

## **Cabinet**

**8 April 2025**

### **Direct Award to Deliver the One Public Estates Brownfield Land Release Fund Works**

Portfolio Holder: Councillor Louwella Prenter, Portfolio Holder for Housing and Homelessness

Report from: Sunny Ee, Assistant Director, Regeneration

Author: Tay Arnold, Acting Head of Regeneration Delivery and Greenspaces

#### Procurement Overview

Total Contract Value (estimated): £471,625

Regulated Procurement: No

Proposed Contract Term: 12 months

#### Summary

This report seeks to detail the options relating to the delivery of the One Public Estates (OPE) Brownfield Land Release Fund (BLRF) enabling works Contract, with subsequent information relating to directly awarding a contract thereafter.

#### 1. Recommendations

- 1.1 The Cabinet is requested to agree the preferred option of a direct award for the project management and to undertake the enabling works as identified in paragraph 6.3.1. of this report.
- 1.2 The Cabinet is asked to agree that recommendation 1.1 is considered urgent and therefore should not be subject to call in.

#### 2. Suggested reasons for decision

- 2.1. The appointment of Medway Development Company (MDC) as Project Manager and Contractor to deliver the enabling works for the OPE BLRF, will ensure the project is completed and the grant funding is utilised.

### 3. Background Information

#### 3.1. Budget and Policy Framework

3.1.1. Medway Council has been awarded £471,625 ring fenced grant funding from One Public Estates Brownfield Release Fund to deliver enabling works at the Upper Mount car park site.

3.1.2. The ring fenced grant funding has been added to the capital programme.

3.1.3. Cabinet approval is required because this is considered a key decision.

#### 3.2. Background Information and Procurement Deliverables

3.2.1. Following a successful grant bid, £471,625 was approved to undertake site enabling works at the Upper Mount car park site to facilitate a residential scheme of 21 homes. The enabling works entail, reducing site levels, installation of retaining walls and utility works.

3.2.2. It is proposed that Medway Development Company (MDC) is contracted to deliver these works to bring forward the site. MDC will be appointed in the capacity of Project Manager and Contractor, utilising the Teckal exemption.

#### 3.3. Urgency of Report

3.3.1. In line with rule 15.11 of Chapter 4, Part 5 of the Constitution, call-in can be waived where any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. In this case, the deadline from One Public Estate grant is for the Council to be in contract for the projects that form LRF 2.3 by 31 March 2025. The Council has been granted a slight extension to this deadline. Therefore, on this occasion it is proposed that the call-in period be waived to prevent further delay. The Chairperson of the Regeneration, Culture and Environment Overview and Scrutiny Committee has agreed that the decisions proposed are reasonable in all the circumstances and to them being treated as a matter of urgency and to waive call-in.

#### 3.4. Parent Company Guarantee/Performance Bond Required

3.4.1. This will be waived as the subsequent works contracts will have suitable retention clauses.

### 4. Procurement Dependencies and Obligations

#### 4.1. Project Dependency

4.1.1. The £471,625 grant funding from the OPE BLRF is for enabling works for the future delivery of 21 affordable homes, which will form part of the affordable homes delivered under the Mountbatten House scheme.

#### 4.2. Statutory/Legal Obligations

4.2.1. A direct award to the Council's LATCo is lawful provided that the criteria of the Teckal exemption is met.

4.2.2. Medway Council has the power under the Local Government (Contracts) Act 1997 and the Localism Act 2011 to enter into contracts in connection with the performance of its functions.

4.2.3. The process described in this report complies with the Public Contracts Regulations 2015 and the Council's Contract Procedure Rules.

## 5. Business Case

### 5.1 Business Case Procurement Project Outputs / Outcomes

5.1.1. As part of the successful delivery of this procurement requirement, the following procurement project outputs / outcomes within the table below have been identified as key and will be monitored as part of the procurement project delivery process.

<b>Outputs / Outcomes</b>	<b>How will success be measured?</b>	<b>Who will measure success of outputs/ outcomes</b>	<b>When will success be measured?</b>	<b>How will a direct award achieve this?</b>
Specification of enabling works, as per the funding agreement.	MDC will ensure that the scope of works procured meet the criteria of the enabling works of the funding body.	Regeneration Programme Manager.	Prior to tendering the works.	The Council worked with MDC, to prepare the bid and have a clear understanding of the works required. MDC have the resource and skill set to manage and undertake this role.
Management and completion of the enabling works- as per the funding agreement.	Management of the enabling works will be reviewed frequently at monthly progress meetings. The completion of works will be assessed post-delivery of works and defects period.	Regeneration Programme Manager.	Throughout project.	The Council worked with MDC, to prepare the bid and have a clear understanding of the works required. MDC have the resource and skill set to manage and undertake this role.

## 5.2 Procurement Project Management

5.2.1 The management of this procurement process will be the responsibility of the Category Management team.

## 5.3 Post Procurement Contract Management

5.3.1 The management of any subsequent contract will be the responsibility of the Regeneration Programme Manager.

5.3.2 To ensure the needs of the requirement are met and continuously fulfilled post award, a funding agreement will be implemented, stipulating the KPIs, the table provides a high level summary.

	Title	Short Description
1	Reporting	MDC will complete the funding bodies reporting template, as well as council reporting requirements.
2	Local supply chain	MDC will look to utilise local contractors and consultants where possible.
3	Programme	The contractor for the works will be in contract with the works to be completed within a year, providing enough time to adhere to the funding bodies land release longstop date of March 27.

## 6 Market Conditions and Procurement Approach

### 6.1 Market Conditions

6.1.1 Whilst there are alternative project managers and contractors, MDC have been established as a Teckal compliant LATCO, for the purpose of undertaking regeneration projects, who can be directly engaged to deliver these services.

6.1.2 The works will be carried out by a sub-contractor appointed via a compliant procurement by MDC.

### 6.2 Procurement Options

6.2.1 The following is a detailed list of options considered and analysed for this report:

6.2.1.1 **Option 1 – Do nothing:** This will result in the loss of £471,625 grant funding to deliver enabling works at the Upper Mount site for residential development.

6.2.1.2 **Option 2 – Extend the current contract:** No current contract exists.

6.2.1.3 **Option 3 – Utilise a framework:** The council only partly operates a framework to meet this need, therefore is not viable.

6.2.1.4 **Option 4 – Open market procurement:** Whilst a viable option this approach would not meet the funding programme required and would result in a loss of the grant funding.

6.2.1.5 **Option 5 - Direct award to MDC:** While there are alternative project managers and contractors, MDC have been established as a Teckal compliant LATCo, for the purpose regeneration projects, who can be directly engaged to deliver these services. The council has confidence that MDC are able to meet the funding programme.

### 6.3 Procurement Process Proposed

6.3.1 Option 5 is recommended as the procurement process, in order to meet the criteria and timescales of the grant funder.

6.3.2 It is recommended that the contract length be a 12-month term with the option to extend for 6 months by mutual agreement.

### 6.4 Evaluation Criteria

6.4.1 Subject to the proposed process outlined in 5.1.1, officers wish to provide the following assurances as part of the proposed direct award:

Question/Criteria	Explanation
The ability to deliver.	A funding agreement between the council and MDC will be administered, prior to the transfer of funding, whereby MDC will commit to their ability to deliver the scheme.
Meeting of the critical path-stipulated by the funding body.	A funding agreement between the council and MDC will be administered, prior to the transfer of funding, whereby MDC will commit to their ability to deliver the scheme in accordance with the funding criteria.

## 7. Consultation

7.1 Public consultation has been undertaken for the proposed enabling works through a planning application.

## 8. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Land release not being met by March 27.	Land release as per the definition in the grant funding agreement needs to be met by March 27.	Appointing MDC will enable this deadline to be met.	CII
Funding not being spent in accordance with	Funding not being spent in on compliant funding works, would result in potential claw back of grant funding.	Funding agreements will be in place with MDC to ensure spend is incurred on as per	CII

Risk	Description	Action to avoid or mitigate risk	Risk rating
the funding terms.		the funding bodies terms.	

For risk rating, please refer to the following table:

Likelihood	Impact:
A Very likely B Likely C Unlikely D Rare	I Catastrophic II Major III Moderate IV Minor

## 9. Service Implications

### 9.1 Financial Implications

9.1.1 The procurement requirement and its associated delivery as per the recommendations will be funded from capital ringfenced grant, which has been received and will be added to the capital programme.

9.1.2 A funding agreement will be in place outlining the delivery requirements, management processes and spend requirements.

### 9.2 Legal Implications

9.2.1 Please see paragraph 4.2. above.

### 9.3 Procurement Implications

9.3.1 The Council established a Teckal compliant LATCo that can be utilised to meet this need. The recommendation complies with public procurement regulations and is the route most likely to meet the criteria and timescales of the provider.

## 10. Social, Economic & Environmental Considerations

10.1 A funding agreement will be implemented between the Council and MDC, which will govern any social, economic and environmental considerations that may be relevant to the scheme.

### Service Lead Officer Contact

Name: Tay Arnold  
Title: Acting Head of Regeneration Delivery and Greenspaces  
Email: tay.arnold@medway.gov.uk

### Appendices

None

### Background papers

None