

Report to: Cabinet



Date of Meeting 3 January 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Entering Contract above £100k – Feniton Flood Alleviation Scheme

Report summary:

The report seeks to gain agreement to enter a contract with Kier Integrated services of up to a value of £3million. It outlines the procurement process, framework agreement and compliance with contract standing orders.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That cabinet agree to enter contract with Kier Integrated services to enter a contract of a value of up to £3m to deliver the construction of Feniton Flood Alleviation Scheme

Reason for recommendation:

That Kier Integrated Services has been procured correctly and to aid speedy contract award to get Feniton on site in Spring 2024

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Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Communications and Democracy
- Economy
- Finance and Assets
- Strategic Planning
- Sustainable Homes and Communities
- Culture, Leisure, Sport and Tourism

Equalities impact Low Impact

Climate change High Impact

Risk: Medium Risk; With all construction projects there is a risk of additional cost incurred by unforeseen risks. There is a healthy risk budget, however EDDC would be liable for additional spend above central government eligibility.

Links to background information N/A

Link to [Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
 - A greener East Devon
 - A resilient economy
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Report in full

1. Background

2.

1.1. Feniton Flood Alleviation Scheme (FAS) Background

Flooding in New Feniton has been an issue since the development was built in the late 1960s; with flooding occurring every year and internal flooding every 2 to 3 years.

The biggest well recorded event was in late October 2008 when there was serious flooding in the main estate. This event resulted in the internal flooding of 58 properties with flood depths of up to 1.0m.

A Scheme was designed in 2015 and updated to current design guidance in 2023. The scheme will provide protection to 72 properties at risk of flooding (this includes 63 properties which are currently considered at very significant risk) and peace of mind for the whole community of Feniton. The scheme has been split into 4 phases, consisting of

- Phase 1 – bypass channel downstream of the railway to take the increased flows from the new culvert.
- Phase 2 – property level resilience measures of downstream properties.
- Phase 3 – undertrack crossing (UTX) of the Exeter to Waterloo line.
- Phase 4 – completion of culvert linking the whole scheme together.

Phase 1 and Phase 2 were completed in 2016. Phase 3 was completed in Autumn 2022. Phase 4 is due to start in Spring 2024

3. Procurement process

- 3.1. To expedite the project, East Devon District Council entered the Environment Agency's 'Collaborative Delivery Framework' or CDF to help deliver this project (and potentially other Flood risk projects involving funding from central government)
- 3.2. Under our procurement rules, EDDC is allowed to enter any local/national government framework if beneficial to procurement. (It can also direct tender to the market)
- 3.3. Kier have been appointed as an Early Contractor Involvement (ECI) contractor to help aid final design and complete works on site, such as trial holes and hedgerow clearance.
- 3.4. To remove a long procurement process for a contractor for the main works, we are able to directly award Kier once they have priced up the full and final design (due January 2024)
- 3.5. Kier have already priced up the current design which is largely similar to the full and final design, so we are expecting similar values.

- 3.6. Although it is a direct award contract, under the framework, it is a Client Set Target (CST) where we, along with a cost consultant price the scheme independently, and agree a target cost with Kier.
- 3.7. Kier also show value for money by approaching around 5 sub-contractors to also price the work, and have the ability to cherry pick better value specialist subcontractors for each task, rather than generic contractors. For example, they may appoint a specialist pipe laying contractor to lay the culvert, and a specialist reinforced concrete contractor to deliver the inlet structure.
- 3.8. Once a price is agreed, it becomes a Target Price Activity schedule, an option C under the NEC4 contract. The target price contract is a pain/gain contract with the aim to bring the project in under budget, with money not spent, being shared as profit to the contractor and back to the tax payer. Should the project overspend, the contractor would need to share some of the pain.
- 3.9. We are asking for agreement to enter the contract up to a value of £3million as we do not have the Target cost price yet, but believe it will be less than this figure.

4. Funding sources

- 4.1. Although a significant project for EDDC, the majority of funding for this project is coming from Central Government, as Flood Defence Grant in Aid (FDGiA) via the Environment Agency. Therefore it would seem sensible to use the EA's preferred suppliers to deliver.
- 4.2. Below is a table showing the funding sources for this expenditure.

Local Levy	£300
Devon County Council	£215
East Devon District Council	£500
Acland Park Development	£95
Department of Education Funding	£100
Further Local Levy Funds	£50
Flood Defence Grant in Aid	£3524
Further EDDC risk pot*	£250
Total	£5034

Note all values in £1000 (£k)

*Additional funds in BSCAP bid at time of writing report

Financial implications:

Council have approved the budget for this scheme as indicated in the report and procurement guidelines have been followed

Legal implications:

Contract standing orders permit the use of framework agreements provided the terms and conditions of contract are fully complied with and appropriate advice taken from DCC procurement.