

THE HUB INITIATIVE – NORTHERN TERRITORY UPDATE

1. SUMMARY

This report provides Members with an update on the development of the Northern hub Territory procurement process to select and appoint a private sector development partner (PSDP). Details of the current procurement process were the subject of a presentation to SMOG on the 8th June 2010.

2. RECOMMENDATIONS

2.1 Members are asked to:

- (a) Note that at their meeting of 29 October 2010 the Northern hub Territory Board will recommend the appointment of the successful PSDP following the conclusion of the tendering exercise currently underway.
- (b) Agree in principle to entering into a Territory Partnering Agreement, a Shareholders Agreement and Participants' Agreement.
- (c) Approve the Territory Board's appointment of the successful PSDP (the outcome of this process will be reported directly to the Executive).
- (d) Delegate to Douglas Hendry, Executive Director of Customer Services, full power to take any action, grant any approval, make any decision, and sign any agreement for and on behalf of Argyll and Bute Council all in relation to its participation in the Northern hub, as he shall deem appropriate.

3. DETAIL

- 3.1 **Background:** Hub is a procurement vehicle to support a long term programme of investment in community infrastructure across Scotland for local authorities, NHS Boards and other public sector bodies. The hub structure encompasses both private project finance and traditionally funded developments from public funds.

- 3.2 The purpose of hub is to provide a vehicle by which assets can be provided more efficiently with improved delivery times and value for money. Members are asked to note that if the recommendation for participation is acceptable the performance of the PSDP will be measured during the term of the partnership agreement using appropriate performance indicators.
- 3.3 It should be noted that the key objectives of hub are threefold:-
- To achieve an increase in local joint service working and integration between community planning partners across council areas, resulting in better outcomes at the point of service.
 - To deliver a sustained programme of investment into local joint services, infrastructure and developments so that more services are provided locally through multi-disciplinary teams working from single sites.
 - The achievement of a more efficient and sustainable procurement methodology for public sector bodies including NHS Boards, local authorities and wider community planning partners (e.g. police, fire and rescue, voluntary sector, etc).
- 3.4 Argyll and Bute Council is one of nineteen public sector organisations to have signed a Memorandum of Understanding as a precursor to potential membership. It is emphasised that the Council would, notwithstanding its involvement in hub, retain the ability to determine on a project-by-project basis whether it wishes to use hub to deliver its requirements.
- 3.5 As previously mentioned the Northern hub Board will recommend the appointment of its preferred PSDP at its meeting to be held on the 29th October 2010. At this point each of the 19 participating public bodies will require to obtain the necessary approvals to confirm this appointment and proceed to formal sign-up of the undernoted agreements:-
- Territory Partnering Agreement
 - Shareholders Agreement
 - Participants' Agreement

The **Territory Partnering Agreement** governs the relationship between the public sector participants and the hub Co. and sets out rights and obligations of the parties. It includes:-

- a) A 20 year contract term with an option to extend for a further five years;
- b) An obligation on the hub Co. to deliver the Partnering Services;
- c) An approval process for proposals that the participants require the hub Co. to develop;
- d) Exclusivity provisions for the hub Co. to develop proposals for new build NHS primary and community care facilities over £750,000;

- e) Template design & build; and design, build and facilities management arrangements;
- f) Key performance indicators and continuous improvement targets; and
- g) Monitoring of the hub Co's performance by the Northern Territory Board.

The **Shareholders Agreement** will regulate the respective rights and responsibilities of each party and sets out the matters in relation to which the hub Co. must first obtain the consent of each category of shareholder. The parties to the agreement are categorised as being either an "A" Shareholder (The PSDP); "B" Shareholder (local public sector participants), or "C" Shareholder (The Scottish Futures Trust - SFT).

The Shareholders Agreement contains rights and obligations of the hub Co. shareholders including:-

- a) Shareholding is to be split between the parties on the following basis: 60% PSDP, 10% SFT, and 30% public sector participants;
- b) Equity contributions which for the council is recommended at the outset to be the minimum shareholding of a £1 share.
- c) Director appointments to represent each class of shareholder;
- d) Pre-emption rights on transfer of phases; and
- e) Private Sector Development Partner lock-in to the hub Co. for five years.

The **Participants' Agreement** operates exclusively for the public sector organisations taking part, and excludes SFT and the PSDP. It sets out the operating and decision arrangements around the areas of Shareholding appointments and removals, disputes and voting.

- 3.6 Members are asked to note that each of these documents has been produced centrally by legal advisors on behalf of Scottish Futures Trust, with duty of care letters being provided to participants, and in collaboration with the Northern Territory Board and its participants. The documents, other than the draft Participants' Agreement which is yet to be produced, have also been reviewed by the Council's Legal Services.

4. CONCLUSION

- 4.1 The Northern Territory hub Co. will be a new partnership vehicle set up to provide an alternative method of procuring and perhaps funding community infrastructure and buildings. Any of the Participants can chose to use the hub Co. for specific projects as they feel appropriate or

in the case of Health Boards as they are legally committed to do, over the next 20 years.

- 4.2 Argyll and Bute Council will not be obliged to use the hub Co. However, if the hub Co. can clearly establish its efficiency and cost competitiveness in delivering the initial tranche of projects put forward by some of the other participants then this vehicle may provide a useful addition to the public sector procurement options.
- 4.3 In the event of proceeding to formal sign-up it is envisaged that any projects developed by Argyll and Bute Council would continue to be progressed through existing revenue and capital planning arrangements based on a business case approval process. The decision on whether to proceed with a project through the hub Co. would follow on from a robust appraisal of all procurement options.
- 4.4 As a fully contracted participant in the hub Co, but with no current projects for delivery using this vehicle, there would be no financial implications for this Council other than the cost of its initial shareholding.

5. IMPLICATIONS

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| 5.1 POLICY | Agreement to participate in the hub Co will provide the Council with an option to ensure efficient procurement. |
| 5.2 FINANCIAL | At this stage the Council will have to pay £1 in the form of its share of the company. |
| 5.3 PERSONNEL | None |
| 5.4 EQUAL OPPORTUNITIES | None |
| 5.5 LEGAL | Participation in the hub at this stage will enable the Council to consider the hub Co. as one of its procurement options. |

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