

# ECONOMY REGENERATION AND HOUSING COMMITTEE

22 JANUARY 2024



<b>REPORT TITLE:</b>	<b>UTILISATION OF PROCURE PARTNERSHIPS AND PAGOBA FRAMEWORKS – BIRKENHEAD WATERFRONT PROGRAMME, CONWAY STREET / EUROPA BOULEVARD AND GRANGE ROAD / CHARING CROSS / GRANGE ROAD WEST MOVEMENT PROJECTS</b>
<b>REPORT OF:</b>	<b>DIRECTOR OF REGENERATION AND PLACE</b>

## REPORT SUMMARY

This report seeks members' endorsement of the commencement of a procurement exercise(s) via the Procure Partnerships Framework and the Pagabo Framework (or other suitable framework) to allow for the direct appointment of two separate main Tier 1 contractors that will lead to two direct awards, one to develop the design and undertake the construction works in relation to the highways, public realm and active travel schemes across the Birkenhead Waterfront Programme and the second award to immediately in early 2024 commence the construction works in Birkenhead Town Centre in relation to the Conway Street/Europa Boulevard Movement Project and Grange Road/Charing Cross/Grange Road West Movement Project.

This matter affects the ward of Birkenhead and Tranmere. This is a key decision given that the value is more than £500,000.

Appendix 4 to this report is exempt from publication pursuant to paragraph 3 of the part 1 of Schedule 12 A of the Local Government Act 1972 (Information relating to the financial or business affairs of any particular person (including the authority holding that information)) because it contains or refers to information relating to the financial and business affairs of contractors who have previously submitted bids and also contains information about intended direct awards to be conducted under the Procure Partnerships Decarbonisation Framework Agreement for the town centre projects and separately the Pagabo Framework (Framework LOT 1 £0.5million - £5million) in relation to the Waterfront project, and the public interest in maintaining the exemption outweighs the public interest in disclosure.

## RECOMMENDATIONS

The Economy Regeneration and Housing Committee is recommended to approve:

1. the commencement of a procurement exercise(s) via the Procure Partnerships Framework and the Pagabo Framework (or other suitable alternative procurement framework) to allow for the direct appointment of two separate main Tier 1 contractors that will lead to two direct awards of construction contracts to develop the design and to undertake the construction works in relation to the highways, public realm and active travel

schemes across the Birkenhead Waterfront Programme and to undertake construction works in Birkenhead Town Centre in relation to the Conway Street/Europa Boulevard and Grange Road/Charing Cross/Grange Road West Movement Projects;

2. that the Director of Regeneration and Place be authorised to make direct appointments in relation to the above procurement exercises including in due course via the Pagabo framework for the Birkenhead Waterfront Programme, (where the design needs to be developed through an initial pre-construction services agreement with the contractor prior to the main construction contract) for the contracts referred to in recommendation (1) upon receipt of suitable bids from the relevant contractors; and
3. that the above recommendations be deemed urgent and therefore not subject to the procedure for re consideration.

## SUPPORTING INFORMATION

### 1.0 REASONS FOR RECOMMENDATIONS

- 1.1 The Birkenhead Waterfront and Central Birkenhead (Town Centre) Programmes have been awarded significant funding from the Levelling Up Fund (LUF), Future High Streets Fund (FHSF), Active Travel Tranche 3 (ATF T3) and Town Deal (TD). All the Programmes are time limited. These time related pressures are exacerbated by the current high levels of inflation in construction costs and the availability of suitable contractors in a very competitive marketplace due to similar funding awards in many other authorities. Choice of the recommended procurement route and the use of a suitably qualified and experienced main contractors will bring significant benefits and efficiencies to the process, will greatly aid project certainty, ensuring that funding deadlines are met, and the Programmes are delivered as efficiently as possible.
- 1.2 The public realm and highway infrastructure projects are key projects within the Birkenhead 2040 Framework Strategy. Birkenhead Waterfront is one of the 8 spatial priorities and the immediate Woodside location contained within this area is one of the specific catalyst projects identified as it has the potential to deliver a significant quantum of residential units on brownfield land and so directly supports the Council's Local Plan targets.
- 1.3 Supporting the economy is a further priority and Birkenhead Town Centre plays a very important economic function as the home of the high street. The FHSF and ATF T3 projects directly support the revitalisation of the retail core alongside phase 1 of the new Business Commercial District, as well as enabling planned high quality residential development locally and other investments.
- 1.4 Sustainable travel is at the heart of the Birkenhead 2040 Framework and emerging Local Plan. The funding streams in this report feed into a range of schemes in these Programme areas and alongside the movement focused projects are part of a wider regeneration programme to deliver a prosperous, inclusive economy to benefit local residents.
- 1.5 The Council is already signed up to the Procure Partnerships Framework for utilisation under an existing access agreement. There are significant efficiencies in utilising the Procure Partnerships and Pagabo Frameworks to secure the appointment of suitably qualified main contractors which will allow the Council to speed up the delivery of a number of individual regeneration projects across Birkenhead Waterfront and Town Centre Programme areas.
- 1.6 A previous procurement exercise was carried out in 2023 following a report to Economy, Regeneration and Housing Committee on 23 January 2023. The approach taken under that exercise looked to award a single contract covering all elements of the work packages for Birkenhead Town Centre and the Waterfront project. The returned submissions did not provide the best financial outcome for the Council and under the terms of the Procure Partnerships Framework utilised for this tender exercise the Council is not obliged to award either contract, nor face financial penalties for not making any award. In the interests of seeking best value the intention (subject to members' approval) is to make two separate direct awards, one covering the Birkenhead Waterfront Programme and the other covering the two

Birkenhead Town Centre projects (Conway Street/Europa Boulevard Movement and Grange Road/Charing Cross/Grange Road West Movement).

- 1.7 Given the urgency to progress delivery of the schemes, a further procurement exercise has already commenced in advance of this committee cycle to facilitate, subject to this Committee endorsing the process, the award of separate direct award. Committee is also requested to authorise the Director of Regeneration and Place to make direct awards on the Town Centre construction and Waterfront contracts.

## **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 The Council could decide to not progress with the procurement exercise(s). If members so resolved, then the process could be stopped without penalty. This is not considered to be an appropriate option given that funding has been secured and supporting regeneration and sustainable travel is in line with the Council's emerging Local Plan, the Birkenhead 2040 framework and the commitments to addressing the climate and environment emergency, improving the health of Wirral's residents and encouraging alternative modes of transport to the private car.
- 2.2 The use of open tendering has been considered but discounted due to the additional time that this process would require. The Council has already fully tested the market via the previous procurement process earlier in 2023 and the utilisation of a fully compliant frameworks to now make these awards still allows the Council to maintain an open and transparent procurement process whilst delivering the best financial outcomes for the Council and maximising the value added from the grant funding available. This approach will enable delivery to be in line with that required by funding bodies whilst striving to maintain the required programme outcomes.
- 2.3 The Council could consider other tendering methods such as a traditional full tender using "Find A Tender" but that would introduce the significant risk to the delivery of time critical infrastructure projects to the possible detriment of Birkenhead Waterfront, Town Centre, and the Council's emerging Local Plan. That process can be lengthy to accommodate advertisement of the scheme, assessment of interested parties, due diligence review, shortlisting and ultimate tendering; given the timeframes associated with this project it is not deemed feasible to utilise this route.
- 2.4 Furthermore there is considerable demand for main contractor services of this nature and these need to be secured without delay. All funding provided by ATF T3 is to be contractually committed to be spent by 31<sup>st</sup> March 2024 and it is imperative to avoid further delay and commence activity to deliver the projects.

## **3.0 BACKGROUND INFORMATION**

- 3.1 On 27 October 2021, the Council received notification of the outcome of its submission to the first round of the Department of Levelling Up, Housing and Communities (DLUHC) LUF. This announcement set out that the Council had received its full requested allocation of £19,648,873 for a package of projects at Waterfront.
- 3.2 The Liverpool City Region Combined Authority (LCRCA) has also been successful in its application to the LUF for £37,520,000, for a package of strategic transport infrastructure projects across the City Region, including projects as part of the Central Birkenhead Gateway. The Council's allocation of the City Region LUF is

£9,700,900. The Council has also been awarded £3,850,000 of funding from the LCRCA as part of the ATF T3 to support the delivery of the Conway Street / Europa Boulevard Movement Project.

- 3.3 On 26 December 2020, the Council received notification of the outcome of its FHSF submission to the then Ministry of Housing, Communities and Local Government. This set out that Birkenhead was one of only 15 areas nationally that had received its full requested allocation. This award of £25,581,011 will support the regeneration of Birkenhead Town Centre into a diversified, mixed-use centre with a new modern market, new homes and a series of highways, connectivity and public realm projects. A successful TD bid of £3,031,380 will also fund elements of the Waterfront Programme and delivery will be designed to be seamless across this package of funding elements with the time critical appointment of the main contractors. Table 1 below sets out the existing grant funding allocations across the schemes.

**Table 1**

<b>Programme</b>	<b>Scheme Name</b>	<b>Funding Source</b>	<b>Funding allocation</b>
Town Centre Birkenhead	Conway St / Europa Boulevard / Claughton Rd	FHSF / ATF T3 / Private Sector Contribution	FHSF – £3,904,059 Active Travel 3 – £2,225,000 Private Sector – £1,170,000 Active Travel 3 Further Allocation – £1,625,000
	Grange Rd / Charing Cross / Grange Rd West	FHSF	£2,969,245
		<b>Total TC</b>	<b>£11,893,304</b>
Waterfront	Argyle Street	LCRCA	LUF – £9,700,900
	Woodside Area	Wirral Council	LUF – £8,805,350  WMBC Local Contribution – £1,119,407
	Hamilton Square / Hamilton Station Plaza	Town Deal	£3,031,380
		<b>Total WF</b>	<b>£22,657,037</b>

- 3.4 Having a single contractor to deliver the Waterfront and town centre Birkenhead projects was previously considered the preferred option to enable benefits from a cost and efficiency perspective to be realised. On 26 January 2023 the Economy Regeneration and Housing Committee resolved that:

*(1) The Director of Regeneration and Place be authorised to commence a procurement exercise by way of a mini tendering process via the Procure Partnerships Framework for the appointment of a main contractor to develop the design and carry out the construction works in relation to the highways, public realm*

*and active travel schemes across the Birkenhead Waterfront Programme and in Birkenhead Town Centre via the Conway Street / Europa Boulevard and Grange Road / Charing Cross / Grange Road West Movement Projects; and*

*(2) the appointment of a main contractor under a pre-construction services agreement following completion of a tender submission be approved.*

- 3.5 Appendix 4 to this report sets out details of the 3 contractors who submitted tenders. Appendix 4 to this report is exempt from publication pursuant to paragraph 3 of the part 1 of Schedule 12 A of the Local Government Act 1972 (Information relating to the financial or business affairs of any particular person (including the authority holding that information)) because it contains or refers to information relating to the financial and business affairs of contractors that have previously submitted bids and also contains information about intended direct awards to be conducted under the Procure Partnerships Framework Agreement (or other appropriate framework) and the public interest in maintaining the exemption outweighs the public interest in disclosure.
- 3.6 It is clear from the information set out in exempt Appendix 4 that a financially more appropriate scenario would be achieved if the Council appointed two different contractors, with one contractor to develop and deliver the Waterfront project and one contractor to deliver the two Town Centre schemes. The quality scoring was very close as would be expected from skilled, tier one contractors of a national scale.

#### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 The Council has been successful in securing external funding from FHSF, LUF, ATF T3, and TD to support the delivery of the Birkenhead 2040 Framework. The current funding profile in relation to this package of projects is detailed in Table 1. The final construction contract sums will be contained within these financial profiles (subject to the outcome of the direct award processes that form the basis of this report), with undertakings to reduce construction costs if necessary and practicable at the appropriate times through value engineering considerations in particular if projects come under cost pressures during their delivery phases. The ATF T3 element must be contractually committed by March 2024, CA LUF by March 2025 (by exception) and FHSF and TD by March 2026
- 4.2 The appointment of the two main contractors for the Birkenhead Waterfront and Town Centre Programmes is subject to the current procurement exercise, tender award and negotiation as part of the contract award process, expenditure will be incurred in line with the requirements of all of the funding streams available.
- 4.3 Future revenue maintenance costs will be met from the Highway Maintenance Revenue Budget. Highways maintenance colleagues are part of the project team to ensure that work is undertaken and designed in line with the council's highway asset management principles to ensure value for money. Capital investment as part of these projects may result in reduced revenue maintenance liabilities and the value of this will be calculated going forward as part of life cycle planning as the design work and costings are developed further in 2024 in conjunction with the relevant design teams.

## **5.0 LEGAL IMPLICATIONS**

5.1 The Public Contracts Regulations 2015 provide at Regulation 33 (8) that a framework agreement shall be performed in the following way:

“where not all the terms governing the provision of the works, services, and supplies concerned are laid down in the framework agreement, through re-opening competition amongst the economic operators which are party to the framework agreement” (i.e. a mini / further competition) or by a direct award when there are objective factors which justify the selection of particular economic operator and the awards are subject to the terms of the framework agreement.

5.2 The Council is under a duty to secure best value from any procurement and also has a fiduciary duty to Council Tax payers to use its resources prudently and efficiently

5.3 The Council has statutory duties as defined by the Highways Act 1980, Road Traffic Regulations Act 1984, Road Traffic Act 1988, Local Government Act and the Traffic Management Act 2004. All highway schemes will require technical approval by the Director of Neighbourhoods to ensure these statutory duties are complied with.

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

6.1 The programmes will be managed respectively by existing staff from within the Council’s Regeneration and Place Directorate and Neighbourhoods Services Directorate, supported by the Regeneration Programme Management Office.

6.2 Existing staff resources will be used for the project development, detailed investigation, design and supervision of these schemes, supplemented by the external specialist support which is the subject of this report.

6.3 The Council has established working groups to support the Waterfront Programme delivery including a range of local stakeholders and officers from the Liverpool City Region Combined Authority, to ensure that any project dependencies or resourcing issues are addressed at the earliest opportunity. Various project teams are also set up to support the delivery of the projects in Birkenhead Town Centre and there is commonality across the teams in terms of key Council staff coordinating this combined package of works.

6.4 Future maintenance and cleansing of the completed schemes will be undertaken by the arrangements in place through Neighbourhood Services. No new highway will be created by the proposals, but some carriageway space will be re-allocated for footways and cycle tracks.

## **7.0 RELEVANT RISKS**

7.1 The Council recognises that risk management is essential in good decision making and is a critical element of good governance. The Council continually develops its risk management processes to proactively and effectively manage risk.

7.2 The Council has established a Project Management Office (PMO) dedicated to the Regeneration and Place directorate. The PMO has oversight of all Waterfront and

Town Centre projects and will ensure that they align with the Council's corporate policy to managing risk.

- 7.3 A programme Risk Register has been developed, informed by individual Risk Registers for each project. These will be updated throughout the programme lifecycle through the Council's Regeneration Programme Management Office, in order to assist the Council in identifying, controlling and managing risk.
- 7.4 The major immediate risk is the delay in appointing two main contractors for the identified projects and the subsequent delay in delivery and external funding spend. The most time critical of the funding streams is the ATF T3 which must all be contractually committed by 31 March 2024. The recommendations within this report are framed with a view to mitigating funding timetabling risks. It is also important to ensure that any delay does not lead to the bidders withdrawing their interest in the contracts.
- 7.5 The current macro-economic picture is dictating significant increases in inflation and cost of materials which may impact the total cost of works. If cost increases do materialise, a combination of identifying potential value engineering solutions alongside seeking additional funding will be robustly explored.

## **8.0 ENGAGEMENT/CONSULTATION**

- 8.1 The Chair of Economy Regeneration and Housing Committee, the Chief Executive and the Monitoring Officer have been consulted as part of the process of drawing up the recommendations set out within this report.

## **9.0 EQUALITY IMPLICATIONS**

- 9.1 The Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment (EIA) is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity.
- 9.2 Whilst there are no equality implications arising directly from this report, the associated actions arising from the delivery may need to assess any equality issues and mitigate any negative impact that may emerge. Any associated EIA will be done at the earliest possible stage.

## **10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS**

- 10.1 The content and recommendations contained within this report are expected to reduce the emissions of greenhouse gases. This will include, as appropriate, infrastructure improvements to reduce car dominance and create a safer environment for road users and pedestrians, and environmental and climate considerations within the Council's Social Value strategy to be used within the procurement of future contractors.
- 10.2 Gear Change Cycling Strategy produced by Government in Summer 2020 identifies that mode shift to active transport is one of the most cost-effective ways of reducing transport emissions and that meeting the targets to double cycling and increasing walking would lead to savings of £567million annually from air quality alone and



prevent 8,300 premature deaths each year in England and provide opportunity to improve green spaces and biodiversity.

- 10.3 The Procure Partnerships and Pagabo Frameworks set out clear sustainability, environmental and innovation targets that contractors must achieve in the short term as part of carrying out works packages. Contractors on the framework have signed up to these under the framework agreement and are monitored robustly on their performance through formal monthly KPI reporting.

## **11.0 COMMUNITY WEALTH IMPLICATIONS**

- 11.1 Community Wealth Building reorganises local economies to be fairer and stops wealth flowing out of communities. Striving for a prosperous and inclusive economy where local people can get good jobs and achieve their aspirations, the Council aims to create an economy that benefits all of our residents and one which keeps money within Wirral. The Council's Community Wealth Building Strategy is a key part of how this is achieved and makes a major contribution to improving the economic, social and health outcomes of the borough.
- 11.2 The projects will revitalise Birkenhead ensuring that more wealth is invested and stays within our Borough. These procurement exercises will support to build the wealth of our local communities where we will strive to maximise social value activity through creation of local employment/ training opportunities and local labour/spend to maximise the Wirral pound. The request for quotation evaluation criteria has a 10% built in award weighting for social value.

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## **APPENDICES**

Appendix 1 – Waterfront Programme Combined Scheme Boundary  
Appendix 2 – Conway Street / Europa Boulevard / Claughton Road Scheme Boundary  
Appendix 3 – Grange Road / Charing Cross / Grange Road West Scheme Boundary  
Appendix 4 – Information on the contractors who have submitted bids as part of the procurement process referred to in paragraph 1.6 of this report.

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awards to be conducted under the Procure Partnerships Framework Agreement and the public interest in maintaining the exemption outweighs the public interest in disclosure.

The appendix files may not be suitable to view for people with disabilities, users of assistive technology or mobile phone devices. Please contact David Marsh ([davidmarsh@wirral.gov.uk](mailto:davidmarsh@wirral.gov.uk)) if you require documents in an accessible format.

## BACKGROUND PAPERS

Council Plan 2023-2027

Birkenhead 2040 Framework

Documents relating to the bids conducted under the further competition for the Town Centre and Waterfront contracts (exempt for the reasons mentions above)

[Birkenhead 2040 Framework | www.wirral.gov.uk](http://www.wirral.gov.uk)

Wirral Council – Levelling Up Bid

Wirral Council – Future High Street Bid

Wirral Council – Town Fund Bid

Wirral Council – Active Travel Tranche 3 Fund Bid

## Terms of Reference

The Committee is charged by full Council to undertake responsibility for:

- (a) formulation and delivery of the Council’s strategic development objectives for planning, sustainability and transportation; and...
- (b) overseeing the progress of major projects (including major building, infrastructure or other projects....)

## SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Town / High Street Funds: Future High Street Fund - Regeneration & Development Committee	4 March 2021
Town / High Street Funds: Future High Street Fund - Policy & Resources Committee	17 March 2021
Levelling Up Fund - Officer Decision Notice	15 February 2022
Active Travel Tranche 3 – ERH	19 October 2022
FHSF Movement Projects – ERH	19 October 2022
FHSF Movement Projects – ECET	20 October 2022