

## **CABINET**

**9 AUGUST 2016**

### **GATEWAY 3 CONTRACT AWARD (MEDIUM RISK): STROOD RIVERSIDE FLOOD DEFENCE WORKS - PRECONSTRUCTION**

Portfolio Holder(s): Councillor Rodney Chambers OBE, Inward Investment, Regeneration and Partnerships

Councillor Phil Filmer, Frontline Services

Report from Richard Hicks, Director of Regeneration, Community, Environment and Transformation

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#### **Summary**

This report seeks to inform Cabinet of the award of contract to the supplier as highlighted within Section 3.1 of the Exempt Appendix.

In August 2015, an appraisal was carried out to review the flood defence options at the proposed Strood Riverside development site in Canal Road, Strood, and identify a preferred solution.

In order to move the project forward this work needs to be developed to produce a phased detailed design and deliver the construction works.

#### **1. BACKGROUND INFORMATION**

##### **1.1 Budget & Policy Framework**

1.1.1 The project will be funded from future land receipts from the development and contributions from partners. Alternative funding options are also being explored, including the 3<sup>rd</sup> round of the Local Growth Fund and Flood Defence Grant in Aid from the Environment Agency.

##### **1.2 Background Information**

1.2.1 The Strood Riverside site represents a significant brownfield redevelopment opportunity and has long been a regeneration aspiration for the Council. The site is owned by the Council following a

series of compulsory purchases. In total £16million of funding has been invested in the site to bring it forward for development; £13million of sustainable communities funding and £3million of Council funding.

- 1.2.2 In September 2006 the development brief for Strood Riverside was adopted as a supplementary planning document to the existing Local Plan. In 2008 planning permission was secured for the construction of a river wall around the site. Changing market conditions at the time the planning permission was granted for the river wall resulted in the site not coming forward as hoped, and since then development on site has stalled.
- 1.2.3 Initially, it was assumed that the original river wall application from 2008 could be revisited and delivered on site. However, it became apparent that the Environment Agency requirements had been refined and increased during this time, and that the estimated initial costs suggested this solution would be in excess of the budget available.
- 1.2.4 Therefore a flood mitigation optioneering study was undertaken in August 2015 to determine the most appropriate and cost effective flood mitigation solution for Strood Riverside, taking into account the nature of the proposed development on site.
- 1.2.5 Elected Members have now approved the proposal to complete the flood defences for Strood in 3 phases which will allow for the development and regeneration of Strood Waterfront to include the Civic Centre site.

The 3 phases will be:

- Strood Riverside
- Kingswear Gardens/Watermill Gardens
- Civic Centre site.

- 1.2.6 The engineering solution will be designed to allow the works to proceed in individual phases, should that be necessary, with the ability to continue subsequent phases at a later date. The works will potentially consist of a river wall and land-raising to a height of 6 metres, as recommended by the Environment Agency, with consideration given to whole life costing. The proposed solution will provide information on which the masterplan design consultant will base their development brief and for future developers to consider when submitting scheme proposals. This will also cover environmental works, including ecology and ground contamination. A site plan is set out in Appendix 1 to the report.

An indicative programme is shown below:

<b>Milestone</b>	<b>Completion Date</b>
Project Order	04/07/2016
Pre-Construction Phase	04/07/2016 – 12/05/2017
Review by Medway Council	05/04/2017 – 05/05/2017
Delivery Agreement	05/05/2017
Start on Site Phase 1 Phase 2 Phase 3 (provisional follow on from Phase 1 and 2)	05/06/2017 27/10/2017 16/11/2018
Target Completion Date Phase 1 Phase 2 Phase 3	13/06/2018 15/11/2018 15/11/2019

1.2.7 The programme in the Pre-construction includes for the additional site surveys for soils investigation to establish the hot spots of contamination within the three areas and other surveys to assist with the detailed design. Time is also included for planning approvals for the designs and for discussions with utility companies for the interface of their equipment.

## **2. PROCUREMENT PROCESS**

### **2.1 Procurement Process Undertaken**

2.1.1 Working with the Category Management team, officers have considered the options for the procurement of a consultant/contractor to deliver the flood defence works. The preferred option is to procure a single contractor via the civil engineering and infrastructure service on the Scape Construction Framework, to undertake both the detailed design and carry out the construction works.

2.1.2 The Scape Framework is an Official Journal of the European Union (OJEU) compliant framework, providing the fastest route to market by removing the need for officers to carry out what would have been two OJEU procurements, one for the detailed design and the other for the works contractor, which will remove approximately 16 weeks from the programme. As a consequence, value is secured immediately, avoiding the time and cost associated with participating in a full tender or mini competition process.

- 2.1.3 The regional Scape management team will monitor a range of key performance indicators against the performance of the preferred contractor, including; time and cost predictability defects at completion, health and safety, client satisfaction (both product and service), waste management, employment and skills plan targets, Small to Medium Enterprise (SME) engagement, local spend, local employment, apprenticeship opportunities and school visits. There will also be a dedicated public liaison manager, whose responsibilities will include managing communication with the local community during the construction phase and monitoring the employment skills plan.
- 2.1.4 The project team will be involved in the procurement and selection of the supply chain to deliver the project, which will also operate an open book approach. There will be greater cost certainty of the construction works as a result of early contractor engagement.
- 2.1.5 The outputs of the work will provide information on which the masterplan design consultant will base their revised masterplan and development brief and for future developers to consider when submitting scheme proposals. This will also cover environmental works, including ecology and ground contamination.
- 2.1.6 The Scape process consists of 4 clear phases: inception, feasibility, preconstruction detailed design and construction.
- 2.1.7 The inception and feasibility phases are carried out at no cost to Medway, and with no obligation to proceed. The feasibility report details design options, programme, initial estimated cost, risks and opportunities, and surveys recommended. The preferred contractor has appointed the engineering consultant who produced the optioneering study for Medway in August 2015 to continue with the detailed design, and will be in regular contact with the Environment Agency for approval of their proposals.
- 2.1.8 At the end of the preconstruction phase, the best value for money option will be recommended to the Strood Regeneration Board. Only when they, the project partners and the Procurement Board approve this will the project progress to the construction phase, once planning approval has been granted.
- 2.1.9 The Regeneration team will consult with Medway's in-house technical experts from the Highways Capital Projects team for cost and quality assurance and suitability of the proposed scheme.
- 2.1.10 Other procurement options considered were the use of alternative national consultancy and construction frameworks and a full OJEU tender process to the open market, but it was felt the Scape Framework offered greater efficiency and more cost and quality certainty.

### **3. CONSULTATION**

#### **3.1 Stakeholder Consultation**

- 3.1.1 The Strood Regeneration Board will be updated throughout the preconstruction phase and construction phase of the project. The Strood Regeneration Board and the Procurement Board will review the proposals produced at the end of the preconstruction phase before they approve the start of the works.
- 3.1.2 A further Gateway 3 report will be presented to the Procurement Board for approval to proceed to the construction phase.
- 3.1.3 The project team will also work closely with the planning team and the Environment Agency as the proposals are developed.

## 4 BUSINESS CASE

### 4.1 Delivery of Procurement Project Outputs / Outcomes

4.1.1 The following procurement outcomes/outputs identified as important to the delivery of this procurement requirement have been appraised in the table below to demonstrate how the recommended procurement contract award will deliver said outcomes/outputs.

Outputs / Outcomes	How will success be measured?	Who will measure success of outputs/ outcomes	When will success be measured?	How will recommended procurement contract award deliver outputs/outcomes?
<b>1. Detailed Planning Permission received for flood mitigation option</b>	By the achievement of planning permission for the preferred flood mitigation option within the agreed timescales.	Strood Regeneration Project Manager  Strood Regeneration Board	Monitored throughout the contract period and at completion of the relevant stage.	The preferred contractor has much experience of delivering similar projects
<b>2. Completion of works within the timescales preferred timescales</b>	By completing the works by the required timescales	Strood Regeneration Project Manager  Strood Regeneration Board	Monitored throughout the contract period and at handover and completion  At 6 weekly meetings	The feasibility report will provide a detailed programme to deliver the phases together or independently
<b>3. Delivery of works within the specified budget</b>	Successful completion of the building within the capital budget available.	Strood Regeneration Project Manager  Strood Regeneration	Monitored closely throughout the design and construction phases	As part of the preconstruction process the project team is working with the preferred contractor to ensure the

		Board	At 6 weekly meetings	scheme is achievable within the specified budget. This process will continue through the delivery phase and all value engineering opportunities will be reviewed, to ensure quality is maintained
<b>5. Deliver a scheme that will ensure the site is ready for development</b>	Design of the flood defences to offer the best use of the site for mixed use including housing, commercial space and public realm, and deliverable in 1, 2 or 3 phases	Strood Regeneration Project Manager  Strood Regeneration Board	Monitored closely throughout the preconstruction and construction phases	The design will be sustainable and the materials used will be high quality durable materials.
<b>6. Provision of apprenticeship and other employment opportunities</b>	Apprenticeship and local employment opportunities will be proposed in the employment skills plan by the preferred contractor	Strood Regeneration Project Manager  Strood Regeneration Board  Scape Regional Management Team	Reviewed at the feasibility, preconstruction and construction phases	As part of the contractor's agreement with Scape, they are required to provide local employment and supply chain opportunities, which are monitored as a performance KPI.

## 5. RISK MANAGEMENT

### 5.1 Risk Categorisation

<b>1. Risk Category: Contract Delivery</b>	<b>Likelihood: Low</b>	<b>Impact: Critical</b>
<b>Outline Description:</b> Contractor not fulfilling the Council's requirements.		
<b>Plans to Mitigate:</b> The detailed requirements in the tender documents and contract terms and conditions will be managed throughout the contract period by the project team; working with the consultancy team to ensure the design requirements match the budget for the engineering contract.		
<b>2. Risk Category: Planning approval</b>	<b>Likelihood: Low</b>	<b>Impact: Critical</b>
<b>Outline Description:</b> Planning permission is not granted leading to the delivery programme having to be cancelled or the project having to be re-designed so that it is acceptable for planning purposes.		
<b>Plans to Mitigate:</b> This will be managed by the continued involvement of the Planning Team and the Environment Agency during the planning stage.		
<b>3. Risk Category: Financial</b>	<b>Likelihood: Low</b>	<b>Impact: Critical</b>
<b>Outline Description:</b> Unforeseen expenditure outside the approvals.		
<b>Plans to Mitigate:</b> The project team will work closely with the contractor to ensure any requirements for variations are considered before being approved. The design will be targeted to manage costs within the budget. The preferred contractor will design to the budget available, taking into account any contamination, environmental and archaeological considerations at an early stage, which will be included in the final scope of works for the construction phase.		
<b>4. Risk Category: Health &amp; Safety</b>	<b>Likelihood: Low</b>	<b>Impact: Critical</b>



**Outline Description: Possible risk of safety to public, during the design and construction phases.**

**Plans to Mitigate:** The preferred contractor was required to meet high health and safety criteria as part of the tender process to be accepted onto the Scape Framework. Health and Safety will monitored and reported on during the pre-construction and construction phases by the project team and the Scape Framework account manager to ensure these standards are maintained. They will also be monitored by the council's Construction Design and Management Co-ordinator

## **6. PROCUREMENT BOARD**

- 6.1 This report was initially considered by the Procurement Board on 6 July 2016. Following the Board's consideration, the Monitoring Officer agreed the award of this medium risk contract to the supplier as highlighted within Section 3.1 of the Exempt Appendix.

## **7. SERVICE COMMENTS**

### **7.1 Financial Comments**

- 7.1.1 The procurement requirement and the funding is detailed in Section 2.1 Financial Analysis of the Exempt Appendix.

### **7.2 Legal Comments**

- 7.2.1 Medway Council has the power under the Local Government (Contracts) Act 1997 and the Localism Act 2011 to enter into contracts in connection with the performance of its functions. From the information provided, it appears that the process followed was appropriate as the contractor was procured from an OJEU compliant framework. This procurement has been categorised as medium risk and therefore the decision to award is for the Monitoring Officer in consultation with the Strategic Procurement Board, in accordance with the Council's Contract Procedure Rules. The Monitoring Officer will also set the risk and reporting stages for the remainder of the procurement process for the second Gateway 3 report, as well as Gateway 4 and 5 (if required) in consultation with the Procurement Board.

### **7.3 Procurement Comments**

- 7.3.1 As per the Contract Procedure Rules under section 1.7.4.6: 'The Council is not required to advertise any proposed call off (in excess of the EU Threshold for Supplies (Goods), Services or Works where the Framework being used was subject to an original OJEU advert.'
- 7.3.2 The procurement of the preferred contractor through the OJEU compliant Scape Construction Framework negates the need for Medway to carry out its own procurement process for the consultancy works and the construction works. The construction framework was competitively tendered for the appointment of a single supplier, to fix core staff and site set up costs and the overheads and profits elements of every project, offering greater cost certainty, value for money and social value.
- 7.3.3 The use of local supply chain and SMEs through the preferred contractor will back the council's Procurement Strategy to support the local economy.
- 7.3.4 The client department will be required to present a second Gateway 3 report detailing the preferred design and project costs, before proceeding to the construction phase.

## **8. OTHER INFORMATION**

### **8.1 Social, Economic & Environmental Benefits**

- 8.1.1 Strood Riverside and the Civic Centre site is a brownfield regeneration site with the potential to deliver a new riverside community in Strood. The site is currently part used, resulting in an unattractive outlook on the riverside. Strood Riverside is bounded by Kingswear Gardens to the south along Canal Road.
- 8.1.2 Flood mitigation works will enable a feasible, flood resilient, mixed use regeneration site, and remove the isolation of the surrounding developments. Due to the flood risks, the site could use ground floor space for commercial premises, complementing the nearby Watermill Wharf as a satellite of the Innovation Centre Medway. Regeneration will thus provide employment land, targeted at SMEs, encouraging local cafes, restaurants and independent retailers, enabling job creation and innovation, and encouraging a vibrant environment where people will enjoy living and socialising and grow the local economy. The construction of the flood defences, future development and commercial use will create considerable employment opportunities in Medway.

## **9. RECOMMENDATION**

- 9.1 The Cabinet is recommended to note the report of the award of contract to the supplier as highlighted within Section 3.1 of the Exempt Appendix.

## **10. SUGGESTED REASONS FOR DECISION**

- 10.1 To ensure the Cabinet is informed of the award of the contract.

### **LEAD OFFICER CONTACT**

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### **APPENDICES**

Appendix 1 – Site Plan  
Exempt Appendix

### **BACKGROUND PAPERS**

None



