of promoting further partnership working. It will also enable NCC to continue to subsidise its internal customers, allowing them to put their citizens at the heart of everything they do in accordance with the Council Plan 2015-2019

As detailed previously in Section 1, providing this service will present an opportunity for further joint ventures with DCC in the following areas:-

1. SEN (Special Educational Needs) transport
2. Schools transport
3. High dependency transport
4. School swimming transport
5. Vehicle maintenance
6. Commercial waste

7. Parking Services

Furthermore, joint working would support the current proposal to create a single Combined Authority through devolution and would help the D2N2 to realise its vision of a more prosperous, better connected and increasingly resilient and competitive economy.

3.0 SCOPE

A key outcome for DCC is the continuity of the current service to the citizens of Derby for a period of 12-18 months. Due to the tight timescales in place until the cessation of the current service by Essential Fleet Services, DCC has been placed in a difficult position which requires a prompt response and operational plan to be put into effect.

It will be extremely challenging for NCC to take over the service from the 28th March 2016 and we have recommended DCC enter into further discussions with the incumbent supplier to extend the existing service until May / June 2016. These discussions have now taken place and an extension has been secured until the 3rd May 2016.

Ideally, both councils would have a lead-in period of transition and transfer of 12 weeks, however this is simply not possible, therefore NCC has identified potential interim arrangements to be explored and implemented (subject to approvals) which support DCC and continue the service within this tight timescale, whilst formal arrangements and contract terms are fully agreed between authorities. This would include:

1. NCC to urgently lease of x9 vehicles to arrive in the middle of April.
2. DCC / NCC to arrange prompt meetings with existing provider's staff to identify transfer to NCC with existing T&Cs and pay grade (excepting National Living Wage increases).
3. DCC to indemnify NCC in respect of TUPE risks from immediate transfer and compressed timescales.
4. NCC /DCC to gain assurance in respect of appropriate staff checks, licences and competencies to operate the service to the appropriate standards.
5. DCC to confirm suitable base depot facilities for staff and vehicles to operate from.

This would enable NCC to secure sufficient control of the operation and staff on behalf of DCC and enable the necessary legal requirements, including consulting under TUPE, to provide a high quality and fit for purpose service.

A detailed project plan and supporting documents will be finalised and issued as soon as the proposal has been granted the approval to proceed by the appropriate stakeholders.

TUPE

NCC will arrange to TUPE transfer the 10 drivers and 11 passenger assistants employed by Essential Fleet Services to operate the contract. The staff will transfer under their existing terms and conditions with minimal changes. NCC (in conjunction with DCC) will arrange meetings to consult with all staff affected by the transfer.

From the 1st April 2016, the National Living Wage will become law and all staff members over the age of 25 will need to be paid a minimum wage of £7.20 per hour. This will affect 10 members of the staff who are over the age of 25 currently paid the minimum wage of £6.70 per hour. One member of staff is aged 23 and will remain on the minimum wage of £6.70 until they reach the age of 25.

The TUPE staff will be eligible to join the Local Government Pension Scheme (LGPS) and NCC will include an indemnity clause in its contract with DCC to protect against pension strain should the contract not extend beyond the initial 12 month period.

Currently 10 members of staff are part of an employer pension scheme and the remaining 11 staff members have opted out. Through the consultation process, the staff will be made aware that they will auto-enrol onto the LGPS but will be provided with the information necessary to enable them to opt out if they chose to do so.

At the point of transfer, the staff will become NCC employees and will observe our policies and procedures including wearing a NCC uniform whilst undertaking their duties.

The employees are being transferred from a private company where procedures to undertake DBS checks may not be as robust as the City Council's. NCC will work in conjunction with DCC and Essential Fleet Services to ensure the following documentation has been obtained prior to the 3rd May 2016:-

1. DBS disclosure certificates - these need to be less than three years old
2. First Aid training history - all staff will be required to have a valid one day basic first aid certificate
3. Driving licences
4. Certificate of Professional Competence (applicable to drivers only)

As the staff will be working with vulnerable adults NCC will arrange for all the TUPE staff to undergo safeguarding training prior to the commencement of the contract.

NCC will provide a supervisor to administer the operation and the cost to provide this function will be included in the contract. A candidate for this post has already been identified from the Future Leaders scheme. They are currently employed at a Grade G but will be seconded to a Grade H for the duration of the contract.

The employee lives within the Nottingham City boundary and in accordance with the City Council's 'Disturbance and Travel Allowance' document they will be reimbursed the additional costs arising from a compulsory change in their place of work by means of a one-off lump sum payment to reflect the additional costs they will incur over a 12 month period

Vehicles and Servicing

Due to the short nature of the contract, NCC will be hiring the vehicles through our corporate framework. All vehicles will meet the requirements set out by DCC in TD1066. A total of 9 vehicles will be hired which will provide full coverage for the existing routes with contingency, as the ability to redeploy a vehicle from Nottingham to Derby at short notice would be problematic.

Servicing and maintenance arrangements will be confirmed with this supplier, as this would be an all-inclusive package through the hire.

It is proposed that the vehicles will be branded, the details of which are yet to be confirmed. As NCC are hiring and not purchasing the vehicles, we will not be using the same expensive vehicle wraps used on our current fleet and would be looking to adopt a more cost effective solution.

Insurance

NCC will ensure adequate insurance is in place to fulfil the requirements set out in TD1066. This is to include both public and employer's liability insurance.

Section 19 Permits

NCC will undertake the services under a permit issued in accordance with Section 19 of the Transport Act 1985 and will obtain the permit from the relevant Traffic Commissioner prior to the commencement of the contract.

Current Customer Demand

NCC's quote will be to provide the service for the existing number of customers detailed in Lots 1-3 that form part of TD1066 (please see Table 1.0 for details). Any increase in passenger numbers will result in additional charges being recharged at rate to be agreed through the engagement process with DCC.

Payment Terms

NCC requires DCC to pay for the services in advance of delivery from commencement of the new financial year 2016/17. An initial sum equivalent to 2/12ths of the full year is to be made as of the 3rd May 2016 to provide operating revenue for the service. This will be followed by the remaining 10/12ths by monthly invoice from June 2016 until March 2017.

Performance KPI's and Measurements

NCC and DCC are to set out and agree clear KPI's and measurements prior to the commencement of the contract. Norman England, the Passenger Transport Manager, will support the supervisor in ensuring the KPI's are achieved during the contract term.

4.0 DEPENDENCIES

The following items are dependencies that are outside the control of the project and would or could impact on the successful delivery of the services.

Vehicle Base

DCC are to provide a fit for purpose vehicle base located within the Derby City boundary at no cost to NCC during the length of this contract.

A site has been identified at the Cattle Market that NCC would be able to use for a period of three months and it is the responsibility of DCC to source suitable premises for the remainder of the 12 month contract.

Failure to find suitable premises may result in the Council having to use Woolsthorpe Depot as a temporary operating base, which would increase operating costs that would have to be absorbed by DCC.

An indemnity clause will be included in the contract to ensure NCC do not incur any costs associated with operating a vehicle base in the Derby City boundary or remotely from a location outside of this boundary during the first 12 months of the contract.

Should the contract continue beyond the 12 month period, the costs associated with the vehicle base will need to be factored into any future contract and the Project Team source a suitable vehicle base or arrange for Legal Services to prepare a lease agreement for the vehicle base sourced by DCC if an extension is available.

Fuelling

DCC will offer a fuelling solution in the Derby City boundary that will offer value for money, comparable with NCC sourced supplies. If drivers are unable to refuel at DCC depot premises then they will be issued with fuel cards.

An indemnity clause will be included in the contract to ensure DCC pay for any additional fuel costs incurred as a result of having to refuel using fuel cards.

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5.0 KEY RISKS

			Prevailing Risk Rating				Target Risk Rating			
Risk No.	Risk Description	Description of potential impact	LIKELIHOOD Rating	IMPACT Rating	Risk Rating	Risk Management Actions	Target LIKELIHOOD Rating	Target IMPACT Rating	Target Risk Rating	Risk Owner
1	Essential Fleet Services revoke their offer to extend the existing contract.	NCC would have to immobilise resources to be in place for the 28 th March 2016. NCC would be unable to consult the existing staff in line with current TUPE timescales.	3	3	9	DCC have entered into negotiations with the incumbent provider and have secured an extension until the 3 rd May 2016.	1	1	1	DB
2	Essential Fleet Services staff source new jobs / refuse to TUPE transfer to NCC	NCC would be unable to operate the three services at full capacity.	2	3	6	Lee Kimberley and Norman England to arrange meetings with TUPE staff to commence consultation process. Staff will transfer on existing terms and conditions but should contract extend beyond 12 months will have the opportunity to transfer onto a NCC contract where all the terms and conditions are enhanced.	1	3	3	LK/NE
3	NCC failed to secure the hire of the nine vehicles required to operate the service.	NCC would be unable to operate the services at full capacity.	1	3	3	Fleet Transport have contacted London Bus Hire and vehicles will be available for delivery from the 24 th March 2016	1	1	1	NE
4	DCC fail to secure a suitable vehicle base for NCC	NCC would have to utilise Woolsthorpe Depot as a temporary vehicle base.	2	3	6	DCC would have to absorb additional operating costs. An indemnity clause would be written into contract to ensure NCC do not incur any additional costs / penalties as a result of this occurring	2	1	2	DB

5	NCC unable to refuel at DCC depot premises.	Have to use fuel cards and may incur increased fuel costs	1	3	3	NCC to include an indemnity clause in the contract to ensure DCC would incur the additional fuel costs if this occurs	1	1	1	NE
6	NCC unable to obtain copies of TUPE staffs' DBS disclosure documents and other key documents	NCC requires DBS checks to be undertaken every three years. New checks may flag concerns.	2	3	6	NCC would work in conjunction with the incumbent provider to ensure all documentation is available before go live date. NCC able to make new DBS checks if information is not available. Cost will be recharged to DCC	1	3	3	NE
7	Contract is terminated after initial 12 month period	Termination would have redundancy and pension implications with the TUPE staff	3	3	9	NCC to include an indemnity clause in the contract to ensure DCC cover the redundancy costs and pick up any pension strain.	1	1	1	FT

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6.0 INDEMNITIES

The initial contract term for NCC to provide adult passenger transport services on DCC's behalf will be 12 months and whilst DCC have implied the contract could for a longer period of time NCC has no guarantee of this. This makes the contract high risk to NCC, as there are a number of expenses we would incur if the contract was terminated after 12 months, including redundancy costs and pension strain implications.

DCC's incumbent supplier is pulling out of the passenger transport market and they have been unable to source a suitable alternative supplier through the formal tender process and have approached NCC to operate these services on an emergency basis.

DCC outsource all of their passenger transport services and undertaking this contract would provide an opportunity to discuss operating other transport services on their behalf in the future, on a Council to Council basis.

However, due to the high risk nature of this project, it will be necessary for NCC to include provisions in the contract wherein DCC will commit to compensate NCC for any loss or liability arising out of the contract

Table 3 – Indemnity Clauses

Item	Cost (£)	Mitigation
Redundancy Costs	£33,587	Include indemnity clause in contract whereby DCC will be responsible for all redundancy costs if the contract is terminated in the first 12 months.
Pension Strain	TBC	Include indemnity clause in contract whereby DCC will be responsible for all pension strain if the contract is terminated in the first 12 months.
Unavoidable Costs	Unknown	Include indemnity clause in contract whereby DCC will be responsible for all unavoidable costs if the contract is terminated in the first 12 months. This would include additional fuel charges if NCC has to use fuel cards.

4.0 OPTION APPRAISAL

Table 4: Option Appraisal

Option	Risk Level	Comments
Do nothing	Low	Does not fit with the commercial agenda
Take over passenger transport services from 28 th March 2016	High	Timescales are too stringent to enable NCC to undertake reasonable consultation for TUPE staff and mobilise other relevant resources.
Take over passenger transport services from 3 rd May 2016	Medium	More realistic times to mobilise relevant resources. Allow reasonable consultation to take place and negotiate indemnity clauses with