

ANGUS COUNCIL

SPECIAL ARRANGEMENTS COMMITTEE – 23 JUNE 2020

ARBROATH (BROTHOCK WATER) FLOOD PROTECTION SCHEME UPDATE

REPORT BY DIRECTOR OF INFRASTRUCTURE

ABSTRACT

This report updates the Committee on the progress of the Arbroath (Brothock Water) Flood Protection Scheme following committee approval to procure the construction contract which has been tendered for and evaluated and seeks approval of the additional funding required for confirmation on the award of the construction contract for the scheme due to the impacts of the Coronavirus pandemic on construction activities.

1. RECOMMENDATION

It is recommended that the Committee:

- (i) notes the results of the tendering exercise to construct the Arbroath (Brothock Water) Flood Protection Scheme as detailed in this report; and
- (ii) approves of the additional funding, as detailed in this report, for the Arbroath (Brothock Water) Flood Protection Scheme to make allowance for impact on construction time and cost of the Coronavirus pandemic.

2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/CORPORATE PLAN

This report contributes to the following local outcome(s) contained within the Angus Local Outcomes Improvement Plan and Locality Plans:

ECONOMY

- An inclusive and sustainable economy

PLACE

- Safe, secure, vibrant and sustainable communities
- An enhanced, protected and enjoyed natural and built environment

3. BACKGROUND

3.1 Reference is made to Communities Committee Report 344/18 regarding the preliminary decision to confirm the scheme without modifications and Committee Report 11/19 regarding the final decision to confirm the scheme without modifications, grant procurement authority and permissions for land negotiations.

3.2 As per the approval of the final decision, and in accordance with the Flood Risk Management (Scotland) Act 2009, notice of the final decision was published in the Arbroath Herald, Edinburgh Gazette and the Courier.

4. CURRENT POSITION

4.1 As approved by Communities Committee, a two-stage tender process was carried out. For stage one, a pre-qualification was released on Public Contracts Scotland (PCS) web portal, inviting contractors to complete a pre-qualification questionnaire. This process was open from 23 August 2019 to 25 September 2019. An evaluation was carried out and from the list of fourteen returns five tenderers proceeded to stage 2, where tenders were invited to be evaluated and awarded based on price and quality. This process was open from 9 December 2019 to 11 March 2020.

- 4.2 A tender evaluation was completed by a three-person panel and the tender assessment report completed. The tenders and evaluation do not include consideration of the Coronavirus pandemic (COVID-19), for which consideration has been applied as described in this report. Acknowledging this, the tenders are considered, to be competitive and a fair basis for the ranking of the tenderers and subsequent contract award.
- 4.3 COVID-19 introduces risks to the award of the contract and the construction of the flood scheme. These risks were formally assessed in the tender report and further assessed in light of the Route Map for construction that has been published by Scottish Government.
- 4.4 The form of contract used, NEC 4, gives the Project Manager appropriate powers to determine the best course of action on behalf of the Client and the contract, and to instruct the Contractor accordingly. This allows both time and cost to be afforded to the Contractor through Compensation Events. Awarding the contract therefore allows the cost and time impact of the COVID-19 restrictions on construction to be more fully assessed with the contractor and as a fair means of establishing the actual costs. For example, this may lead to amendments to the operations and working methods to allow for social distancing, staggered start, break and finish times and increased cleaning of communal areas, and hence the programme of works and completion of the flood scheme.
- 4.5 An assessment of the impact on construction as a result of the additional time and cost due to the COVID-19 restrictions, including delay in awarding the contract, has been completed. The impact on the forecast outturn cost includes this assessment to allow comparison with the existing budget and ensuring affordability.
- 4.6 The start date has already been delayed due to COVID-19 and restrictions on movement and construction activities. This will result in a delay to the works at this time of three months with an increase in costs due to inflation. Any further delays in award would result in additional inflationary pressures on the costs.
- 4.7 If the approval of the additional budget to account for COVID-19 is made by the Committee, the contract can be awarded for an expected start by mid to late July. This would allow the Contractor to: review their programme; complete the design of Contractor design elements; compile site working methods/risk assessments to deal with COVID-19 restrictions; and carry out public notifications relating to the works and programme before physically setting up on site by late August, early September.
- 4.8 The construction period was previously estimated to be sixteen months. As indicated, working methods will have to be adapted for to meet COVID-19 guidelines. An analysis of the operations that make up the flood scheme has been undertaken to determine an allowance for the cost and time increases for making required adaptations to working methods.
- 4.9 It is estimated that the Contractor will need an additional three months to complete the works with these adaptations, meaning completion of the works by the middle of 2022. This is assuming no further work stoppages, for example, if there was introduction of a second set of restrictions due to COVID-19. A revised contract programme will be an early activity of the Contractor on award of the contract.
- 4.10 The forecast cost for the delays and changes to working practices has been estimated at £850,000, which represents a 10% increase in construction costs. This is in effect a risk allowance that can be reviewed with the contractor post-award as detailed in paragraph 4.4 above. Consideration on the funding of forecast cost for the delays and changes to working practices resulting from COVID-19 is detailed in the Financial Implications section of this report.

5. PROPOSALS

- 5.1 As detailed in section 6 of this report, it is proposed that the additional net capital cost to Angus Council for dealing with COVID-19 of £170k is provided from the capital contingency fund. This will then be accounted for as part of the budget setting and development of the Final Capital Budget Volume 2020/21.

- 5.2 Based on the above proposal being approved, confirmation of the costs to the Scottish Government at tender approval will be submitted, as detailed in paragraph 6.2. The revised costs do not need approval as these are within the procedures for this grant funding.
- 5.3 Based on the above proposal being approved and confirmation of the costs to Scottish Government being submitted, the construction contract for the Arbroath (Brothock Water) Flood Protection Scheme will be awarded.

6. FINANCIAL IMPLICATIONS

- 6.1 Based on the tender costs alone these would have been affordable within the current budget allocation. The total project costs would have fully utilised the remaining current budget resource of £9,912k (current budget from 2020/21 onwards). The Net Cost line in the table below reflects the total per the approved Provisional Capital Budget Volume (PCBV), however to account for the impacts on cost and time of COVID-19, the expenditure of the Arbroath (Brothock Water) Flood Protection Scheme has been re-profiled from that reflected in the approved PCBV. The additional capital requirement for dealing with COVID-19 and the funding share from Scottish Government, which is 80% of the additional capital cost, is also shown in the table below.
- 6.2 The Flood Protection Scheme grant funding is received as part of the Scottish Government General Capital Grant and is therefore contained within the funding package for the total net cost of £11,807k, as per the approved Provisional Capital Budget Volume 2020/21 (reference Report No. 84/20). Scottish Government has confirmed “for Flood Protection Schemes that have not yet had the scheme costs fixed down then it is still up to the council to determine the total scheme costs after tender acceptance. In those circumstances, it is up to the Council to satisfy itself that any additional costs incurred due to COVID-19 are eligible for public sector funding in line with published guidance and are also eligible costs in terms of the guidance the Scottish Government has previously issued for flood protection schemes.” Whilst shown separately below, the additional Scottish Government Capital Grant for dealing with the additional costs as a result of COVID-19 will ultimately be added to the existing amount included in the funding package for this project. The amount of capital funding from Scottish Government will therefore increase from £9,234k to £9,914k.

<i>Note: Projected spend 2020/21 onwards re-profiled to account for COVID-19 impact</i>	Estimated Total Cost £000's	Actual to 2019/20 £000's	Monitoring Budget 2020/21 £000's	Estimate 2021/22 £000's	Estimate 2022 onwards £000's
Arbroath Flood Strategy (Brothock Burn / Seawall projects)	11,932	2,020	3,299	6,385	228
SEPA	(50)	(50)			
Coastal Communities Fund	(75)	(75)			
Net Cost	11,807	1,895	3,299	6,385	228
<i>Additional gross capital cost allowance resulting from COVID-19 impact</i>	850		425	425	
<i>Additional Scottish Government General Capital Grant resulting from COVID-19 impact</i>	(680)		(340)	(340)	
Revised Net Cost	11,977	1,895	3,384	6,470	228

- 6.3 The additional net capital cost to Angus Council for dealing with COVID-19 is £170k. The letter of grant award from Scottish Government is explicit in that the grant amount will be set

at the tender acceptance, so that will include the COVID-19 adjustment. Scottish Government officials have been updated on the financial implications of the tender and COVID-19.

- 6.4 As stated in paragraph 5.1, it is proposed that this funding is provided from the capital contingency fund, which will then be accounted for as part of the budget setting and development of the Final Capital Budget Volume 2020/21.

7. RISK IMPLICATIONS

- 7.1 The financial, construction and contractual risks are detailed in this report, and updated on the project risk register and to the project governance board.
- 7.2 In addition, as has been reported previously, there are flood risks from where the scheme has been identified in the Local Flood Risk Management Plans in accordance with the Flood Risk Management (Scotland) Act 2009.
- 7.3 The Arbroath (Brothock Water) Flood Protection Scheme will reduce flood risk in Arbroath. Arbroath is currently at risk of flooding to people, property and land and businesses. Further delays to the construction of the scheme will increase the exposure to the level of risk.

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NOTE:

The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are:

Report 11/19 – Arbroath (Brothock Water) Flood Protection Scheme - 15 January 2019
Report No 344/18 – Arbroath (Brothock Water) Flood Protection Scheme – 13 November 2018
Report No 229/18 - Information Report for the Period 30 May 2018 to 14 August 2018 - Schedule 2, Arbroath (Brothock Water) Flood Protection Scheme Update – 14 August 2018
Report No. 16/18 – Arbroath (Brothock Water) Flood Protection Scheme – 16 January 2018
Report No. 87/16 - Flood Risk Management (Scotland) Act 2009 Update – 1 March 2016