

WEST DUNBARTONSHIRE COUNCIL

Report by the Chief Executive

Council: 29 February 2012

Subject: hub West Territory – Appointment of a Private Sector Development Partner, Establishment of West Territory hubco and identification of potential Council project as qualifying project

1. Purpose

- 1.1** The purpose of this report is to provide Council with an update on the procurement process recently completed in relation to the appointment of a private sector development partner to join with up to seventeen public and voluntary sector participants (“the Participants”) and Scottish Futures Trust to establish hubco for the hub West Territory.
- 1.2** The report seeks to gain agreement of Council to participate in West Territory hub and also in hubco by taking shares in the company and a share of working capital in the hubco. Assuming the Council agrees to take shares, approval will also be required for the appointment of the B Shareholder Director.
- 1.3** The report seeks Council agreement that the hubco procurement route is adopted as a potential procurement route for future major Council projects.
- 1.4** The report also seeks approval to have the potential project around the co-located St.Peter’s Primary, Aitkenbar Primary and an Early Education & Childcare Centre (Bellsmyre schools development) identified as a qualifying project for the hubco delivery plan. This could mean that the project would benefit from £600,000 of Scottish Government funding.

2. Background

- 2.1** Members will recall that on 28 April 2010 the Council received a report on the concept of the West Territory hub, and agreed to take part in its development and the procurement of a private sector development partner. Subsequent reports were received:
 - 19th January 2011 to the Tendering Committee which formally approved that the Council would be included in the procurement process;
 - 25 May 2011 to Council which provided an update on progress and sought Council agreement that the potential co-located Bellsmyre Schools development should be identified to prospective development partners by being included within the list of “Identified” Projects for the West Scotland hub Territory. It was recognised that this was not a commitment by Council to acquire the development from hubco without further approval.

- 2.2** The hub initiative provides participants with a route to partnership working In conjunction with a private sector delivery partner, taking a strategic long-term planning approach to the procurement of infrastructure to support the delivery of community services (such as health, social care and education).

The hubco will last for 20 years, with an option to extend for a further 5 years if agreed between the hubco and one or more of the Participants.

The Participants will have the opportunity to put forward individual projects which will be used to form a 'project pipeline' which the hubco will deliver through one of the following options:

- 1) Design and Build contract (or build only for projects which have already reached design development) under a capital cost option; or
- 2) Design, Build, Finance and Manage under a revenue cost option.

Working with the Participants, the hubco is expected to deliver improvements (including better design, lower construction and maintenance costs and the increased speed of delivery of new facilities) in the way that projects are delivered. These improvements will be monitored by the setting of performance targets, Key Performance Indicators and the periodic use of market testing.

The partnership between the Participants and hubco offers a flexible procurement route for the delivery of community infrastructure, achieving value for money by reducing both the expense and time associated with procurement processes. The hubco will have the expertise to provide various construction procurement mechanisms, tailored to meet the Participants' needs over the agreed lifecycle of individual projects.

With regard to performance monitoring and benefits realisation to ensure hub objectives are delivered, a schedule of Key Performance Indicators (KPIs) detailing minimum areas of performance and minimum performance requirements has been developed for the hub West Territory and the proposed Preferred Bidder has produced a detailed schedule relating to them. Some further detail on this matter and in particular supply chain opportunities for local firms and employees was provided by Neil Harris of the West Territory hub at the recent Members' Business Day in December 2012.

- 2.3** Currently, in addition to West Dunbartonshire Council, the following public sector bodies have been involved in the development of the West Territory hubco and are currently considering whether to participate in hub:

Greater Glasgow Health Board, East Dunbartonshire Council, East Renfrewshire Council, Renfrewshire Council, Strathclyde Fire Board, Strathclyde Joint Police Board, the Glasgow Housing Association Limited, The Scottish Ambulance Service Board, Clydebank re-built Limited, Glasgow City Council, Inverclyde Council, Glasgow School of Art, Glasgow Metropolitan

College, Clyde Gateway Developments Limited, Govanhill Housing Association Limited and Elderspark Housing Association Limited (“the Participants”).

As sponsor of the hub initiative, Scottish Futures Trust will be a member of hubco through its investment arm, Scottish Futures Trust Investments Limited, as will the private sector development partner, Wellspring Partnership Limited, if approved by the Participants

- 2.4** Further background information on the hub initiative and the West Territory hub in particular will be circulated to Members as part of a briefing note circulated to assist members to fully consider the content of this report.

3. Main Issues

The Procurement process, evaluation and recommended appointment

- 3.1** The hub Procurement phase included:

- (i) initial formation of the territory;
- (ii) the establishment of the hub West Territory’s partnership’s governance and financial management arrangements;
- (iii) the development of the hub West Territory’s delivery plan;
- (iv) the preparation of the standard form Territory Partnering Agreement, Shareholders Agreements and delivery contracts; and
- (v) the procurement of the Territory’s private sector development partner to form the hubco.

The references in the following paragraphs (3.2 to 3.10) to Procurement Process refer only to (v) above.

- 3.2** The hub West Territory OJEU was issued in February 2011 with a shortlist of three tenderers approved on 31st May 2011. The three short listed tenderers selected to participate in the Competitive Dialogue Process were:

- (i) **Wellspring** (comprising: Community Solutions Investment Partners Ltd; Morgan Sindall Group PLC; Apollo Capital Projects Ltd);
- (ii) **Amber Blue** (comprising: Forth Holdings Ltd; Robertson Group (Holdings) Ltd; International Public Partnerships Ltd); and
- (iii) **Triarch** (comprising: Laing O'Rourke PLC; Hochtief Concessions AG; Dawn Group Ltd; Currie & Brown).

- 3.3** The competitive dialogue process commenced in June 2011 and comprised 5 formal meetings with each tenderer plus separate technical, legal and financial meetings. During the process 69 formal clarifications were issued to tenderers. Through this process bids are submitted and refined until a final bid is produced which, it is intended, reflects the product of the guidance issued and refinement achieved throughout the process.

- 3.4** An evaluation criteria matrix was developed from commencement of the dialogue phase and was revised to improve clarity and understanding for both

the tenderers and the evaluation team. The initial criteria were approved by the West hub Territory Programme Board before the Invitation to Participate in Dialogue (ITPD) was issued on 1st June 2011.

- 3.5** The evaluation criteria are split into non-price which accounts for 60% of the total mark and price at 40%.
- 3.6** The Non-price Evaluation comprised the following factors:
- (i) Approach to establishing and operating hubco (10%);
 - (i) Approach to Partnering (40%); and
 - (iii) Key Performance Indicators (KPIs) and Continuous Improvement (10%).
- 3.7** The Price Evaluation (40%) comprised a qualitative component and a quantitative component. These were weighted 20% and 20% respectively.
- (i) The Qualitative Price Evaluation Criteria and Weightings, focussed on the Tenderer's approach to delivering value for money, costing of New Projects and the financial management of hubco; and
 - (ii) The Quantitative Price Evaluation focussed on construction costs, Design Build Finance Maintain costs, and 5-year hubco costs.
- 3.8** Both the Price and Non-price evaluation criteria had a number of evaluation sub-criteria which were detailed in the Invitation to Submit Final Tender.
- 3.9** The evaluation team comprised the hub West Territory Programme Director, hub West Territory Programme Manager, 5 Participant members drawn from Greater Glasgow Health Board, Renfrewshire Council (2), East Dunbartonshire Council and Glasgow Housing Association Limited and a representative from Scottish Futures Trust. The Chair of the West hub Territory Programme Board, chaired the evaluation team which was supported by the Legal, Technical and Financial advisors (Shepherd and Wedderburn, Turner Townsend and Grant Thornton).
- 3.10** The final evaluation scores are summarised in the table below:

Bidder	Non Price Scores 60%			Price Scores 40%		Total Score	Rank
	Establishing & operating hubco Company (10%)	Approach to Partnering (40%)	KPIs & Continuous Improvement (10%)	Qualitative (20%)	Quantitative (20%)		
Amber Blue	6	26.6	8.4	12.5	19.3	72.80%	2
Triarch	6.2	23.2	6.7	13	17.1	66.20%	3
Wellspring	8.2	35	6.3	13.5	17.8	80.80%	1

- 3.11** This shows that Wellspring has achieved the highest score according to the agreed evaluation criteria, and is proposed to be appointed as Private Sector Development Partner.

Structure, Governance and Financial Issues

- 3.12** Because, in addition to the appointment of a private sector partner, what is being proposed is a long term partnership arrangement between the Council and other public bodies, and the establishment of a project company to deliver projects over many years, there is a requirement to establish a number of formal agreements and legal bodies. The West hub Territory Programme Board has agreed the establishment and makeup of the following bodies.

- 3.13** **A Territory Partnering Board (TPB)**, comprising representatives of each of the Participant bodies, a representative of the Board of Directors of hubco and possibly, in a non voting capacity, representatives of other stakeholders, will be established to provide strategic input into the long-term running of the hub project. The TPB will meet regularly (at least once every three months) to: review performance and financial aspects; approve each new edition of the Territory Delivery Plan (TDP) (annually); give guidance and approval in respect of new project proposals; and generally manage the provision of Partnering Services by the hubco to the Participants. Unless a project is a “qualifying project” and therefore subject to exclusivity (see Appendix 3 - summary of the Territory Partnering Agreement) a new project will not be included within the TDP without the express written consent of the Participant whose project it is.

Each Participant will appoint a Participant’s Representative on to the TPB who should be appropriately empowered to agree matters on behalf of the particular Participant. In addition, each Participant’s Representative will act as the effective point of contact between hubco and the particular Participant.

The Territory Partnering Board will *de facto* replace the existing West hub Territory Programme Board which is currently attended on behalf of the Council by the Head of Finance and Resources. It is therefore proposed that the Head of Finance and Resources be appointed to the role of Participant’s Representative on the TPB for West Dunbartonshire Council.

- 3.14** **Shareholding and Board of Directors (BoD)**. As the hubco will be a private limited company it will be governed by the Companies Act 2006. The shares will be allocated:

- (i) 10% to Scottish Futures Trust (A Shares);
- (ii) 30% to the Participants (B Shares); and
- (iii) 60% to the private sector partner (C Shares).

The total shareholding in the company will be £100 distributed in the above percentages. In addition the company will require working capital and initially this will be £300,000, again this will be distributed in the percentages shown above.

It should be noted that both the share capital and the working capital will be funded from hub enabling funds by the Scottish Government, and so it will not involve any cost to the Council if it chooses to become a shareholder.

The BoD will be made up of three directors appointed by each class of shareholder: one appointed by Scottish Futures Trust and one by the local public sector investors (as a group). Each director will have one vote and except in respect of matters which require shareholder consent, decisions will be made by majority vote. Additionally, the directors will be required to appoint an independent, non-voting chair.

It should be noted that there is a statutory and common law duty on every director to exercise independent judgement and to take decisions in a way which he/she considers, in good faith, would be most likely to promote the success of the company for the benefit of its shareholders as a whole.

A number of matters are reserved for shareholder consent including revision to the hubco business plan, restructuring of the hubco debt and tendering for any additional business outside the scope of the Territory Delivery Plan. The matters reserved for shareholder consent require a majority of each class of shareholder to vote in favour, i.e. the private sector shareholder(s), SFT and a majority of the local public sector shareholders must all vote in favour for any such resolution to be carried. The process for voting among B Shareholders will be set out in the Participants' Agreement. Full details of the BoD procedures, governance and shareholding are found in the briefing paper referred to above.

A Shareholder's Agreement (SHA) provides for a **Shareholders' Forum** to be established (comprising all of the shareholders, plus the Chair of hubco), to meet twice a year. The role of the Shareholders' Forum will be to review:

- the effectiveness of hubco in fulfilling its objects;
- the past and present business activities of hubco;
- the performance by all parties of their obligations under the SHA and the TPA; and
- the hubco board's response to any queries previously raised.

The Shareholders' Forum does not have any power to issue directions or instructions to the BoD, but the BoD must carefully consider the conclusions of the Shareholders' Forum in formulating their plans for the Company.

3.15 Territory Partnering Agreement (TPA). The TPA is the principal document defining the obligations of hubco to the participants and visa versa. It also deals with the issue of exclusivity of qualifying projects, i.e. those projects which require to be promoted first through hubco. A more in-depth summary of the terms of the TPA is found in the briefing paper referred to above.

3.16 Participants Agreement. The Participants Agreement addresses decision making issues between the Participants and interacts with the Shareholders'

Agreement. As there are certain decisions which have to be taken by the participants (rather than only the shareholders, or including Scottish Futures Trust and the hubco) it is appropriate that these relationships are explicitly defined. Again the briefing paper referred to above contains a summary of the provisions of this agreement.

3.17 Shareholders Agreement (SHA). This agreement narrates relationships between all of the parties subscribing for shares. It provides for such issues as composition of the Board of Directors, Conflict of Interest, Financial issues relating to rights of shareholders to invest and the establishment of a Shareholder's Forum. The SHA is further explained in the briefing paper referred to above.

3.18 Financial and Wider Benefits of Shareholding. It is not compulsory for a Participant to become a shareholder, however as the total shareholding is nominal (up to £100 in total with £30 of that being distributed amongst all Participants who agree to hold shares) there would appear to be little to prevent the Council from holding shares and thereby participating in any surpluses made by hubco. Additionally it gives the Council, along with other shareholders, a degree of control over certain aspects of the company which may be of considerable importance in ensuring it continues to meet its intended purpose.

An additional benefit available to shareholders is the ability/option to invest capital funds for projects giving the opportunity of additional financial benefit to shareholders and supporting wider public sector investment.

Finally, it should be noted that as hubco is a limited company, the financial risk to the shareholders, in a legally operated company is limited to the loss of the share capital (i.e. whatever percentage of the £30 is held by the individual shareholder). Once again further details can be found in the Briefing Note being provided to members.

Appointments

3.19 As will be noted from the description of the governance arrangements above, there are a number of posts which will require to be filled in relation to the various hub structures. Following recommendations from the West hub Territory Programme, it is proposed that the following individuals are nominated for the following posts:

- (i) the appointment of Anthony Curran, Chair of the Territory Programme Board and Head of Capital Planning and Procurement at NHS Greater Glasgow and Clyde as the B Shareholders' Director on the Board of hubco;
- (ii) the appointment of Neil Harris, hub West Territory Programme Director as the B Shareholders' Representative; and

- (iii) The appointment of Neil Harris, hub West Territory Programme Director as the Lead Participants' Representative under and in terms of the Participants' Agreement with delegated authority to take any action, grant any approval or consent or sign any notice required in terms of the Shareholders Agreement and Territory Partnering Agreement.

Inclusion of Projects and Exclusivity

- 3.20** As noted above, the meeting of Council on 25 May 2011 agreed that the potential co-located St.Peter's Primary, Aitkenbar Primary and an Early Education & Childcare Centre (Bellsmyre Schools Project) was to be identified to prospective development partners by being included within the list of "Identified" Projects for the West Scotland hub Territory.

At that stage, the status of an identified project was not necessarily indicative of any real commitment of the Council to procure the project through hubco and it was noted that it would be likely that any such commitment would require to be considered in 2012.

With the procurement now having proceeded to the stage of appointment of the private sector development partner, it is necessary to firm up on the projects which will be offered exclusively to hubco for development. Council therefore requires to consider whether it wishes this project to be identified as a qualifying project. If this is the case, then Council will be committing to offer the project to hubco for development and delivery in the first instance.

- 3.21** The benefit of being a qualifying project is that at this early stage in the creation and running of the hubco, it has been agreed by the West hub Territory Programme Board that the project would receive £600,000 of financial support from the West Territory enabling funds that have been provided by the Scottish Government. This effectively provides pump priming funding to early hubco development projects by meeting some of the early stage design development costs.
- 3.22** Committing a project to qualifying project status at this stage will mean that if the Council decides to proceed with a Bellsmyre Schools project it will do so through the hubco subject to the hubco proposal passing a Value for Money test for the project.

Benefits of using hubco

- 3.23** General benefits of the operation of the hubco are expected to be:

The hub is about improving the quality of services in local communities across Scotland and building infrastructure fit for a new vision of community-based services in Scotland - making a real difference to people's lives by delivering better access and seamless service in good quality facilities all for excellent value for money. This is expected to be achieved through:

- (i) Increased Joint Working - The aim is to improve existing working environments while using existing local arrangements with other service providers, e.g. Community Health Partnership planning networks, as its core;
- (ii) Efficient Procurement - Following the selection of a private sector partner, new arrangements such as standardised processes / documentation will create quicker, easier and lower cost procurement. In addition, private sector funding will be at risk in delivering facilities on time and on budget and in long-term maintenance;
- (iii) Value for Money - More efficient procurement systems will accord with Best Value and Efficient Government policies and create savings that will help sustain improved services for local communities;
- (iv) Flexibility - The hub provides for a wider array of financial structures (Lease Plus, conventional) and offers potential for capital recycling. This will translate into a number of potential benefits of the hub approach for public sector participants.
- (v) Enhanced Central Support - Expert procurement staff and funding for project preparation and site acquisitions will ease the development process;
- (vi) Financial Interest - Local Participants can have a real stake in the long-term service development and in the investments/facilities available to the area. This provides an incentive to participate in the planning of future investments and services to meet local needs.
- (vii) hub aims to facilitate more flexible approaches through strategic partnering, to increase the number of projects that emerge from joint service plans.
- (viii) A national delivery vehicle (hub Scotland) will develop and disseminate standard replicable documentation and provide intensive support to the first schemes. This will offer economies of scale and scope. The standard documentation will only need minor tailoring to meet local requirements and to fit the requirements of future projects.
- (ix) Private sector partners will bring access to capital, but also access to private sector skills in property management and project implementation allowing the public sector to focus on service delivery

3.24 The proposed partnership with Wellspring is expected to provide the following benefits:

- (i) Clear and genuine commitment to Strategic Development;
- (ii) Collaborative approach to partnership working;
- (iii) Participant involvement throughout the project development process;

- (iv) Pre-New Project Request support to Participants, and access to design teams;
- (v) Wide open supply chain with opportunities for Participants to nominate preferred contractors / consultants for consideration;
- (vi) Initial supply chain developed from publicly advertised open event;
- (vii) Tiered supply chain with opportunities for a wide range of sizes of suppliers, consultants and contractors;
- (viii) Initiatives to help encourage and support Small/Medium Enterprises and Third Sector Organisations;
- (ix) Use of mini-competitions within supply chain to ensure quality and cost standards maintained;
- (x) Participant involvement in supply chain selection process;
- (xi) Approaches to Sustainability and Whole-Life Costs embedded in project development processes from early stages;
- (xii) Development of a Centre for Excellence to help promote joint learning and improve standards and approaches across all Participant's projects;
- (xiii) Enhanced measures for Community Benefit realisation and commitment to Construction Skills Scotland training targets as a minimum;
- (xiv) Clear understanding of Value for Money issues with focus on early stage partnering and engagement;
- (xv) Competitively bid construction pricing caps;
- (xvi) Lowest IRR rates for DBFM projects;
- (xvii) Lowest 5 Year running costs from bid process; and
- (xviii) Clear profit-distribution model which returns funds to Participant's using programme on a pro-rata basis.

The above demonstrates that the proposed private sector partner has demonstrated competitive current pricing models for major projects and is committed to an approach which aims to support SMEs in being included in the supply chain.

- 3.25** The Scottish Government has intimated that there will be further funding made available to fund new schools in future years. It is anticipated that a condition of accepting such funding from the government may be the requirement that the schools are delivered through the local hubco.

If this was the case then it may be difficult for the Council to access future Scottish Government funding (via the Scottish Futures Trust) to support future schools developments if the Council decided not to be a participant in the hubco.

- 3.26** The Legal Structure and issues raised by such a complicated procurement has been addressed in both the West Territory procurement process and the

previous hub procurements. It is considered that all possible issues have been sufficiently addressed. Further information on legal issues can be found in the briefing note to members.

4. People Implications

- 4.1** There are no significant workforce implications and in particular it is expected that no employee in West Dunbartonshire Council will be affected by the establishment and operation of hub. The Programme Board have agreed to fund a hub Programme Director to act on behalf of the Participants, work closely with hubco and ensure hubco deliver their Business Plan including Participant's projects that are delivered through hubco.
- 4.2** In addition, the West hub Territory Programme Board has agreed the allocation of revenue funding to fund a Programme Manager and Programme Support Assistant from within the hub West Territory's Revenue budget to March 2016 and any ongoing need for funding will be reviewed by the Territory Partnering Board.
- 4.3** As described above, the creation of the West Territory hubco supply chain will be an open process. It is possible for the Council to apply for its Construction Trading Operation to be part of the supply chain, which if successful could result in additional employment opportunities within the Construction Trading Operation. Following discussion with the Executive Director of Housing, Environment and Economic Development it is likely that the Construction Trading Operation would consider the option to become part of the hubco supply chain as a potential area of growth for the Trading Operation.

5. Financial Implications

- 5.1** Other than through the development of new projects under the hub initiative, no new financial implications are identified for the Council at present. Management of the procurement process and taking forward initial schemes has been met from within the resources allocated to the West hub Territory Programme Board. Additional financial implications will be brought forward to the West hub Territory Participants following formation of the hubco and any stage 1 business cases for schemes to be developed by the hubco.
- 5.2** The equity required by the Public Sector participants who will become shareholders, to set up the hubco is £30 in total and working capital is £300,000 in total. These funds have been made available through hub enabling funds.
- 5.3** The West hub Territory Programme Board has a revenue budget of £1.4m which will be closely monitored by the Territory Partnering Board with appropriate reporting to Participants. The Territory Partnering Board will be required to make recommendation to Participants on the level of budget and associated staffing after this funding is used

5.4 Participants will be likely to incur costs in relation to the development of new projects to be developed through the hubco (e.g. independent cost consultants to check the Value for Money of the hubco proposals). Such costs will require to be built into the cost of any future projects.

6. Risk Analysis

6.1 A full risk register has been maintained and reviewed by the West hub Territory Programme Board on a monthly basis throughout the project to ensure appropriate mitigation and management of risks.

6.2 There is a risk that, if Council decides not to be a participant in the West Territory hubco, that future access to Scottish Government funding for new schools projects may not be open to the Council, as it is anticipated that such funding will be contingent on developing such new schools via the hubco. Being a participant of the hubco does not at this stage require the Council to identify potential projects to the hubco so taking a membership would mitigate against this risk with no other implications for the Council.

7. Equalities Impact Assessment (EIA)

7.1 As noted in previous reports no significant issues were identified in a screening for potential equality impact of such reports. Notwithstanding the matter has now progressed, it is not considered that there has been any significant departures from that which was anticipated and so no further screening has been undertaken.

7.2 **Wellspring Partnership Limited** have demonstrated compliance with all statutory requirements in this area in the documents submitted as part of its bid and will continue to be assessed on an ongoing basis as part of the performance management framework with hubco.

8. Strategic Assessment

8.1 The hub approach to procuring major developments can contribute to these priorities as follows:

- Social and economic regeneration – through assisting in the generation of new build opportunities for community assets. In addition it is envisaged that the West hubco will develop close relationships with local businesses through developing local supply chains. The hubco also requires to deliver community benefits and commitment to Construction Skills Scotland training targets as a minimum;
- Financial strategy – through providing financial assistance to the Bellsmyre Schools project, assuming Council agrees to having the project identified as a qualifying project. The hubco is also expected to deliver value for money in terms of development costs of projects into the future through reduced requirement for participants to undertake procurement processes;

- Asset management – the hubco approach offers an opportunity for the Council to become involved in a wider partnership approach to asset management with other partners; and
- Fit for purpose services – the hubco approach offers the Council a means to delivering the provision of fit for purpose services, though hubco is only one option for this.

9. Conclusions and Recommendations

- 9.1** The Council has participated in the procurement process, run through the West hub Territory Programme Board, for a private sector partner for the West Territory hubco. The outcome of this procurement process is that Wellspring has been identified as the successful tenderer. The procurement process requires those public bodies who were included in this procurement exercise to ratify the selection of the selected tenderer.
- 9.2** The creation of the West Territory hubco will be progressed following the consideration by all public bodies as to what extent they wish to be involved in the hubco.
- 9.3** The hub approach, and the West Territory hubco, is about providing public bodies with a procurement route for major projects – which can be capital funded or revenue funded. The procurement process which has been undertaken to identify a private sector partner has been undertaken at a time when there is considerable competition in the private sector to access business and has resulted in a hubco which is expected to provide value for money in terms of cost of projects, quality of projects, community benefits, and supply chain management.
- 9.4** The hubco has a shareholding which gives the participating public bodies to be shareholders which provides the public bodies with a place on the hubco Board of Directors to ensure that the expected benefits of the hubco are realised and that the hubco performs as well as expected in terms of value for money. There is no cost to the Council in becoming a shareholder,
- 9.5** Any future investment projects which the Council decides to progress do not need to be developed via the hubco, but being a participant allows that option to be taken and this would give the Council an opportunity to consider which procurement route to take for future such projects.
- 9.6** If the Council decides that the hub route to procurement is appropriate for a future project then the hubco proposal requires to meet a value for money test and if this is not met then the Council can decide to procure in a different way.
- 9.7** The creation of the hubco will see a governance structure being put in place and the Council requires to consider the recommendations made by the West Hub Territory Project Programme Board as to filling certain roles in this structure.

- 9.8** Council agreed in May 2011 that the Bellsmyre schools project would be an identified project as part of the procurement phase and now requires to make a decision as to whether this project will now be taken into the hubco Territory Delivery Plan as a qualifying project. Agreement to this would commit this project to being developed and delivered by the hubco (subject to the hubco development meeting the value for money test) should the Council decide to progress with this project within the next 10 years. If this project proceeds via the hubco then it will qualify for £600,000 of enabling funding which is available from the Scottish Government (via the Scottish Futures Trust) to assist in funding this project.
- 9.9** It is considered that based on the fact that the current procurement process has been undertaken at a time when competitive processes are delivering very good prices, and that a contribution of £600,000 is available to assist in funding this project, that this proposal represents value for money and should be seriously considered by Council.
- 9.10** The Scottish Government has intimated that there will be further funding made available to fund new schools in future years. There is a possibility that a condition of accepting such funding from the government will be the requirement that the schools are delivered through the local hubco. Council will wish to consider the risks associated with this when deciding whether to be a participant in the West Territory hubco,
- 9.11** It is recommended that Council approve:
- (i) the selection of Wellspring Partnership Limited as the private sector development partner in hubco as recommended by the West hub Territory Programme Board;
 - (ii) the establishment of hubco;
 - (iii) the investment in hubco shareholding of a maximum of £30 and the provision of working capital of a maximum of £300,000. There shall be an equal shareholding for those Participants who elect to take a shareholding, and the provisions of working capital shall be split in the same proportions – with funding for both shareholding and working capital being provided by Scottish Future Trust enabling funds;
 - (iv) the Council becoming a Participant in the West territory hubco by entering into of the Territory Partnering Agreement, Shareholders Agreement and Participants' Agreement, summary details of which are narrated in the Briefing Note referred to above, with delegated authority to Andrew Fraser, Head of Legal, Administrative and Regulatory Services, or Alan Douglas, Manager of Legal Services, or Sally Michael, Section Head – Contracts and Property or Nigel Ettles, Section Head – Litigation and Support Services to execute the same on behalf of the Council and to grant delegated authority to them to agree on behalf of the Council any further non-material amendments to

the Territory Partnering Agreement, Shareholders Agreement and Participants' Agreement prior to the date of execution of the said documents;

- (v) the appointment of Anthony Curran, Chair of the West hub Territory Programme Board and Head of Capital Planning and Procurement at Greater Glasgow Health Board as the B Shareholders' Director on the Board of hubco;
 - (vi) the appointment of Neil Harris, hub West Territory Programme Director as the B Shareholders' Representative;
 - (vii) the appointment of Neil Harris, hub West Territory Programme Director as the Lead Participants' Representative under and in terms of the Participants' Agreement with delegated authority to take any action, grant any approval or consent or sign any notice required in terms of the Shareholders Agreement and Territory Partnering Agreement;
 - (viii) the appointment of Stephen West as West Dunbartonshire Council's representative on the Territory Partnering Board with delegated authority to make any decisions on its behalf which require to be taken by the Territory Partnering Board pursuant to its constitution; and
- (x) that the Bellsmyre schools project be identified to the hubco as a qualifying project and should be developed by the hubco, should Council agree to proceed with this project.

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Joyce White
Chief Executive
Date: 23 February 2012

Person to Contact: Alan Douglas, Manager of Legal Services; and
Stephen West, Head of Finance and Resources

Appendices: None

Background Papers: 1. Report to Council: 28 April 2010
2. Report to Tendering Committee: 19 January 2011
3. Report to Council: 25 May 2011
4. Briefing and detail background papers regarding the establishment of the West Territory hubco

Wards Affected: All