

OFFICER DECISION FORM

DECISION TO BE TAKEN BY: DIRECTOR OF REGENERATION AND PLACE

KEY DECISION YES

DIRECTORATE: REGENERATION AND PLACE

WARDS AFFECTED: BIRKENHEAD AND TRANMERE

SUBJECT:

**ACCEPTANCE OF TENDER AND CONTRACT AWARD – BIRKENHEAD
WATERFRONT PROJECT: PRE-CONSTRUCTION SERVICES AGREEMENT**

1.0 DECISION:

The Director of Regeneration and Place has decided to approve:

- (1) the award of a Pre-construction Services Agreement, (PCSA) to John Sisk and Sons to complete the design of the Birkenhead Waterfront Project to RIBA Stage 3/4 together with additional ground survey works in the sum of £909,422
- (2) that the above recommendation be deemed urgent and therefore not subject to the procedure for re consideration.

2.0 REASONS FOR THE DECISION

- 2.1 The tender submission from John Sisk and Sons is fully compliant and is within allocated budgetary provision and includes for the costs of carrying out necessary survey work that will inform the RIBA design process.
- 2.2 The Waterfront Programme has been awarded significant funding from Town Deal and Levelling Up Funds (LUF) and now needs to be designed to RIBA Stage 3/4 to allow it to then be delivered through a contract that will be awarded following completion of the design works that are the subject of this report.
- 2.3 Two separate compliant procurement exercises have been carried out to facilitate the proposed construction award to ensure the best financial outcome for the Council therefore it is not considered that any further efficiencies on the contractor award could be secured.

3.0 STATEMENT OF COMPLIANCE

3.1 The recommendation is made further to legal advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. It is also compliant with equality legislation and an equality analysis and impact assessment has been completed. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

4.0 DECLARATION OF INTEREST

4.1 None



Signed:

Officer: David Hughes

Title: Director of Regeneration and Place

Date: 28th March 2024

A list of background papers on this issue is held with:

Contact Officer:

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28TH MARCH 2024



REPORT TITLE:	ACCEPTANCE OF TENDER AND CONTRACT AWARD – WATERFRONT
REPORT OF:	DIRECTOR OF REGENERATION AND PLACE

REPORT SUMMARY

The purpose of this report is to seek approval to award to John Sisk and Sons a Pre-construction Service Agreement (PCSA) to allow them to design to RIBA Stage 3/4 the Birkenhead Waterfront project to a point where a subsequent contract can be awarded to deliver highway, public realm and infrastructure works from Argyle Street to the Waterfront.

Transport improvements and the creation of high-quality places is a long-standing priority for the Council and is reflected in the Wirral Council Plan 2023-2027 and the Birkenhead 2040 Framework. The recommendations contained in this report directly support the key priority within the Council Plan to “Continue our ambitious regeneration programme through increased investment, jobs and new businesses throughout the borough”, It also supports the people focused regeneration theme of the Council plan.

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

RECOMMENDATIONS

The Director of Regeneration and Place is recommended to approve:

- (1) the award of a Pre-construction Services Agreement (PCSA) to John Sisk and Sons to complete the design of the Birkenhead Waterfront Project to RIBA Stage 3/4 and to carry out additional ground survey works to allow a subsequent contract to be awarded to deliver highway, public realm and infrastructure works from Argyle Street to the Waterfront, depending upon the outcome of the PCSA.
- (2) that the above recommendation be deemed urgent and therefore not subject to the procedure for re consideration.

SUPPORTING INFORMATION

1.0 REASONS FOR RECOMMENDATIONS

- 1.1 In January 2024 the Economy, Regeneration and Housing Committee authorised the Director of Regeneration and Place to make a direct award, via the Pagabo framework, to the contractor in relation to the Waterfront project.
- 1.2 The Waterfront Programme has been awarded significant funding from Town Deal and Levelling Up Funds (LUF) and the project is ready to be designed to RIBA Stage 3/4.
- 1.3 Two separate compliant procurement exercises have been carried out to facilitate the proposed award of the PCSA to ensure the best financial outcome for the Council therefore it is not considered that any further efficiencies on the contractor award could be secured.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 The Council could decide to not award the contract. This is not considered to be an appropriate option given that significant funding has been secured from Town Deal and Levelling Up Funds as there would be reputational issue if the scheme did not proceed, and the grant funding was not spent. The Birkenhead Waterfront project is critical to the delivery of the regeneration programme, the emerging Local Plan, the Birkenhead 2040 framework and commits to addressing the Climate and Environment emergency.

3.0 BACKGROUND INFORMATION

- 3.1 The Council has been awarded a total of £21m from The Department for Levelling Up Housing and Communities through its Town Deal and Levelling Up Programmes to enable the Birkenhead Waterfront project to be delivered and the PCSA is a vital stage in the process of achieving this objective.
- 3.2 On 26 January 2023 the Economy Regeneration and Housing Committee resolved that a procurement exercise could commence to secure the appointment of a single main contractor for the town centre schemes as well as the Waterfront project as it was considered that this would enable significant benefits from a cost and efficiency perspective to be realised.
- 3.3 On 22 January 2024 the outcome of this tender exercise was reported to Economy Regeneration and Housing Committee summarising 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 decision of ERH in January 2024 was as follows;

“Resolved –

1. *That the commencement of a procurement exercise(s) via the Procure Partnerships Framework and the Pagabo Framework*

(or other suitable alternative procurement framework) be approved 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.”*

3.4 On January 31st 2024 the tender exercise to appoint a single contractor for the Waterfront Project was closed following receipt of the submitted tender price from John Sisk and Sons to complete initial survey work and advance the project to RIBA Stage 3/4 design. The Pagabo Framework Agreement sets out the terms governing the provision for the scope of work to be subject for a direct award. Wirral Council as contracting authority under the Pagabo Framework Agreement can award a contract directly without re-opening competition having met fully the criteria provided in the Framework as confirmed by the Head of Procurement. This process is in line with Regulation 33(8) (a) of the Public Contracts Regulations 2015 (PCR 2015).

4.0 FINANCIAL IMPLICATIONS

- 4.1 The Council has been successful in securing external funding from Town Deal and Levelling Up funds to support the delivery of the Birkenhead 2040 Framework. The total government funding in relation to the Waterfront scheme that is in the approved Capital Programme is £21m, with an additional allocation of £3m now secured from the Combined Authority LUF programme that is still to go through the Council's formal approval process and the cost of the initial Pre-construction service agreement (PCSA) with John Sisk and Sons will be met from this allocation.
- 4.2 Following the delivery of the main contract works 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 Regulation 33 (8) of the Public Contracts Regulations 2015 provides 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 process and also has a fiduciary duty to Council Taxpayers 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 contract management of these projects 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 and support from external resources as required.
- 6.2 Existing staff resources will be used for the internal project management and supervision of the construction of these schemes, supplemented by the external specialist support. An external Tier 1 contractor will be appointed as the main contractor for the scheme and the appointment of that contractor is the subject of this report.
- 6.3 A detailed governance structure is in place for the delivery of the town centre projects and regular reporting as appropriate for projects of this scale is in place.
- 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, public realm 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 the Waterfront project 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.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 The recommendations set out in this report are in line with the resolution of the Economy, Regeneration and Housing Committee on the 22 January 2024.

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 Framework that has been used sets 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 project will revitalise Birkenhead and its waterfront at Woodside ensuring that more wealth is invested and stays within our Borough. The procurement exercise 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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BACKGROUND PAPERS

Council Plan 2023-2027

Birkenhead 2040 Framework

Documents relating to the bids conducted under the further competition and direct awards 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 – Town Fund Bid

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 – Economy, Regeneration and Housing Committee	19 October 2022
FHSF Movement Projects – Economy, Regeneration and Housing Committee	19 October 2022
FHSF Movement Projects – Environment Climate Emergency and Transport Committee	20 October 2022
Utilisation Of Procure Partnerships	26 January 2023
Utilisation Of Procure Partnerships and Pagoba Frameworks – Birkenhead Waterfront Programme, Conway Street / Europa Boulevard And Grange Road / Charing Cross / Grange Road West Movement Projects - Economy, Regeneration and Housing Committee	22 January 2024

