

Cabinet Meeting		Agenda Item: 9
Meeting Date	07 October 2015	
Report Title	Tender approval for Front Brents Flood Defence Bund	
Cabinet Member	Cllr Andrew Bowles, Cabinet Member for Emergency Planning	
SMT Lead	Mark Radford	
Head of Service	Mark Radford	
Lead Officer	Della Fackrell	
Key Decision	Yes	
Classification	Open	
Forward Plan	Yes	
Recommendations	<ol style="list-style-type: none"> 1. To approve the appointment of J Breheny Contractors Ltd as build contractor for the Front Brents Flood Defence Bund. 	

1 Purpose of Report and Executive Summary

- 1.1 This report provides an explanation of the tender process through the East Kent Engineering Partnership (EKEP) to appoint contractors to build the Flood defence bund at Front Brents, Faversham.
- 1.2 It explains the Framework Agreement that is in place as part of the East Kent Engineering Partnership (EKEP). Swale Borough Council is a member of EKEP with Canterbury City Council, Thanet District Council, Dover District Council and Shepway District Council.
- 1.3 This report requests authority to award the design and build contract to the preferred supplier.

2 Background

- 2.1 Swale Borough Council has agreed to hold the Environment Agency's Flood Defence Grant in Aid monies (£125,000) together with the monies received from Defra for the Repair and Renew Grant (£86,000).
- 2.2 The Defra Repair and Renew Grant monies were awarded for the properties affected by the tidal surge in December 2013 located on Front Brents and Church Road, Faversham.

- 2.3 The Council has acted as the intermediary to ensure that the project is able to proceed. However, it must be noted that the finances are for external monies for this project and not under the direct control of the Council in the event of any underspend.
- 2.4 With Swale Borough Council holding the finances for the project it is able to utilise the resources and Framework Agreement available to it as a member of the EKEP.
- 2.5 The East Kent Engineering Partnership (EKEP) Framework agreement can be used by any member of the EKEP (Swale BC, Thanet DC, Canterbury CC, Dover DC and Shepway DC) and any member of the South East Coastal Group.
- 2.5.1 The EKEP Framework agreement avoids the need of having to advertise the scheme for expressions of interest as the contractors have all been extensively vetted for their experience, financial, quality and environmental credentials. SBC was fully involved with this process.
- 2.5.2 This Framework agreement is an approved list of experienced contractors and is valid until 2018.
- 2.5.3 There are Framework agreements for various cost bands:

Up to £250k	For general civil engineering works
£250k to £500k	
£500k to EU threshold	

- 2.6 Five contractors were selected in rotation from the EKEP Framework agreement for general civil engineering works up to £250,000.
- 2.6.1 All of the contractors are capable of completing the works but unfortunately due to an upturn in the market and commitment to other projects, three of the contractors felt that they would be unable to submit a competitive tender.
- 2.6.2 Two tenders were received:

Company A	£93,858.26
Company B	£138,826.57

- 2.7 The tenders were opened on 26 August 2015 at 10:00am at Swale Borough Council offices. They were opened in the presence of the following Swale Borough Council officers:

Philippa Davies	Democratic and Electoral Services
Alan Marolia	Independent Senior Officer
Victoria Hadfield	Responsible Officer

3 Proposals

3.1 Company A; J Breheny Contractor Ltd.'s, tender in the sum of £93,858.26 is fully compliant and is recommended by the EKEP that the contract is awarded to them.

3.1.1 The EKEP have stated that J Breheny Contractor Ltd. is a very good and experienced contractor that has completed numerous recent projects to a very high standard.

3.2 To approve the appointment of J Breheny Contractors Ltd. as build contractor for the Front Brents Flood Defence Bund.

4 Alternative Options

4.1 To not approve the EKEP recommendation to appoint J Breheny contractors Ltd. to deliver the project. This is not recommended as we have a compliant tender which was evaluated at the framework stage so therefore do not have a need to carry out a technical evaluation as this has already been undertaken.

4.2 To not continue with the project: this is not recommended as there is a risk that the previously affected properties will be flooded from the Creek during severe weather and high tides. Finances have also already been bid to cover the cost of this flood defence scheme.

5 Consultation Undertaken or Proposed

5.1 The initial tender for the framework was advertised by Canterbury City Council in their role as the contracting authority under the EKEP and is compliant with OJEU rules.

6 Implications

Issue	Implications
Corporate Plan	The proposal in this report will further the councils ambition to be a borough to be proud of and a council to be proud of.
Financial, Resource and Property	<p>It is unlikely that any financial support will be required from Swale Borough Council due to the amount of funding available through the Environment Agency Grant and the Repair and Renew Grant.</p> <p>Swale Borough Council have committed to support any shortfall above the grants available to a maximum of £30,000. Any shortfall will be split between Kent County Council, two thirds and Swale Borough Council, one third. Faversham Town Council have also committed to contributing to a shortfall if necessary.</p> <p>As with all construction projects there may be movement on the</p>

	<p>final cost of the build.</p> <p>As this project is funded through the Environment Agency grant and the Defra Repair and Renew Grant specifically to protect the properties at Front Brents and Church Road affected during the December 2013 tidal surge, an agreement with those parties will be sort for any final underspend.</p>
Legal and Statutory	<p>It has been highlighted that due to the land being designated as Village green the town council and possibly the MoD need to give permission for the works to take place.</p> <p>We have received initial agreement from Faversham Town Council that they agree that the works are for the better enjoyment of the space by the community which is a criterion which will satisfy the act. Further confirmation is being sought at the FTC meeting in September 2015.</p> <p>We are of the opinion that the risk of the MoD, any other organisation or person raising a dispute against the value of building a flood defence on this location is minimal. This is due to the mitigating actions taken such as gates within the bund for continued access to the creek for users of this space.</p>
Crime and Disorder	The design will have panels that will be put in gateways. These panels will be padlocked in position for security.
Sustainability	None identified at this stage.
Health and Wellbeing	None identified at this stage.
Risk Management and Health and Safety	<p>If this bund is not built in time for this winter period then the Environment Agency have confirmed that the county resource demountable flood defences will be deployed at Front Brents as a short term solution.</p> <p>If this bund is not built the properties flooded in 2013 will be at risk of flooding again during severe weather and or a high tide or surge event.</p>
Equality and Diversity	To be confirmed with the Environment Agency and EKEP design team.

7 Appendices

7.1 None

8 Background Papers

8.1 None