

<p style="text-align: center;"><b>COUNCILLOR PHIL DAVIES LEADER</b></p>	<p style="text-align: center;"><b>STRONG LEADER DECISION REPORT 5 APRIL 2016</b></p> <p style="text-align: center;"><b>WIRRAL DOCKS BRIDGES REPLACEMENT ACCEPTANCE OF TENDER</b></p>
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## **REPORT SUMMARY**

The preferred bidder for the Wirral Docks Bridges Replacement project has been identified as Dawnus Construction Holdings Limited, Swansea; and their tender is recommended for acceptance.

This project supports the Transport & Technology Infrastructure Pledge in the Wirral Plan. The works and traffic diversions directly affect the Birkenhead & Tranmere, Bidston & St James and Seacombe Wards.

Acceptance of the tender is a Key Decision.

## **RECOMMENDATION**

The Leader of the Council is requested to:

(1) Formally accept the tender submitted by Dawnus Construction Holdings Limited on 18 March 2016, in the sum of £6,962,441.00, in accordance with the Council's Constitution, 'Procurement Rule Approval Document' (PRAD) 4, and

(2) Agree that a proposal is put to Cabinet in September 2016 to increase the available funding for the project by £700,000 to cover Employer's risk and contingencies.

## **SUPPORTING INFORMATION**

### **1.0 REASONS FOR RECOMMENDATION**

- 1.1 The tender submitted by Dawnus Construction Holdings Limited is fully compliant with the tender instructions, is within budget, and has been evaluated and validated by appropriate Officers together with representatives of Peel Ports Group Ltd and the Council's design partner. The evaluation process was audited and endorsed by the Council's Senior Procurement Officer and the Principal Accountant. The tender has been recommended for acceptance by the Project Board. The tender is within the current available budget but no significant contingency sum remains.

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 Not applicable to this report.

### **3.0 BACKGROUND INFORMATION**

- 3.1 On 11 January 2016, tenders for the design and build of new bridges to replace the two bridges, 'A' and 'C', on the A554 Tower Road in Birkenhead were invited on a restricted basis from six short-listed suppliers in accordance with the Council Constitution.
- 3.2 Three tenderers withdrew from the process prior to the closing date. Three tenders were received by the closing date on 18 March 2016 and were evaluated on 30 March 2016. The tenders were evaluated on a 60/40 price/quality ratio basis, as approved by the Council's Head of Procurement. The highest scoring tender was submitted by Dawnus Construction Holdings Limited and scored a total of 99.91%. The two other bids received scored 92.09% and 83.23%.
- 3.3 On 5 April 2016 the Project Board, chaired by the Head of Environment & Regulation, including representatives from Peel Ports Group Ltd and the Council's designer, met and endorsed that the tender from Dawnus Construction Holdings Limited be recommended for acceptance and that they be notified as preferred bidder under the Official Journal of the European Union (OJEU) Regulations.

### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 The Council was successful in receiving grant funding of £6,408,000 from the Department for Transport (DfT) as part of the Local Highway Maintenance Challenge Fund in March 2015. Funding from the Council's Capital Programme, totalling £1,045,000, (based on an earlier Local Growth Fund grant request of £6.075m) was allocated to the Docks Bridges Replacement at Budget Council on 24 February 2015. Peel Ports has been asked to contribute £142,104 to the scheme, representing a proportion of the local contribution amount in the ratio of the pre-tender estimated cost of the new Mechanical

and Electrical (M&E) components to the total pre-tender estimated cost for the new 'A' Bridge.

Thus, the current project budget is made up as follows:



The total current project cost estimate is as follows:



4.2 Therefore, the scheme is affordable and the tender can be accepted within budget. However, further Council capital funding is recommended for risk allowance and contingency purposes, as described in section 7.0. This increases the project budget to £8.1m with funding being £6.4m from DfT Grant and £1.7m from Council resources.

4.3 The £6.408m DfT grant is only available until 2017/18. A total of £180,000 has been allocated in 2015/16 with a further £2.530m due in 2016/17 and £3.698m in 2017/18. The project plan has been set accordingly with construction work due to commence in late 2016 and complete by early 2018.

## 5.0 LEGAL IMPLICATIONS

5.1 Expert legal advice, in the complex field of state-aid in connection with commercial ports, has concluded that the council has a strong market economy investment principle (MEIP) case to proceed with the project, since the Council will benefit significantly, as Highway Authority, from the reduced publically funded maintenance liability which will result from the replacement of the existing bridges on the principal road network. The DfT and Department of Business, Innovation and Skills (BIS) have been informed of the Council's position and have not advised that notification to the European Commission is required.

5.2 All necessary development control processes, including a Habitat Regulations Assessment (HRA) have been completed. Natural England has confirmed that no 'significant effect' will result from the works. Consequently, as a highway maintenance scheme, the works are classed as permitted development and planning consent is not required.

5.3 Mersey Docks and Harbour Company (MDHC), now operating as Peel Ports Group Ltd, has made available all land in its ownership required to construct the footprint of the new bridges for a nominal cost, and has provided land for a

contractor's compound free of charge. A similar request has been made to Peel Holdings (Land & Property) Ltd. The Homes and Communities Agency (HCA) has agreed to transfer a small area of land required for the bridge construction to the Council for a price of £5,000.

- 5.4 The current bridge Operating Agreement with MDHC will require revisions to the schedules to reflect the new 'A' Bridge components.

## **6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS**

- 6.1 ICT: there are no direct ICT implications arising from the proposal.
- 6.2 Staffing: existing staffing resources will be used to manage the project, supplemented where necessary by specialist external consultants, Mott MacDonald Ltd.
- 6.3 Assets: the proposal and recommendations make best use of the Council's highway infrastructure assets, reducing the significant risk burden associated with the existing structures.

## **7.0 RELEVANT RISKS**

- 7.1 The (lowest) tender submitted by the preferred bidder, Dawnus Construction Holdings Limited is approximately £1m (17%) higher than the Council's pre-tender estimate (excluding any contingency). The two other tenders received were significantly higher. Reasons for the tenders exceeding the pre-tender estimate could be due to any of the following reasons, or a combination of all:
- During the tender period numerous enquiries were received about the uncertainty of structural capacity of the existing quay walls, which will be incorporated into the contractor's design. The panel believes tenderers have priced additional risk for this in their offers.
  - Accurately estimating the cost of the fabrication and installation of "A" bridge proved extremely difficult due to the unique form of construction of the proposed bascule lifting bridge. In particular, the hire of floating barges appears more than originally estimated.
  - Delay damages of £50K per day is to be applied should there be any disruption or delay to shipping during the construction of "A" bridge. The tenderers have built this risk into their tender.
- 7.2 Whilst the tender is within budget as noted in section 4.0, and is recommended for acceptance, there is a risk of exceeding the total project budget if compensation events result in an increase to the contract target cost, or if the Contractor's costs exceed the target and a pain share is payable by the Employer.

- 7.3 The project risk register currently identifies construction phase risks with a total estimated forecast cost of £600,000.
- 7.4 The current significant and high-value construction risks potentially attributable to the Employer's account are:
- Unforeseen ground conditions
  - Utilities diversions/delays
  - Technical variations
- 7.5 As is normal practice, a value engineering workshop will be held at an early stage following contract award to determine whether any cost savings or scope reductions can be identified. Nevertheless, in view of all the above risks, it is considered prudent to ensure that a further Employer's risk allowance or contingency is set aside in the budget amounting to £700,000, which represents approximately 10% of the tender sum, and is generally considered a reasonable contingency allowance to be applied to major civil engineering construction works.
- 7.6 A condition of receiving the Highway Maintenance Challenge Fund grant from DfT was that the Council must underwrite any project overspend from its own resources. It is therefore recommended that approval is sought for a revision to the Council's Capital Programme via Cabinet and Council in September/October 2016 to increase the available funding (contingency) for the project by £700,000. Alternative sources may be available for this contingency such as the Highway Maintenance Capital allocation, and will be investigated.

## **8.0 ENGAGEMENT/CONSULTATION**

- 8.1 The Council's design partner and proposed Project Manager under the construction contract, Mott MacDonald Ltd, is currently preparing a communications plan and strategy. The plan will be reviewed and agreed with the Council's press & PR team, who will co-ordinate any subsequent press releases and media information. A first media release will be prepared following contract award, which is expected to be on or around 13 May 2016. The Contractor is required to liaise and consult appropriately with all affected stakeholders, local businesses and residents during the works.

## **9.0 EQUALITY IMPLICATIONS**

- 9.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

Equality implications relating to the award of contract were dealt with during the contract procurement process, including an equality impact assessment.

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**APPENDICES**

None

**REFERENCE MATERIAL**

**SUBJECT HISTORY (last 3 years)**

Council Meeting	Date
Briefings:	
Wirral Docks Bridges – Major Scheme Bid Submission	22/3/13
Docks Bridges Replacement Progress report – Leader decision	1/10/15
Docks Bridges Replacement Progress Report and Endorsement of Tender Short-List – Cabinet Member Decision	2/2/15
Meetings:	
Council – Cabinet Member for Highways and	15/12/14
Transport Portfolio Reports item: Major Schemes	13/10/14
submission – Docks Bridges	14/07/14
	10/03/14
	16/12/13
	14/10/13