

Addendum – Contract and Financial Procedure Matters Report

SUMMARY

- 1.1 This report deals with the following item that requires reporting to and approval by Council Cabinet under Contract and Financial Procedure rules:
- Approval of an increase in the budget for the Victory Road project from £7,350,000 to £8,482,350. At the time of the original Cabinet approval on 5 October 2016, the Council did not have an agreed contract price. This is the agreed contract price.
 - This increase will be met by:
 - Transferring £100,000 of Local Growth Fund (LGF) 1 budget from the Traffic and Transportation Capital Programme to the Victory Road project on the Regeneration Capital Programme.
 - An increase in Rolls-Royce contribution to the project of £1,032,350.

RECOMMENDATION

- 2.1 To approve an increase in the budget for the Victory Road project from £7,350,000 to £8,482,350 and to amend the 2016/17 – 2018/19 capital programme accordingly.
- 2.2 To note that the additional costs will be mainly funded by £1,032,350 external contributions (Rolls-Royce), and a transfer of budget from the Traffic and Transportation Capital Programme to the Regeneration Capital Programme, a real cost to the Council of £100,000,

REASONS FOR RECOMMENDATION

- 3.1 At the time of the original Cabinet approval of the Victory Road project on 5 October 2016, the Council did not have an agreed contract price for the construction works. We have now received this and therefore need to adjust the budget accordingly.
- 3.2 To comply with the Council's Financial Procedure rules.

**SUPPORTING INFORMATION**

4.1 The revised budget for the Victory Road project is as follows

Budget Heading	Totals
Construction Cost	£4,967,580
Other development costs – statutory undertakers (utilities), HS2 cycle route, procurement	£865,410
Independent project management	£330,860
DCC Fees	£375,000
Legal Fees	£90,000
Planning fees	£4,630
Other fees	£22,478
Commuted Sums for future maintenance	£472,720
Risk Pot (20% of total project cost excluding risk)	£1,453,672
Total	£8,582,350

The estimated budget at the time of the 5 October 2016 Cabinet Report was £7,350,000. We therefore require a change to the Capital Programme to reflect this budget change.

This revised budget will be funded by:

- Local Growth Fund (LGF) 1 contribution of £2.1m
- Rolls-Royce contribution of £6,482,350.

OTHER OPTIONS CONSIDERED

5.1 Do Nothing.

We cannot proceed with the project or the signing of works contracts without the correct budget approved on the Capital Programme.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Olu Idowu, Head of Legal Services Martyn Marples
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IMPLICATIONS

Largely as for the 5 October Cabinet Report, with changes highlighted:

Financial and Value for Money

- 1.1 The total cost of the project is estimated to be £8,582,350 (**a change from £7.35m**) funded by the Local Economic Partnership (through the Local Growth Fund, (LGF) and the private sector with contributions of £2,100,000 and £6,482,350. The LGF allocation to this project (amongst others related to Infinity Park Derby) has been approved by the LEP Board and is part of the “Growth Deal” between the government and the LEP. Without LGF funding the project would not proceed.
- 1.2 There is no direct DCC capital commitment to this project. There is a significant commitment of DCC officer time, which is costed on a fee basis and is recoverable from the LGF grant. In addition, an arrangement fee will be paid by Rolls-Royce to the Council's Regeneration Projects Division budget. An HM Treasury Green Book-compliant Business Case and Value for Money assessment was completed by DCC, with the support of consultants Genecon, to support the LGF application. The IPD project as a whole (of which this project is one part) was found to be good value for money, with a very high benefit cost ratio.
- 1.3 The LEP will release the grant funding for this project once the Council can evidence that all contracts and permissions are in place.

Legal

- 2.1 The Council will enter into the Infrastructure Development Agreement (IDA) to govern its relationship with Rolls-Royce during the delivery of this Project. The Legal Service has been involved in negotiations with Rolls-Royce in respect of the IDA, supported by Freeths LLP. Freeths LLP have also supported DCC in finalising the terms of the works contract.
- 2.2 The Council's financial exposure in respect of this project is clearly limited in the IDA to £2m of LGF grant funding and any cost overruns which arise as a result of DCC's negligence. The Council will not enter into the works contract until the IDA is signed and is in receipt of funds from Rolls-Royce, so as to avoid any exposure to make payments to the contractor before funding is received. Furthermore, works will not commence until Rolls Royce has obtained a 'Stopping Up' Order in respect of the section of Victory Road to be closed. This is an essential requirement of Rolls-Royce.

- 2.3 The provision of £2.1m (**a change from £2m**) grant funding from the Local Economic Partnership to the Council to contribute to these works is compliant with State Aid legislation. The project falls within Article 56 of The General Block Exemption Regulations (GBER Aid for Local Infrastructure Projects); furthermore, the project involves the construction of public highway on land within the ownership of the Council.
- 2.4 The works contract has been procured using the EU compliant SCAPE framework and the appointment of the consultants has been procured using the EU compliant Midlands Highways Alliance Framework.

Personnel

- 3.1 The project budget will be used in part to fund consultancy advice and fees carried out in house, otherwise there are no Personnel implications arising out of this project.

DCC has procured independent project management services on a joint appointment basis to progress this complex agreement.

IT

- 4.1 The project management and works contracts embrace the Council's IT policies and practices.

Equalities Impact

- 5.1 The project management and works contracts embrace the Council's Equal Opportunities policies and practices.

Health and Safety

- 6.1 As above, the project management and works contracts embrace the requirements of the Council's Health and Safety policies and practices.

Environmental Sustainability

- 7.1 The requirements of the Council's Environmental Sustainability policies and practices are met in the works contract awarded.

DCC will update the Environmental Impact Assessment prepared for the planning application, which will impact on this project.

Asset Management

- 8.1 DCC's Highways team will monitor assets provided/ improved through the scheme. Commuted sums for the maintenance of assets have been provisionally agreed. The latest estimate we have of these is c£560k, estimated by DCC staff and based on the '6Cs Design Guide' - Derby City Council, Derbyshire County Council, Leicester City Council, Leicestershire County Council, Nottingham City Council and Nottinghamshire County Council (known collectively as the 6Cs) came together to achieve their shared goal of developing and maintaining a regional design guide for roads, cycle ways and associated assets.

DCC's Estates Team has advised that there is a potential risk of compensation claims for noise, under Part 1 of the Land Compensation Act 1973 from adjoining owners. The project's overall risk contingency includes a provision for this.

Risk Management

- 9.1 The IPD Project Delivery Board (DCC officers) and a Project Steering Group (comprising all parties) will oversee the delivery of the works in accordance with the Infrastructure Delivery Agreement and the agreed programme to help reduce and mitigate risks.

The project team maintain and regularly review a comprehensive risk register. The Senior Responsible Officer for the contract works is the Head of Highways Engineering.

The primary risks that DCC are taking are as a result of DCC negligence and clawback risk for failure to deliver the LGF1 outputs. All other risks fall with either the contractor, Balfour Beatty, or Rolls-Royce.

Corporate objectives and priorities for change

- 10.1 This Programme will contribute towards creating for the people of Derby:
- An inspiring working life by improving skills and creating jobs
 - An inspiring place to live by improving inner city areas.