

Forward Plan reference number: Not applicable

Report title: Agreement to act as the Administrative Body for the I-Construct project on behalf of the Haven Gateway Partnership	
Report to: Councillor David Finch, Leader of the Council	
Report author: Andrew Cook, Director for Highways and Transportation	
Date: 26 June 2020	For: Decision
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County Divisions affected: All Essex	

Confidential Appendix This report has a confidential appendix which is not for publication as it includes exempt information falling within paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.

1. Purpose of Report

- 1.1 To seek approval for Essex County Council (ECC) to act as the Administrative Body for the I-Construct European Regional Development Fund (ERDF) project on behalf of the Haven Gateway Partnership (HGP).

2. Recommendations

- 2.1 Agree that Essex County Council will act as the Administrative Body, for the I-Construct ERDF project on behalf of the Haven Gateway Partnership.
- 2.2 Note that this decision practically commits ECC to remain as accountable body for the Haven Gateway Partnership for the duration of the project unless it is agreed between ECC, funders and another organisation that this should change.

3. Summary of issue

Overview of decision

- 3.1 ECC currently acts as the Accountable Body for the HGP, providing support from Finance and HR functions and employing all HGP's staff. However, ECC only holds the funds and HGP effectively controls its budget with ECC providing support although HGP is not a legal entity and cannot own property.
- 3.2 In 2018, HGP identified the opportunity to access ERDF funding to create the I-Construct project, which is a 3 year innovation and business support programme, to support the growth and productivity of Small & Medium Enterprises (SMEs) in the construction sector and its supply chain, and creating new jobs, innovative products and services and importantly for Essex, a new Construction Innovation Hub building in Braintree, which will act as a national

centre of excellence for promoting sustainable and high quality construction. The project is now ready to commence, has planning permission for the Innovation Hub building and is needed more than ever, in light of the COVID-19 crisis and its potentially devastating impacts on the sector. The team are currently in discussion with the South East Local Enterprise Partnership (SELEP) and Ministry of Housing, Communities and Local Government (MHCLG) teams to adapt the early stages of the project, to focus the on the needs of SMEs during the crisis in order to safeguard jobs and support company survival.

- 3.3 I-Construct covers the South East LEP area which has the largest proportion of construction companies amongst all LEPs, large-scale housing targets, several major national level infrastructure projects and strengths in other key growth sectors: Energy and Environmental Technologies; ICT and Digital; Ports and Logistics; and Advanced Manufacturing and Materials; which linked to the Construction market opportunities via the project, will enable truly sustainable and high-quality growth and enhance the productivity of participating SMEs across multiple sectors in the Construction supply chain. Project Outcomes include:
- Safeguarding jobs during the COVID-19 crisis
 - Job Creation – at least 130 new jobs
 - 305 SMEs supported to improve productivity and business resilience
 - £2.5m investment in and Innovation Hub/anchor building and legacy network in Braintree, Essex
 - 130 New products/services launched to the market including internal process innovation and digitisation
 - Productivity gains through off-site construction and Building Information Modelling (BIM) and digital adoption
 - Housing and infrastructure delivery capacity in Essex and SELEP enhanced
 - SMEs working with ICT/Clean Growth sectors to enable digitisation and CO2 reductions
 - Improved perception of the sector amongst students and graduates through the project's Further Education (FE)/Higher Education (HE) innovation programme
- 3.4 Following a successful Outline Application, a European Regional Development Fund (ERDF) Full Business Case Application was submitted by HGP, to the Ministry of Housing and Local Government (MHCLG) in June 2018.
- 3.5 The Full Business Case was approved by MHCLG, subject to planning permission being secured for the Innovation Hub building. Braintree District Council funded and led the necessary design and planning work and the Council subsequently awarded planning permission for the Innovation Hub in October 2019. MHCLG then completed their final due diligence and issued a Grant Funding Agreement for the I-Construct project.

- 3.6 The Full Business Case proposes that project will be led by HGP, with ECC acting as accountable body and delivered in partnership with Braintree District Council (BDC), the Buildings Research Establishment (BRE), the Colchester Institute and Daedalus Environmental Ltd. These partners will enter into a Collaboration Agreement with ECC (acting on behalf of HGP) which will ensure that there is a legally binding agreement between all parties setting out their responsibilities and resource commitments to the project. All partners have reviewed this Collaboration Agreement with their legal teams and accept the terms and conditions.
- 3.7 Match funding will be provided by two partners: Braintree DC which has agreed to commit in-kind match in the form of land for the Innovation Hub building and staff time and £1.1m cash match to the project to fund construction costs; and BRE which has agreed to commit staff time as in-kind match funding.
- 3.8 In relation to the capital project, responsibility for managing the construction, related costs and dealing with any overrun issues will rest with Braintree District Council as client, landowner and owner/operator of the completed facility. These responsibilities and any terms and conditions relating to the ERDF grant will be laid out in the back to back Collaboration Agreement, which will be signed within a month of the project starting.
- 3.9 The overall project value is £7,404,622 and 50% of these costs will be funded by ERDF and 50% will be match funded by partners and SME beneficiaries. A breakdown of the budget allocations, ERDF funding allowance and match funding commitments for each partner is shown in the Collaboration Agreement and the Grant Funding Agreement. All HGP costs will be covered by the project. The project will also be managing an SME grant programme via which ERDF grant will be paid to SMEs against defrayed and evidenced match expenditure by the SME beneficiaries, at a 30% grant intervention rate. Any ECC staff time working directly on the project will also be reimbursed to ECC and no funding is required from ECC to support the project.
- 3.3 The Grant Funding Agreement and the related back to back Collaboration Agreement with Delivery Partners have been reviewed and/or drafted by Essex Legal Services and are now ready for signing by the parties, subject to final approval for ECC to act as the administrative and accountable body for the project.

4. Options

- 4.1 There are two options available;

Option 1 – Agree to act as the Administrative Body

- 4.2 It is a mandatory requirement of ERDF, that a single local authority is identified as lead applicant to enter into the funding agreement with MHCLG.
- 4.3 This approach is intended to deliver process efficiencies and enhance knowledge transfer between authorities receiving MHCLG funding. As

explained above it was agreed that ECC should be put forward as the Administrative and Accountable Body for the purposes of ERDF project as although the HGP has a long and proven track record of successful delivery of ERDF projects, it is not a legal entity.

ERDF funding and partnership with HGP and I-Construct Delivery Partners

- 4.4 Following approval of the ERDF funding from MHCLG and issue of the Grant Funding Agreement, it is proposed that ECC will enter into the funding agreement with MHCLG in the role of accountable body.
- 4.5 Acting in this role ECC will provide oversight and ensure overall compliance with the funding agreement with MHCLG. HGP will act on behalf of ECC, ensuring compliance and managing and monitoring the overall project delivery across the project area. HGP responsibilities in performing the project accountable body functions will include, but not be limited to;
- Ensuring adherence to statutory requirements and best practices including applicable law and standards such as EU procurement rules, state aid, data protection and freedom of information legislation
 - Ensure that any publicity and/or promotion for the project comply with applicable ERDF regulations
 - Monitoring, effectively accounting for and submitting claims for output deliverables, match provision and project spend in ECC
 - Auditing the eligibility of clients receiving support in line with De Minimis regulations.
 - Making grant payments to delivery partners and beneficiaries in arrears
 - Procurement of sub-contractors and managing their performance including the FFE aspects of the Innovation Hub
 - Setting and ensuring adherence to project KPI's
 - Leading and managing project meetings
 - Ensuring sufficient record keeping on behalf of ECC using a cloud-based CRM system.
 - Managing and auditing financial Claims: Essex County Council shall have overall financial responsibility for the funding.
 - Managing and notifying MHCLG of any project change requests.
 - Submit project assessment reports on behalf of ECC and MHCLG.

Governance arrangements

- 4.6 HGP will also be responsible for the overall delivery of the project, and ECC will have in place an agreement with the project Delivery Partners which reflects their obligations contained within the Funding Agreement with MHCLG. This will ensure that all partners are responsible for delivery of the outputs, compliance with ERDF terms and conditions and any financial clawback for incorrect financial claims.
- 4.7 The Agreement will also reflect the obligations of the funding agreement between ECC and MHCLG. It will set out the project and governance structure, to ensure oversight for correct use of the funds and successful

implementation of the project and agree the transfer of risk between the ECC as Administrative Body and the Delivery Partners.

- 4.8 In relation to the capital project, responsibility for managing the construction delivery and dealing with any overrun issues will rest with Braintree District Council. The funding agreement also requires BDC to restrict use of the land on which the Innovation Hub is built for the economic life of the building, to the purpose of the grant i.e. to support SMEs. BDC are also required to report on the financial operation of the building over this period. These roles and responsibilities are accepted by BDC and are laid out in the back to back Collaboration Agreement.
- 4.9 HGP will seek to make decisions regarding the project and its deliverability with ECC and Delivery Partners collaboratively. In order to do this a Project Steering Committee will be established and ECC will be represented on this group by the HGP Finance Partner.
- 4.10 In addition the HGP Programme Director will establish a project team, work with Delivery Partner staff and procure additional resources to enable the delivery of the project. The Programme Director will produce quarterly performance monitoring reports for the Steering Committee to consider and which will be submitted to MHCLG alongside the financial claims.
- 4.11 HGP is currently developing the business case for establishing itself as a separate legal entity in 2021. In this scenario it would be possible to transfer staff currently employed by ECC to the new HGP legal entity and for this body to continue to carry out all their duties in relation to I-Construct in a Delivery Partner capacity. This would mean that ECC would continue to act as Accountable body for the I-Construct project but not for the HGP itself. This change would need to be agreed with MHCLG as part of a standard Project Change Request and would then require existing legal agreements to be amended to reflect the different delivery structure.

Ensuring compliance with ERDF regulations

- 4.12 MHCLG requires the Administrative Body of a project to ensure that any procurement for services on behalf of the project, is carried out in line with ERDF and Public Procurement Regulations. HGP staff will take on this activity and as outlined in the project Full Business Case, HGP staff will ensure compliance via a project specific procurement policy, working with ECC procurement and delivery partners such as BDC and SMEs who will be procuring goods and services.
- 4.13 HGP will ensure compliance with the requirements of ERDF funding by working with a grant panel on which ECC will be represented and by working with the ECC Senior Finance Business Partner to review all financial claims and ensure that data returns and financial claims from delivery partners and SME beneficiaries are compliant.

- 4.14 A shared risk register will be created and monitored at monthly meetings between ECC, HGP and Delivery Partners. This will include risks and the appropriate risk treatment/mitigation actions.
- 4.15 Records of progress and outputs/results will be held securely centrally and reported to the Project Steering Committee, and also reported to the local MHCLG monitoring team at agreed intervals.

Option 2 – Do not fulfil the administrative body role

- 4.16 Should it be decided that ECC does not fulfil the role of Administrative Body for the I-Construct project it will result in the termination of the project, loss of significant funding to support the Essex businesses in a sector which is critical to the COVID recovery and reputation damage with MHCLG, SELEP and the project's delivery partners and wider stakeholders who have supported the project's development.

5. Issues for consideration

Financial implications

- 5.1 No funding is required from ECC for the delivery of the project and Braintree District Council will be responsible for the commissioning and delivery of capital elements of the project and any risks associated.
- 5.2 ECC staff time directly used by the project will be funded through the project.
- 5.3 Financial and performance monitoring will be undertaken by HGP staff to ensure claims submitted to the project and MHCLG are compliant and checked, and provide the required supporting evidence from local delivery partners and SME grant recipients. HGP will also oversee compliance and performance of delivery partners and subcontractors.
- 5.4 Delivery Partners and SMEs will be given the relevant ERDF guidance for compliance and review compliance with these as standing agenda items for their meetings.
- 5.5 Claims will be submitted by HGP staff, with oversight by the ECC S151/Chief Finance Officer, to MHCLG for ERDF on a quarterly basis;
 - 5.5.1 Transactions lists for defrayed expenditure will be maintained with source document evidence from the revenue business support;
 - 5.5.2 Financial information will be stored on and extracted from the ECC finance system
 - 5.5.3 A check will be made on eligibility of expenditure submitted before inclusion in an ERDF claim is made.
 - 5.5.4 The funding will have its own budget code to easily identify the funding separately from ECC's other finances.
 - 5.5.5 Claims will be collated from this information and signed off before submission in accordance with MHCLG requirements;

- 5.5.6 A check will be carried out on de Minimis support levels during the claims process.
- 5.5.7 Delivery Partners will compile and provide externally validated claims to the HGP project team to then approve before payment and submitting to MHCLG as part of the quarterly claim process.

Legal implications

- 5.8 As the Administrative Body, ECC will enter into a Grant Funding Agreement with the MHCLG, which will contain all the obligations concerning the delivery of the project. This contains a clawback provision which can be activated should the Grant fail to be utilised for the purpose it was given, or the reporting and compliance requirements are not fulfilled. These obligations will be transferred to Delivery Partners through the Collaboration Agreement.
- 5.9 It is important to note that if the recommendations in this report are accepted ECC will in effect bind itself to be the administrative body for the HGP for the duration of the project unless another organisation takes on the role and the funding bodies agree that as appropriate.

6. Equality and Diversity implications

- 6.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
 - (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil Partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 6.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic (see 'Appendix – Equalities Impact Assessment' for further information).

7. List of appendices

- 7.1 Equalities Impact Assessment (EqIA)

8. List of Background papers

8.1 None

I approve the above recommendations set out above for the reasons set out in the report.	Date 03 July 2020
Councillor David Finch, Leader of the Council	

In consultation with:

Role	Date
Executive Director for Finance and Technology (S151 Officer)	
Stephanie Mitchener on behalf of Nicole Wood	30 June 2020
Director, Legal and Assurance (Monitoring Officer)	
Paul Turner	26 June 2020

Appendix 7.1 Equalities Impact Assessment (EqIA)