

REPORT TO: Cabinet

DATE: 17th December 2009

SUBJECT: Hightown Sea Defences – Phase 2
Procurement Strategy

WARDS AFFECTED: Harrington, Manor, Blundellsands, Church

REPORT OF: Mike McSorley, Head of Regeneration and Technical Services

CONTACT OFFICER: Graham Lymbery – Project Leader Coastal Defence
Tel: 0151 934 2960
Michael Whieldon (Capita Symonds) Ext 4208

EXEMPT/CONFIDENTIAL: NO

PURPOSE/SUMMARY:

The proposed Hightown scheme, that will deliver both Coastal Defence and Environmental benefits, is located within an area highly designated for its environmental value. Given this the Environmental Impact assessment that will be required in support of any Planning Application must include construction methods, this requires early contractor involvement. This report describes the reasons for this procurement route and the detail of the procurement method.

REASON WHY DECISION REQUIRED:

Due to the nature of the scheme, early contractor involvement is required. This requires a different procurement method to a “standard” tendered contract”.

RECOMMENDATION(S):

1. To approve the method of procurement detailed in the report.

KEY DECISION: No

FORWARD PLAN: N/A

IMPLEMENTATION DATE: Following the expiry of the "call-in" period for the Minutes of this meeting.

ALTERNATIVE OPTIONS:

Procure the Contract using a traditional Bill of Quantities tender using NEC3 Option B: Priced Contract with Bill of Quantities. Either of these options would lead to risks in relation to gaining planning approval and in undertaking the works in a manner that reduces the risk to the environment.

IMPLICATIONS:**Budget/Policy Framework:**

Financial: There are no direct financial implications arising from this report however a further report will be submitted so that Cabinet can approve the Preferred Contractor and also the Target cost for inclusion in the Capital Programme.

This phase of the Hightown Project will be fully funded from the Broseley's Section 106 contribution. The best cost estimate at this time is circa £700,000 but this is likely to increase due to various environmental constraints on the site. As set out in the report to Cabinet on 6th August 2009, the total S106 contribution currently stands at approx. £1,595,000.

The projected expenditure of this sum is expected to be as follows :

Year	Description	estimate
2009 - 2010	Design & Tender stage (approved Cabinet 6/8/09)	£70k
2011	Capital Works - Construction/supervision (this report)	£700k
2012 – 2032	Annual maintenance (£6k per annum)	£120k
2033	Programmed Recharge	£441k
2034 – 2054	Annual maintenance	£120k
	Dune Management	£102k
	Balance	£42k
TOTAL		£1595k

	2006/7 £	2007/8 £	2008/9 £	2009/10 £
CAPITAL EXPENDITURE				
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
REVENUE IMPLICATIONS				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N	When?			
How will the service be funded post expiry?				

Legal:

Legal Services will need to ensure the necessary legal arrangements required to appoint the Contractor are put in place.

Risk Assessment:**Asset Management:**

N/A

**CONSULTATION UNDERTAKEN/VIEWS
FD 244 – THE FINANCE DIRECTOR HAS BEEN CONSULTED AND HIS COMMENTS HAVE
BEEN INCORPORATED INTO THE REPORT.**

CORPORATE OBJECTIVE MONITORING:

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Creating Safe Communities	√		
3	Jobs and Prosperity		√	
4	Improving Health and Well-Being		√	
5	Environmental Sustainability	√		
6	Creating Inclusive Communities		√	
7	Improving the Quality of Council Services and Strengthening local Democracy	√		
8	Children and Young People		√	

LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT

1.0 Background

1.1 At its meeting of 6th of August Cabinet were presented with a report to update the Members in relation to the Crosby to Formby Coastal Strategy Study and the proposed works arising from the Study. It also provided an outline programme for the delivery of the proposed works and requested approval to take the Hightown project up to detailed design and tender stage. Cabinet agreed to include the funding up to detailed design stage in the Capital programme.

1.2 The project will be fully funded from the Broseley's Section 106 developer contribution. The current estimate for the construction works and associated supervision is circa £700,000.

2.0 Procurement philosophy

2.1 The major part of the works involves the movement of a large quantity of sand (approximately 66,000 tonnes) from Crosby (between Mariners Road and the Marine Lake) and the site area in Hightown.

2.2 The location of the works are within the following nature conservation sites:

Ribble and Alt Estuary Special protection Area
Sefton Coast Special Area of Conservation
Altcar Sand Dunes and Foreshore RAMSAR site
Altcar Sand Dunes and Foreshore SSSI

Thus any works require appropriate measures for protection of these environments

2.3 The process for approval of measures is through the planning application. The Merseyside Environmental Advisory Service (EAS) based in Sefton, are advisors to Sefton's Planning department. EAS have produced a draft Habitat Regulations assessment Screening Report, latest version dated September 2009, which includes proposals for this scheme.

2.4 This report recommended "preparation implementation and compliance with a Construction Environmental Management plan... to be secure through an appropriate legal mechanism (eg planning condition)"

2.5 In practice, to ensure the information provide in the Construction Environmental Management plan is realistic and is compatible with the preferred method of the contractor the procurement method will include early selection of a contractor and hence early contractor involvement (ECI).

2.6 The alternative method would involve the selection of a contractor based on a tender process with documentation prepared by Sefton. In this scenario, a construction method or approach may be imposed on the contractor which the contractor believes is inappropriate. In addition the benefits of contractor expertise are unavailable at the time of preparing the Construction Environmental Management plan. A method whereby the contractor is involved early and "buys in" to the construction methods is considered the best solution.

2.7 A method whereby the contractor is involved early and "buys in" to the construction methods is considered the best solution.

3.0 Procurement method

3.1 The overall strategy is to obtain tenders from contractors to be evaluated on a quality:cost basis. This will be followed by early contractor involvement in the determination of a target cost to be used in a target cost contract. This strategy follows the principals of Sir Michael Latham's 1994 report "Constructing the Team" and Sir John Egan's 1998 report "Rethinking Construction" and the current guidance from the Office of Government Commerce and the Centre for Construction Innovation North West.

3.2 A similar strategy has been operated successfully within Technical Services for the delivery of schemes, namely, Lord Street Phase 2, The One Stop Shop, Roberts and Orrell replacement School and Southport Aquapark.

3.3 The form of contract will be NEC3 Option C: Target Contract with Activity schedule. This operates on a basis whereby the contractor is paid actual costs. However at the completion of the scheme, the actual costs are compared to the target cost and the difference is allocated in predetermined manner to the contractor and the Council. This provides incentive to the contractor to control costs. Further, as the contractor is involved in forming the target cost, it will discourage speculative claims for additional payments during the contract period as a result of an underpriced tender.

3.4 Contractor Selection

3.4.1 The contractor selection procedure is described in detail in the following paragraphs.

- i. It is proposed to select a contractor by evaluating a quality and cost submission. The tender will therefore comprise both a quality submission and a cost submission which will be based on preliminary scheme information.
- ii. Three contractors selected from Constructionline will be invited to tender. The use of Constructionline for contractor selection is approved in the Constitution. There is no requirement to advertise for Contractors in the OJEU as the total scheme costs fall below the required threshold.
- iii. One of the benefits of using Constructionline for contractor selection is that it ensures the capabilities of the chosen contractors suit the requirements of the project. For example, criteria can be specified to ensure that the Contractor has experience of working in coastal environments and can undertake projects of the necessary works value
- iv. The major part of the quality submission will comprise information for the Construction Environmental Management plan including a traffic impact assessment. In addition, it will include information on contract methodology, contract administration, contract organisation and management, health and safety, programme, previous work, and references.
- v. The cost submission will include prices for site preliminaries (provision and maintenance of site compound, security and accommodation), on site attendance for own labour items and subcontractors, and head office overheads and profit.
- vi. The tender will be evaluated on the basis of quality and cost in the ratio 70:30
- vii. At this stage the preferred contractor will be selected as the one with the highest scoring tender. In addition a reserve contractor will be selected on the basis of tender results and willingness to undertake the work described in paragraph viii below.
- viii. The preferred contractor will be invited to undertake further work including arranging for mini-tenders to appropriate subcontractors in order to determine the Target cost. Capita Symonds staff on behalf of the Council will monitor this process and this will allow a target cost to be agreed with the successful contractor which is within the funding available. The involvement of both contractor and Council representatives will ensure a realistic target cost is determined. This target cost will be reported to Cabinet at a future date and approval will be sought to enter into a contract with the preferred contractor for this sum.
- ix. Concurrently, the reserve contractor will undertake a similar exercise. This is to ensure a contractor is selected, if for any reason the further work of the preferred contractor is not acceptable to the Council.

4.0 Summary

- 4.1 This strategy follows current best practice for procurement. It aims to provide increased cost certainty, as the contractor will have been closely involved in the determination of the target cost. Further it will discourage speculative claims for additional payments during the contract period.
- 4.2 The philosophy and method described above will permit early contractor involvement in this project. This will provide benefit regarding experience and the preparation, implementation and compliance with a Construction Environmental Management plan to ensure the protection of the effected nature conservation sites.
- 4.3 Any further financial commitment over and above that already approved by Cabinet on the 6th of August will be the subject of a further report at the appropriate time.