

**CEO DECISION – CD 184**

**Title: Access to Planning Obligations Suite – Exacom**

**Executive summary**

OPDC is seeking to better monitor and manage records of funds received pursuant to OPDC's Section 106 Agreements (s106 Agreements), the Community Infrastructure Levy (CIL) and Mayoral Community Infrastructure Levy (MCIL) contributions.

Funding approval is sought to purchase Exacom Systems Limited's (Exacom's) Planning Obligations Suite. The software package includes a Project module, s106 module and CIL module. These modules aid in recording monies collected, project allocation, financial and non-financial report generation, identifying monies for spend and will help OPDC to efficiently manage and monitor records relating to its s106 Agreements, the CIL and the MCIL.

The software will be procured on a five-year licence agreement, with the data updated on an annual basis. This Decision seeks approval of total expenditure of £75,000 spanning six financial years to procure the software package and an exemption from OPDC's Contracts and Funding Code to appoint Exacom Limited via a single source route.

**Decision**

That the Chief Executive Officer approves:

- expenditure of up to £75,000 to procure Exacom's Planning Obligations Suite software package for a five year licence, (three year initial licence plus two years rolling); and
- an exemption from OPDC's Contracts & Funding Code to enter into a contract with Exacom Ltd for the above without a competitive procurement exercise due to the complete absence of competition, as there are no other suppliers that provide a Planning Obligations monitoring software package.

**Chief Executive Officer**

I do not have any disclosable interest in the proposed Decision. It is consistent with OPDC's priorities and has my approval.

**Signature:**



**Date:** 22 August 2022

## **PART 1: NON-CONFIDENTIAL FACTS AND ADVICE**

### **1. Background and context**

- 1.1 OPDC is seeking to better monitor and manage records of funds received pursuant to OPDC's Section 106 Agreements (S106 Agreements), the Community Infrastructure Levy (CIL) and the Mayoral Community Infrastructure Levy (MCIL)
- 1.2 S106 agreements are the primary mechanism by which the delivery, or contributions towards the delivery, of necessary infrastructure is secured from new development. On-site infrastructure is typically secured as in-kind obligations, while financial contributions are secured to support delivery of off-site infrastructure or services necessary to support the mitigation of development.
- 1.3 The Community Infrastructure Levy (CIL) came into force in 2010 as a levy that local authorities in England and Wales can charge on new developments in their area. This calculation is based on additional floorspace created and/or new dwellings created.
- 1.4 OPDC intends to adopt its CIL charging schedule in the autumn of 2023. The monies generated from CIL will be used to deliver a wide range of infrastructure including, but not limited to, transport, schools, community facilities, health and leisure facilities.
- 1.5 OPDC report to Transport for London (TfL) on Mayoral Community Infrastructure Levy (MCIL) monies collected. The Mayoral Community Infrastructure Levy (MCIL1) was introduced in 2012 to help finance the delivery of the Elizabeth line by Crossrail Ltd, and in 2019, the Mayor of London published MCIL2 with updated charging rates for local planning authorities.
- 1.6 OPDC is seeking to better manage and monitor contributions received and pursuant to its S106 Agreements, and MCIL and CIL monies collected.
- 1.7 Currently, the financial records are logged on an Excel spreadsheet and the non-financial information saved in folders on the shared drive. To date, OPDC has secured over £24 million in pursuant to S106 Agreements and collected £7,871,074 in MCIL management of these monies on Excel is becoming inefficient and ineffective. This filing system is not convenient with regards to monitoring as it takes too many officer hours to sort through the relevant records. The records are not centrally stored, which means data pooling and monitoring is time consuming and inefficient.
- 1.7 Exacom Ltd provides a software solution and support to local authorities to efficiently and effectively manage planning obligations and CIL and MCIL monies. The Planning Obligations Suite software package is made up of three modules: The S106 Module, CIL Governance Module and the Project Module. These modules are designed for local authorities to monitor, enforce and deliver infrastructure contributions.
- 1.8 The application will fundamentally transform OPDC's management and monitoring of its S106, CIL and MCIL funds.

- 1.9 The software will provide a single location where all records regarding infrastructure contributions (financial and non-financial) will be filed and will make it easier to query applications, create reports and general planning obligations monitoring.
- 1.10 OPDC is seeking an exemption from the Contracts and Funding Code for this procurement is that there are no other suppliers that can provide a Planning Obligations monitoring software package. As per OPDC's Contracts and Funding Code, exemptions from the normal procurement process are requested when there is complete absence of competition. This is a service provided by Exacom Limited and the datasets are built according to OPDC's specific geography and requirements.

## **2. The proposal and how it will be delivered**

- 2.1 It is proposed to enter into a five-year licence agreement with Exacom Ltd for the Planning Obligations Suite.
- 2.2 The package is an online application and will be delivered as bespoke software specific to OPDC. All members of the Planning Department will be provided with login profiles and be trained in how to use the application.
- 2.3 The proposed expenditure will cover a five-year subscription and includes initial installation of software, training and regular updates. See breakdown below:

Year 1 £25,500 (Includes installation and 1st subscription)

Year 2 £11,000 (+Retail Price Index (RPI) uplift)

Year 3 £11,000 (+RPI uplift)

Year 4 £11,000 (+RPI uplift)

Year 5 £11,000 (+ RPI uplift)

By financial years, this breaks down as follows:

Financial year	Base value	Base value * 3% RPI	Detail
2022/23	£20,917	£20,917	Installation and proportion of first year licence
2023/24	£11,000	£11,330	Second half of first year and first half of second year
2024/25	£11,000	£11,670	Second half of second year and first half of third year
2025/26	£11,000	£12,020	Second half of third year and first half of fourth year
2026/27	£11,000	£12,381	Second half of fourth year and first half of fifth year
2027/28	£4,583	£5,313	Final five months' licence fee

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£64,917

£73,631

- 2.4 Assuming a cumulative RPI uplift of 3% per annum would mean a total cost of approx. £74,000. To provide a sufficient inflationary buffer for a potential higher cumulative RPI, this decision is seeking approval for expenditure of £75,000.

### **3. Objectives and expected outcomes**

- 3.1 The core objective is to effectively and efficiently manage and monitor OPDC's S106 Agreements, CIL and MCIL funds. These contributions are both financial and non-financial, which are triggered on different stages of development. Some obligations are triggered on commencement, completion and/or occupation. Efficient monitoring will be required to ensure contributions are received in a timely manner so as to deliver on OPDC's prospective infrastructure needs.
- 3.2 Exacom's software will add capacity to future proofing OPDC's S106/CIL records. The package will aid in monitoring and managing planning obligation records, locating monies available for infrastructure delivery, generating financial and non-financial reports and much more related activities/tasks.
- 3.3 Exacom's software has been tried and tested – a large number of local planning authorities in the country use this package to store, manage and monitor their planning obligation records.

### **4. Strategic fit**

- 4.1 Policies referencing the requirement for planning obligations are included across the policies of OPDC's Local Plan (2022). Policy DI1 'Balancing Priorities and Securing Infrastructure Delivery' sets out OPDC's approach to the use of planning obligations, stating that:

*'To support the successful regeneration of the area, OPDC will:*

*a) secure the delivery of infrastructure necessary to support sustainable development, meet the needs of development and where necessary, mitigate the impacts of development as identified in the Local Plan policies and/or in the Infrastructure Delivery Plan (IDP) by: negotiating s106 contributions which are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development to ensure that the appropriate infrastructure to support the Local Plan and proposed development is delivered;'*

- 4.2 Exacom's software will aid in achieving the targets identified in the OPDC Local Plan 2018 – 2038. In achieving these targets, OPDC will comply with policies for growth in opportunity areas as identified in the London Plan Framework 2021.

- 4.3 OPDC secures a number of planning obligations under its S106 Agreements, which include but are not limited to: Affordable Housing, Travel Plan, Employment and Training, Energy, Play Space, Open Space and Affordable Workspace.
- 4.4 With regards to the obligations mentioned in 4.2 above, the Local Plan identifies policies and targets that will unlock the potential of the Old Oak and Park Royal opportunity area. These include 19,850 new homes and 36,350 new jobs will be created in the next 20 years, affordable workspaces will be created to support small businesses and start-ups. There will also be improvements to open spaces, green infrastructure and Grand Union Canal, improvements to play spaces for all ages and improved walking infrastructure across Old Oak and Park Royal including wayfinding.
- 4.5 Exacom's software will ultimately help in achieving these policies and targets. OPDC will efficiently and effectively collect infrastructure monies and manage non-financial obligations which will help ensure that planning policies are achieved.

## **5. Project governance and assurance**

- 5.1 Exacom Ltd will be appointed through a single source route. OPDC will enter into a contract with the consultants for five years. Table 5.1a below shows risks that may arise and their mitigation measures.

<b>Risk</b>	<b>Mitigation</b>
Quality of data	Ensure S106/CIL records are up to date and updated regularly
Future Users	Ensure officers allocate time to attend Exacom training workshops, update records and upload S106 agreements promptly.
Data protection	There are no data protection issue here because the Exacom package is GDPR compliant.

- 5.2 This will be managed by the Principal S106/CIL officer and overseen by the Head of Enforcement and Compliance and Director of Planning.

## **6. Equality comments**

- 6.1 Under Section 149 of the Equality Act 2010, as a public authority, OPDC must have 'due regard' to the need to eliminate unlawful discrimination, harassment and victimisation as well as to the need to advance equality of opportunity and foster

good relations between people who share a protected characteristic and those who do not.<sup>12</sup><sup>[OBJ]</sup>

- 6.2 An Integrated Impact Assessment (IIA) has been produced in support of OPDC's Local Plan. It incorporates the requirements for undertaking an Equalities Impact Assessment in the Equality Act 2010. The IIA concludes that the Local Plan's policies result in positive outcomes when assessed against the IIA objectives that consider equalities considerations. Strategic guidance on the types of planning obligations required to mitigate the impact of development and make it acceptable in planning terms is provided within OPDC's adopted Local Plan (2022) policies. The proposal to purchase the Planning Obligations Suite will enable OPDC to effectively monitor the implementation of planning obligations which will ensure that the Local Plan policies are realised.

## **7. Other considerations**

### *Contracts and Funding Code*

- 7.1 The reason OPDC is seeking an exemption from the Contracts and Funding Code is that there are no other suppliers that can provide a Planning Obligations monitoring software package. As per OPDC's Contracts and Funding Code, exemptions from the normal procurement process are requested when there is complete absence of competition. This is a bespoke service provided by Exacom Ltd and the datasets are built according to OPDC's specific geography and requirements.
- 7.2 No other organisation provides a Planning Obligations monitoring software package.
- 7.3 Notwithstanding this, OPDC has sought to obtain value for money in the contract by signing for five years enabling OPDC to take advantage of a discount, which the GLA Technology Group has supported with.

### *Data protection*

- 7.4 There are no data protection issue here because Exacom's software package is GDPR compliant.

## **8. Conflicts of interest**

- 8.1 No one involved in the preparation or clearance of this Form, or its substantive proposal, has any conflict of interest.

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<sup>1</sup> The protected characteristics and groups are: age, disability, gender reassignment, pregnancy and maternity, race, gender, religion or belief, sexual orientation and marriage/ civil partnership status. Fulfilling this duty involves having due regard to: the need to remove or minimise any disadvantage suffered by those who share a protected characteristic or one that is connected to that characteristic; taking steps to meet the different needs of such people; and encouraging them to participate in public life or in any other activity where their participation is disproportionately low. Compliance with the Equality Act may involve treating people with a protected characteristic more favourably than those without the characteristic. The duty must be exercised with an open mind and at the time a Decision is taken in the exercise of the OPDC's functions.

## **9. Financial comments**

- 9.1 Expenditure of up to £75,000 spanning FYs 2022/23 through to 2027/28 as outlined in the table in section 2 above will be funded from the Planning Directorate budget.
- 9.2 Section 3 of the draft agreement with Exacom notes that the initial licence term lasts three years, with each following year proceeding on a rolling basis. Once actioned, the initial three-year term represents a non-cancellable obligation by OPDC of £47,500 (plus RPI uplift).

## **10. Legal comments**

- 10.1 The report above indicates that:
- the decision requested of the CEO falls with the OPDC's object of securing the regeneration of the Old Oak and Park Royal area and its powers to do anything it considers appropriate for the purpose of its objects or purposes incidental to those purposes, as set out in the Localism Act 2011; and
  - in formulating the proposals, officers have given regard to OPDC's duty under section 149 of the Equalities Act 2010 as further described in section 6 of this report.
- 10.2 Section 9 of the OPDC's Contracts and Funding Code ("Code") requires that for contracts for goods and services valued at more than £25,000 officers should seek a call off from a suitable framework or undertake a formal tender process.
- 10.3 However, section 10 of the Code provides that exemptions from that requirement may be approved by the CEO where a specific ground for exemption applies. One of those grounds is that there is a complete absence of competition.
- 10.4 Officers have indicated in Section 7.1 of this report that this ground applies and have indicated that appointing the consultant for a five year period offers value for money. Therefore, if the CEO is satisfied with the content of this report and the grounds for exemption outlined, the CEO may approve the exemption sought.
- 10.5 If so approved, officers must ensure that appropriate contract documentation is put in place between OPDC and Exacom before any commitment is made to the purchase of software or services.

## **11. Summary timeline**

Activity	Date
Kick-Off Meeting	15/08/2022
Installation	16/08/2022
Deployment of Test Environment	16/08/2022

System Training	17/08/2022
Go Live	18/08/2022
Deed Upload/Monitoring	Ongoing

## Appendices

- Draft Contract

## Other supporting papers

- N/A



## PUBLIC ACCESS TO INFORMATION

Information in this Form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA). OPDC aims to publish the Form within three working day of approval.

If immediate publication risks compromising the implementation of the Decision (for example, impacting a procurement process), it can be deferred until a specific date (when it will be published). Deferral periods are kept to the shortest length strictly necessary.

### Part 1 – Deferral

Publication of this Part 1 is to be deferred: **No**

### Part 2 – Confidential information

Only the facts or advice that would be exempt from disclosure under FoIA should be included in or attached to any separate Part 2 Form, together with the rationale for withholding the information at this time.

There is a separate and confidential Part 2 Form: **No**

## DECLARATIONS

**Drafting officer:** Stephen Anyanwu has drafted this Form in accordance with OPDC procedures, including for handling conflicts of interests, and confirm that:



**Advice:** The Finance and Legal teams have commented on the proposal.




## CONFIRMATIONS

**Section 106 funding:** This use of S106 to fund the expenditure proposal was approved via a Section 106 spend proposal form on **N/A**

**SMT review:** This Decision was circulated to the **Senior Management Team** for review on Friday 12th August 2022.

### Chief Finance Officer

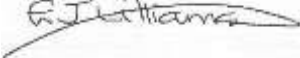
Financial and legal implications have been appropriately considered in the preparation of this Form.

**Signature:** 

**Date:** 22 August 2022

### Director of Planning

I do not have any disclosable interest in the proposed Decision. It is consistent with OPDC's priorities and can be referred to the CEO for final approval.

**Signature:** 

**Date:** 22/08/2022

