

# Cheltenham Borough Council

## Cabinet – 25 July 2023

### Appointment of a supplier for delivery of fixed power supply

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**Accountable member:**

Cabinet Member for Finance & Assets and Deputy Leader, Councillor Peter Jeffries

**Accountable officer:**

Gemma Bell, Director for Finance & Assets and Deputy s.151 Officer

**Ward(s) affected:**

Lansdown

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**Key Decision:** No

**Executive summary:**

Following the successful delivery of an ice rink at Imperial Gardens, a recommendation was approved by Cabinet on 1 March 2022 to assess the ability to deliver fixed power infrastructure for future events in and around Imperial Gardens.

Council Officers have been working with procurement and One Legal and in May 2023 a restricted tender process was undertaken through the South West Procurement Alliance framework to procure the services. However due to delays in the appointment, this was not completed before the framework expiry date of 30 June 2023.

As the value of the services is above £100,000, the decision to appoint a contractor via this route is required to be approved by the Cabinet.

**The alternative options for the appointment of the consultant considered and subsequently discounted are set out in the section below. Recommendations:**

1. Approves the direct appointment of the supplier to undertake the project work on a fixed power supply up to and including RIBA Stage 5, subject to a business case for the capital work being approved by Cabinet and Full Council (if required).
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## 1. Implications

### 1.1 Financial, Property and Asset implications

The budget for assessing the Council's ability to deliver fixed power infrastructure has already been approved by Full Council and the first stage of this work is already funded. Any additional costs outside of the existing budget and UKSPF funding for fixed power supply will need to be presented for approval as part of the business case.

**Signed off by:** Gemma Bell, Director for Finance & Assets and Deputy s.151 Officer,  
[gemma.bell@cheltenham.gov.uk](mailto:gemma.bell@cheltenham.gov.uk)

### 1.2 Legal implications

Under Section 3 of the Local Government Act 1999 the Council has a general duty of best value to secure continuous improvements in the way its functions are exercised having regard to a combination of economy, efficiency, and effectiveness. They must consider overall value when reviewing service provision which may include social value considerations.

Under the Council's Contract Rules, a full competitive procurement should have been undertaken with the opportunity being advertised on Contracts Finder. The Council attempted to follow a compliant procurement route by calling off from an established framework, however the framework terminated before the Council were able to award the contract.

A waiver of the Contract Rules can only be given in exceptional circumstances, including urgency. A waiver of this nature requires approval of the Cabinet.

The value of the contract is below threshold and the UK Procurement Regulations do not therefore apply. However, all procurement exercises must be carried out in a fair, open, and transparent manner and details of the award of the contract will be published on Contracts Finder and will be publicly available.

**Signed off by:** One Legal

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### 1.3 Environmental and climate change implications

Increasing the fixed power supply capacity in the town centre will reduce the reliance of events and festivals on temporary power which often use fossil fuels. This will contribute to the achievement of the Council's corporate priority of being carbon net zero by 2030.

**Signed off by:** Laura Tapping, Climate Emergency Programme Officer,  
[laura.tapping@cheltenham.gov.uk](mailto:laura.tapping@cheltenham.gov.uk)

### 1.4 Corporate Plan Priorities

This report contributes to the following Corporate Plan Priorities:

- Becoming carbon net zero by 2030; and
- Ensuring residents, communities and businesses benefit from Cheltenham's future growth and prosperity.

### 1.5 Performance management – monitoring and review

Throughout RIBA Stage 1 to 3 the contract will be overseen and managed by the Principal Estates Surveyor. As stated above, following the completion of the design and specification work a separate business case will be brought for approval which will include details of the work to date and the capital costs to completion.

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## **2 Background and Recommendation**

Following the successful delivery of an ice rink at Imperial Gardens, a recommendation was approved by Cabinet on 1 March 2022 to assess the ability to deliver fixed power infrastructure for future events in and around Imperial Gardens.

Since this date, work has been ongoing to understand the technical and practical issues involved in doing this, not least of which includes a lack of capacity within the electrical grid network. A comprehensive approach is needed to move this project forward with the support of a professional team of engineers.

We have approached a number of companies that we considered would have the resources and range of expertise necessary to specify the infrastructure options available to us as part of stage one of the project. After discussions it became clear that one supplier not only had the necessary experience, resources and skills required, but also had a very clear understanding of the sensitivities and complications surrounding both Gardens, raising a number of issues such as flooding, topography, tree root protection and potential listed building consents. They have also flagged the fact that an Independent Distributor Network Operator could be engaged to provide part of the works at both a lower cost and more quickly than National Grid.

A fee proposal for this work was provided by the supplier which also includes costs of managing the delivery of the project through to completion. The full cost will only be incurred in the event that a decision is taken to approve the business case at the end of Stage One, when the full capital cost of the project has been identified.

Council Officers have been working with procurement and One Legal and in May 2023 a restricted tender process was undertaken through the South West Procurement Alliance framework to procure the services. However due to delays in the appointment, this was not completed before the framework expiry date of 30 June 2023.

The delivery of the fixed power supply will be subject to a separate detailed business case. This will factor in costs of any planning applications, listed building consents and other timelines on which delivery is dependent. It is therefore extremely important that the design and specification of any required infrastructure is determined as soon as possible to ensure that the project is completed within agreed timescales. Due to the urgency of the work required to determine the Council's options for fixed power supply, it is recommended that a waiver be granted to appoint the supplier.

As the value of the services is above £100,000, the decision to appoint a contractor via this route is required to be approved by the Cabinet.

The alternative options for the appointment of the consultant considered and subsequently discounted are set out in the section below.

## **3 Alternative options considered**

Three options have been considered to procure the services required:

- Going out to full and open tender – this was discounted due to the length of time this process would take and the urgency to provide a permanent solution to the temporary power supplies used by Christmas 2024.
- Utilising another existing framework, which would require a re-run of a restrictive tender exercise for which the supplier had already provided their proposal. Procurement advice sought on this option advised that there is one other framework option but this was unlikely to be able to be exercised in line with our required timescale.

## **4 Consultation and feedback**

4.1 The Monitoring Officer has been consulted

## **5 Key risks**

5.1 See Appendix 1

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### **Report author:**

Peter Woodley MRICS, Principal Surveyor – Asset Management, Projects & Development,  
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### **Appendices:**

- i. Risk Assessment

**Appendix 1: Risk Assessment**

Risk ref	Risk description	Risk owner	Impact score (1-5)	Likelihood score (1-5)	Initial raw risk score (1 - 25)	Risk response	Controls / Mitigating actions	Control / Action owner	Deadline for controls/ actions
1	A full procurement exercise may need to be undertaken resulting in delays to the delivery of the fixed power supply in Imperial Gardens	Gemma Bell, Director of Finance & Assets	4	2	8	Accept	Appoint via a contract waiver in line with the Contract Rules outlined in the constitution.	Peter Woodley, Principal Estates Surveyor	July 2023
2.	There is a risk that the council could be subject to legal challenge as a result of issuing the waiver	Gemma Bell, Director of Finance & Assets	2	1	2	Accept	Risk is minimised by Cabinet decision in accordance with the Council's contract procedure rules	Gemma Bell, Director of Finance & Assets	July 2023