

## **Appendix 1**

### **Operation of the Frankfurt Christmas Market**

#### **Procurement Strategy P0891**

##### **1 Executive Summary**

- 1.1 The Procurement Strategy sets out the process adopted by Corporate Procurement Services (CPS) in order to evaluate all available options to support the Operation of the Birmingham Frankfurt Christmas Market.

##### **2 Background**

- 2.1 The background is set out in the accompanying Cabinet Report for the Operation of the Birmingham Frankfurt Christmas Market. CPS conducted a sourcing options appraisal to understand the possible ways to deliver a Frankfurt Christmas Market, the options are detailed in paragraph 4.

- 2.2 The previous agreement with Frankfurt Christmas Market Ltd came to an end 24<sup>th</sup> December 2022.

##### **3 Service Requirements**

The Council requires a Concessionaire to operate an authentic Frankfurt Christmas Market. The Concessionaire is required to operate what has historically been the largest Frankfurt Christmas Market outside of Germany and Austria, offering visitors a wide range of stall offerings including food, drinks, gifts, live music, and attractions. Further details are included in 5.3.

##### **4 Procurement Options**

- 4.1 The following options were considered:

**Option 1-** Do nothing. This has been discounted having viewed the historic success of the market and boost to the local economy, and the possibility of future income generation. This may also negatively affect Birmingham's profile and credibility as host of international events.

**Option 2-** To extend the existing agreement, this is not an option as the previous agreement has expired.

**Option 3-** To manage an authentic German Christmas Market in house. This is the approach taken by Manchester City Council for a comparable market. This has been rejected as the Council's Events team does not have the resource capacity or the experience to set up and manage such a large scale event.

**Option 4-** Carry out an open tender exercise inviting tenderers to bid to deliver an Authentic German Christmas Market. This has been rejected on the basis that there wouldn't be effective competition when compared to the current arrangements if this were put to the market when seeking a zero cost event with income generation to the Council for the reasons outlined in paragraph 6 below. The Council do not have an available budget to fund the cost of new provision that would require significant investment to

establish, and the preference is therefore to seek an arrangement at no/low cost to the Council.

**Option 5** – To invite operators to make a proposal to operate an authentic German Christmas market via the Council granting a license for use of the land for a fee. This has been rejected on the basis that there wouldn't be effective competition when compared to the current arrangements if this were put to the market when seeking a zero cost event with income generation to the Council for the reasons outlined in paragraph 6 below. The Council do not have an available budget to fund the cost of new provision that would require significant investment to establish, and the preference is therefore to seek an arrangement at no/low cost to the Council.

**Option 6** – The preferred option is to commence negotiations with Frankfurt Christmas Market Ltd for the operation of Frankfurt Christmas Market due to competition being limited for the reasons detailed in paragraph 6 below.

## 5 Procurement Approach

### 5.1 Duration and Advertising Route

The agreement will be for a period of 5 years and will be contracted using the negotiated procedure under the Council's Procurement and Contract Governance Rules. The contract will not be advertised as it will be a direct award (see 5.2).

### 5.2 Procurement Route

Having reviewed turnover since 2017 and using information regarding number of stalls, conditions pre and post pandemic and wider economic factors, the forecast value for a 5 year contract would not fall within the scope of the Concession Contracts Regulations 2016 which has a current threshold of £5,336,937 (Incl VAT) effective from 1<sup>st</sup> January 2022.

Consequently a direct award can be made to the Concessionaire subject to compliance with the Council's Procurement and Contract Governance Rules.

The requirement will be sourced following the Negotiated Procedure and in order to enable the programme to be achieved, delegation to Chief Officer (or their delegated officer) of the contract award will be sought from Cabinet.

Grounds for negotiation include:

The Council's PCGR 4.59 vi "It can be demonstrated and evidenced that no genuine competition can be obtained."

- Birmingham City Council are partnered with Frankfurt City Council and the Frankfurt Tourist Board in a Twinning Agreement (since 1966). Frankfurt Christmas Market Ltd is the preferred provider of the Frankfurt Tourist Board to act on their behalf and represent international Christmas markets.

- FCM Ltd.'s extensive knowledge, established relationships and experience of operating in Birmingham would allow for a smooth lead in and management of operations to ensure a successful market i.e. subcontracted on site ambulances, pre-approved Event Safety Plan (via SAG), engagement with BCC Environmental Health and Trading Standards.
- The benefit of FCM Ltd's prior investment in bespoke infrastructure to support delivery of the market and the residual life of these assets effectively enabling the price for the provision of the service to be under a competitive market rate.

### 5.3 Scope and Specification

The Council has legal powers to stage activities of this nature, covered by Section 145 of the Local Government Act 1972 that provides that a local authority may do, or arrange the doing of, or contribute towards the expenses of the doing of, anything (whether inside or outside their area) necessary or expedient for a number of purposes including the provision of an entertainment of any nature; the provision of premises suitable for the giving of entertainments and any purpose incidental to the matters aforesaid.

The Events team will expect the Concessionaire to:

- Finance the entire event
- Manage the sourcing, set up and deconstruction of event infrastructure including stalls, fencing, guarding etc.
- Operate the market for approximately 7 weeks during November and December
- Provide and manage all stalls, equipment etc.
- Source and manage all personnel, stallholders, entertainment, subcontractors etc.
- Supply all products and services required to operate a Frankfurt themed Christmas market
- Manage all health and safety across the site (including on-site medic provision etc.)
- Provide waste management services to dispose of all waste arising from the operation of the event as well as from public attendance & on-street litter
- Safely manage the volume of public attendance in accordance with an agreed Event Safety Management Plan
- Provide Event Security 24/7 to protect the public, the stall operators and the assets
- Provide advertising, marketing and promotion of the market
- Communicate with the Council regarding progress and highlighting any issues
- Attend planning meetings and Safety Advisory Group (SAG) meetings when agreed, and adhering to any conditions made by the groups.
- Set up the Market with due consideration for pedestrian flows, business requirements and the safe passage of emergency vehicles.
- Adhere to statutory and contractual obligations, notices, licences and fees.

## 6 Market Analysis

### Summary

The market for authentic Frankfurt Christmas markets is characterised by a scarce supply of authentic, large scale and high-quality provision. Such requirements in some instances may be met through consortium arrangements involving multiple sub-contractors, however it has

been difficult to establish knowledge of a lead provider in the market other than Frankfurt Christmas Market Ltd.

A barrier to entry to the market is the large investment required for the market infrastructure including bespoke stalls, rides and attractions. There are high costs associated with the importation of goods from Europe and this may impact capability of supply.

The local market is well established for the provision of smaller scale Christmas themed craft markets, and this is demonstrated through the provision of the Cathedral Square Christmas Market composed of small local suppliers.

Analysis of a German themed Christmas market managed inhouse by Manchester City Council demonstrates significant resource and expertise required to manage multiple contractors and the multitude of requirements of the entire operation.

7 Market engagement

Targeted market engagement has not been carried out noting point 6 above and due to a direct award being possible as the value is below the Concession Contract Regulations 2016.

8 Tender Structure

This sourcing will be conducted via negotiated procedure. The ability of the Concessionaire to deliver the requirements set out in paragraph 4.4 will be examined including a costed proposal and management plan with method statements and sub-contracting arrangements.

9 Indicative Implementation Plan

The indicative implementation plan is set out in 7.4.3 of the Cabinet Report and has been produced to meet the overall deadline for the project.

10 Service Delivery Management

Contract Management

All contractual arrangements will be managed operationally by the Events Commissioning Manager in City Operations.

11 Performance Management

The performance management measures will form part of the contract and will include the means of monitoring the performance of the market and subsequent levels of fee payable by the operator to the Council over the contract period.

12 Social Value

The operator will be encouraged to pay the Living Wage to staff, to employ locally and to mitigate negative environmental impact that may be highlighted as part of the Council's Environmental and Sustainability Assessment and a social value action plan as appropriate.