
Report of Civil Engineering Manager – Flood Programme

Report to Director City Development

Date: 14 June 2019

Subject: Tender Appraisal – Leeds Flood Alleviation Works Programme

Are specific electoral wards affected?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes, name(s) of ward(s): Armley, Bramley, Stanningley, Calverley & Farsley, City & Hunslet, Horsforth, Kirkstall	
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If relevant, access to information procedure rule number:	
Appendix number:	

Summary of main issues

1. Following approval of the procurement strategy the Leeds Flood Alleviation Works Programme has been tendered. This procurement includes two contracts, Phase 2 of the River Aire flood alleviation scheme and a flood alleviation works contract for smaller flood alleviation schemes around Leeds. Six organisations were invited to tender through the Environment Agency's (EA's) Water Environment Management framework (WEM), and of the six, one compliant bid was returned on 6 March 2019. A full evaluation of the tender return has been undertaken as well as consideration of the options available.
2. At the time of compiling this report, a further near miss flood event occurred (16th & 17th March 2019) which highlights the current problem that while ever a flood scheme is not brought forward, people's homes, livelihoods and the city's infrastructure remain at significant flood risk.
3. On the 13th February 2019, subject to the affordability of tendered prices the Executive board delegated the authority to spend for the Phase 2 Leeds (River Aire) Flood Alleviation Scheme to the Director of City Development subject to agreement with the Executive Member for Regeneration, Transport and Planning and the Leader of the Council. This report takes into account a review of time and cost safeguards in relation to the tendered package for the 1 in 100yr standard Leeds only scheme including the NFM works and as such, the Project Sponsor (the Director of City Development) is

recommended to award based on Option 3 which concludes with an estimated total cost of £75.981M in comparison to £76.94M of funding currently secured.

4. In relation to the residual funding gap for the 1 in 200yr scheme, as further design development will be undertaken at Calverley and Apperley Bridge through Option 3, it is anticipated the updated scheme total estimated cost (£119.375M) will be reduced as the scope becomes more defined. As such it is also recommended to continue using the previous scheme total estimated cost of £112.1M until further design is completed (in approximately six months). Based on this, there is a funding gap of £35.16M / residual gap of £23.26M when taking into consideration secured and probable ongoing funding.

Recommendations

The Director of City Development is requested to:

- i) give authority to spend £75.981m in respect of the Flood Alleviation Works Programme; &
- ii) approve the recommendation to award the Leeds Flood Alleviation Works Programme Contract to BMM jv.

1. Purpose of this report

- 1.1 This report seeks authority to spend in relation to the Flood Alleviation Works Programme and requests approval to award the Flood Alleviation Works Programme to BMMjv.

2. Background information

- 2.1 Authority to tender the Leeds Flood Alleviation Works Programme was approved by the Highways and Transportation Board on 23 October 2018. The procurement of the Flood Alleviation Works Programme includes two contracts:

- Contract 1: Leeds (River Aire) Flood Alleviation Scheme Phase 2 Main Works
- Contract 2: Leeds Flood Alleviation Works

- 2.2 Advance notice of the procurement was issued to the organisations within Lot 4 of the WEM framework on 24 October 2018. These organisations are listed below:

- BMM joint venture (BAM Nuttall, Mott MacDonald)
- GBV joint venture (Galliford Try, Black & Veatch)
- JacksonHyder
- JN Bentley (Jeremy Benn Associates)
- Team Van Oord
- VBA consortium (VolkerStevin, Boskalis Westminster, Atkins)

The tender documents were then issued to the same organisations on 23 November 2018.

- 2.3 The form of contract used for this tender is the New Engineering Contract 3 (NEC), Engineering Construction Contract (ECC) using Main Option C (Target Cost with Activity Schedule).

The contract is incentivised as follows:

<u>Share Range</u>	<u>Contractor's Share</u>
Less than 85%	0%
From 85% to 115%	50%
Greater than 115%	100%

- 2.4 Tenderers were requested to provide a response to the quality and price information identified in the tender documents. The quality and financial scores were then weighted 60% Quality and 40% Price before being combined.

3. Main issues

3.1 Tender Returns:

- 3.1.1 Of the six organisations invited to tender, one compliant bid was returned on 6 March 2019.
- 3.1.2 A quality assessment has been undertaken based on information provided for contract 1 and contract 2.

- 3.1.3 Tenderers were asked to provide prices for Contract 1 in relation to providing a 1 in 200 year standard of protection and to provide a 1 in 100 year standard of protection which could then be reviewed and awarded based on affordability.
- 3.1.4 The Submission was assessed on three Financial Criteria (Tendered Total of the Prices, Direct Fee and Sub Contract Fee).
- 3.1.5 The tender assessment awards the highest scoring quality submission 100% and the lowest financial submission 100%. The tender submission met the quality criteria set out in the contract documents. An arithmetical check has been undertaken on the submission received and showed one minor error. As only one tender submission was returned, the combined score of the bid is 100% from BMMjv.
- 3.1.6 Once the combined score had been calculated, the tender was assessed for affordability through a comparison against the estimated works costs produced from the early contractor involvement with the scheme. This had been the subject of an earlier check using the EA's specialist costing model to demonstrate value for money. A summary of costs is provided below.

	1in200yr standard (£M)	1in100yr standard + advanced works at Apperley Bridge (£M)	1in100yr standard (Leeds only) + NFM (£M)
Updated scheme cost	119.375	97.274	75.981
Previous scheme cost	112.100	86.700	
Secured funding	76.940	76.940	76.940
Funding Gap (compared to updated scheme cost)	42.435	20.334	(0.959)
Funding Gap (compared to previous scheme cost)	35.16	9.76	9.76
Ongoing funding ongoing (estimated probable)	11.90* ¹	11.90* ²	11.90* ²
Current funding total (secured + probable)	88.840	88.840	88.840
Residual funding gap (compared to updated scheme cost)	30.535	8.434	credit (12.859)
Residual funding gap (compared to previous scheme cost)	23.260	credit (2.14)	credit (2.14)

scheme cost)			
Previous reported funding gap	18.600		-

*1 for information, LCC previously offered to underwrite £18.5M if government settled the remaining gap.

*2 some partially linked to benefits derived from 1 in 200 year Option A scheme.

3.1.7 In addition, two other items have been provisionally included in the tender documentation in relation to accessibility enhancements in Kirkstall (provisionally estimated at £3,0472,000) and a footbridge at Sovereign Street (provisionally estimated at £3,000,000).

3.2 Options:

3.2.1 Option 1 - Award a contract based on the tendered package for the 1 in 200yr standard scheme including the NFM works totalling £119.375M with a current funding shortfall of £42.435M, or £30.535M if all of the ongoing funding applications are successful;

3.2.2 Option 2 - Award a contract based on the tendered package for the 1 in 100yr standard scheme including the NFM works and advanced works at Apperley Bridge totalling £97.274 with a current funding shortfall of £20.334M, or £8.434M if all of the ongoing funding applications are successful;

3.2.3 Option 3 - Award a contract based on the tendered package for the 1 in 100yr standard scheme including NFM works and advanced works at Apperley bridge totalling £97.274M but then immediately use mechanisms within the form of contract to reduce the scope to the Leeds only scheme including the NFM works totalling £75.981M in comparison to £76.94M of funding currently secured, or £12.859M credit if all of the ongoing funding applications are successful;

3.2.4 Option 4 - Re-tender through an alternative mechanism. The following routes have been identified:

- The EA are in the process of replacing their WEM framework with a new Collaborative Delivery Framework (CDF). As such, there is a deadline of the end of June 2019 to award contracts under WEM. Briefly, CDF is outlined below:
 - works are issued by area with one Contractor and one Consultant awarded to each area. There is a financial cap of £50m to directly award works to an area. The Contractor awarded for the Yorkshire and Humber region is Bam Nuttall.
 - works above the financial cap could be tendered to all the organisations on the framework. Many of the organisations on the CDF were involved in the WEM Framework.
 - the framework utilises 'traditional' procurement with no option to tender a design and build contract, it would require two separate procurements, one for a detailed design package and a second for construction works.
- An alternative framework could be either the YORCivil2 route (Lot 6 Civil Works over £10m) or Scape. Unlike WEM and CDF which have been established

specifically for the delivery of flood alleviation schemes, these are targeted towards more generic civil engineering projects. However if works at Calverley are excluded, the other works within contract 1 are predominantly comprise of linear defences constructed from land.

- Alternatively, an open or restricted tender could be progressed although these would cause an approximate delay of between six and nine months.

3.3 Summary:

- 3.3.1 The current funding shortfall to progress with Option 1 and Option 2 is significant (£42.435M & £20.334M respectively). Additionally, planning approval for works in Bradford has yet to be received. Therefore these options are not recommended.
- 3.3.2 There is no funding shortfall to progress with Option 3 when applying mechanisms within the form of contract. By progressing with this compliant bid from BMM jv who successfully constructed the Phase 1 Leeds (River Aire) Flood Alleviation Scheme, defence works in Leeds would commence at the earliest opportunity. As part of this option, further design development would be undertaken at Calverley and Apperley Bridge with an anticipation that estimated costs would be reduced as the scope becomes more defined. Additionally, by awarding a contract for the Leeds Flood Alleviation Works programme, access is made available for early contractor involvement in smaller flood alleviation schemes around Leeds to progress to construction at an earlier stage.
- 3.3.3 It is unclear what benefits the CDF framework would offer above WEM as it only provides access to the same organisations. Additionally the CDF option only provides either a traditional design or a build facility, rather than combining both. This would therefore be a significant change in approach which is not supported and so overall it is not recommended to progress with the CDF option.
- 3.3.4 It is unclear whether the YORCivil2 or Scape frameworks or either the Open/Restricted approach would provide competition from multiple specialist organisations different to those invited to tender through WEM. Expressions of interest from the framework could be ascertained to provide more confidence regarding this, although it is understood that the framework has reached its limit on value procured and so there would be a time delay in being able to progress through this route whilst the framework as a whole is updated. Similarly an Open/Restricted tender would impact on time.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 The Director of City Development has consulted with the Executive Member for Environment and Active Lifestyles and the Leader who are in agreement of the recommendation to award the Leeds Flood Alleviation Works Programme Contract to BMM jv.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 Equality and diversity issues relating to the scheme were addressed in the Executive Board report approved February 2019.

4.3 Council policies and best council plan

4.3.1 The scheme embodies many of the priorities and outcomes sought in the Best Council Plan (BCP) as outlined below:

- i) Good Growth – the scheme will seek to support the sustainable growth of the Leeds economy through safeguarding jobs in the area protected by flood defences. The progression of measures to reduce flood risk with regard to opportunities presented by the South Bank Master Plan (Europe’s largest regeneration area with the potential to create 35,000 new jobs and 4000 new homes), HS2, the A65 Kirkstall corridor and its interface with wider existing Network Rail infrastructure will directly support the BCP ambition for a strong economy.
- ii) Resilient Communities – adopting a catchment based approach to flood defence offers a high level of community confidence against future flood events, enhances public citizen and stewardship involvement, and helps with the moving toward a more holistic solution to a flood defence initiative to vanguard community ownership and their association to local flood protection measures. This will support the BCP outcome for people to be safe and feel safe. It will also directly support the BCP ambition for a more engaged public.
- iii) Transport and Infrastructure; Low Carbon – the scheme seeks to enable the growth of the city whilst protecting its distinctive green character; it will enhance the waterfront areas through new or improved public spaces to support leisure and amenity uses, in keeping with the urban context, sense of place and identity. This will support the BCP outcome for people to live in clean and well cared for places and for people to enjoy greater access to green spaces, leisure and the arts.
- iv) The scheme will better protect road, rail and pedestrian/cycle accessibility to the city centre from the west, safeguarding local multi-modal commuting routes and city regional transport links and through the protection afforded to the South Bank and Leeds Station area, it helps the city become ready for HS2, Northern Powerhouse Rail and the interchange facilities to be provided at the remodelled ‘Yorkshire Hub’. This will support the BCP outcome of moving around a well-planned city easily.

4.4 Resources and value for money

4.4.1 A funding summary for the scheme is shown below.

Funding Secured	Amount Secured (£M)
Leeds City Council	10.0
Government Booster	65.0
Network Rail	1.4
ESIF (1)	0.54
Sub total (A)	76.94

Funding Applications Ongoing	Estimated Minimum (£M)	Estimated Probable (£M)	Estimated Maximum (£M)
ESIF (2)	0.0	2.0	3.28
LGF	0.0	3.9	5.0

Highways England	0.0	2.0	10.0
Forestry Commission	1.0	1.0	1.75
Yorkshire Wildlife Trust	0.0	0.0	0.48
CIL	1.0	3.0	10.0
Sub total (B)	2.0	11.9	30.51

Funding Potential	Potential (£M)
HIF	0 – 9
Woodlands Trust	1.75 – 3
Carbon Credits	Tbc
Water Environment Credit	Tbc
Future Prosperity Fund	Tbc
Developer Contributions	0 – 1
Yorkshire Water	tbc

4.4.2 Also refer to Confidential Appendix.

4.5 Legal implications, access to information, and call-in

4.5.1 There are no specific legal implications arising from this report. All activities relating to this procurement are being executed in accordance with the Public Procurement Regulations 2015 and the LCC Contract Procedure Rules.

4.6 Risk management

4.6.1 The Client risk budget for this scheme has been formulated by the projects independent Cost Consultant in accordance with standard best practice for the appraisal of Flood and Coastal Erosion Risk Management Projects using a Monte Carlo analysis. Under this process the probability of occurrence, and the minimum, average and maximum associated costs have been estimated.

4.6.2 Also refer to Confidential Appendix.

5. Conclusions

5.1.1 At the time of compiling this report, a further near miss flood event occurred (16th & 17th March 2019) which highlights the current problem that while ever a flood scheme is not brought forward, people's homes, livelihoods and the city's infrastructure remain at significant flood risk. As there is no certainty that re-tendering will provide an alternative outcome, the Project Sponsor is recommended to award based on Option 3.

5.1.2 By progressing with Option 3 it is anticipated that physical site works in Leeds can commence before Christmas 2019. Additionally it is anticipated that by November 2019, the further design development works at Calverley will have progressed to allow an updated scheme total cost estimate to be produced

5.1.3 In relation to the residual funding gap for the 1 in 200yr standard scheme including the NFM works, as further design development will be undertaken at Calverley and Apperley Bridge through Option 3, it is anticipated the scheme total estimated cost (currently £119.375M) will be reduced as the scope becomes more defined. As such it is recommended to continue using the previous scheme total estimated cost

of £112.1M until further design is completed (in approximately six months). Based on this estimate, there is a current funding gap of £35.16M or a residual gap of £23.26M when taking into consideration secured and probable funding.

6. Recommendations

6.1 The Director of City Development is requested to:

- i) give authority to spend £75.981m in respect of the Flood Alleviation Works Programme; &
- ii) approve the recommendation to award the Leeds Flood Alleviation Works Programme Contract to BMM jv.

7. Background documents¹

7.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.