

Item No.	Classification: Open	Date: June 2017	Decision Taker: Chief Executive
Report title:		Gateway 2 - Contract Award Approval Mint Street Adventure Playground Stage 2 Tender return for main contract award	
Ward(s) or groups affected:		Cathedrals	
From:		Head of Regeneration – Capital Works & Development	

RECOMMENDATION(S)

That the Chief Executive

1. Approves the award of the Mint Street Adventure Playground main contract to Neilcott Construction Ltd for a maximum value of £1,914,701.76, including enabling works and early orders, for the period of 30 weeks commencing on 3 July 2017.
2. Confirms prior approval of an enabling works package awarded to Neilcott Construction Ltd to the value of £87,952.70, which is not in addition to the main contract but forms part of the total contract award value, for the reasons stated in paragraph 23.
3. Confirms prior approval of an early order package awarded to Neilcott Construction Ltd to the value of £23,400, which is not in addition to the main contract but forms part of the total contract award value, for the reasons stated in paragraph 23.

BACKGROUND INFORMATION

4. Mint Street Adventure Playground is an extremely popular facility in Cathedrals Ward, a dense urban area, deficient in open space but with an increasing family population.
5. The Adventure Play building has reached the end of its useful life, providing the council with the opportunity to upgrade the site and facilities, integrating it more successfully with the adjacent park and providing facilities better able to supply the community's needs.
6. The Adventure Playground was opened in the 1970s following a campaign by local people to reuse land behind the Evelina Children's Hospital as a playground. The Adventure Playground was operated by a voluntary sector organisation from its inception through to 1996. At this point they pulled out and the site has since been managed by the Southwark Councils Play Service.
7. In 2006 Bankside Open Spaces Trust (BOST) carried out consultation for a multi use development on the Adventure Playground site (including Adventure Play), which did not go ahead. There is an active community group using the Adventure Playground with the website www.mintstreet.org.uk providing details of activities available here.

8. Mint Street Park is situated in the space occupied previously by the Evelina Children's Hospital (1869 - 1976) and before that the debtors enclave, the Mint. It is the largest of a series of pocket open spaces in the Bankside area and was designated in the 2007 Southwark Plan as borough open land.
9. The Park was subject to a comprehensive redesign by BOST in partnership with Southwark Council, in 2001, which was commended by the Office of the Deputy Prime Minister. BOST and Southwark Council have since been involved in the on-going maintenance and implementation of a series of improvements at the park including; MUGA (Multi Use Games Area) facilities, installation of an outdoor gym, improvements to the adventure play building, children's play facilities, adventure playground equipment and improved lighting. These have been funded through a variety of sources including Cleaner Greener Safer, Playbuilder funding and S106.
10. Continuing development in the area has put increased pressure on open spaces in the Borough and Bankside area. Mint Street Park has become a hub for community activity and as such is heavily used by residents and office workers alike. Increased usage of Mint Street Park has brought with it various issues that require attention, including increasing prevalence of street drinkers and a number of serious incidents of crime. It is expected that local demand on this open space will grow further as future development in Bankside comes to fruition.
11. The key objectives for the new facility are:
 - a. To maximise the outdoor area available for play and provide a compact building plan to minimize the building footprint;
 - b. Good visual and physical links between indoor and outdoor spaces;
 - c. A clearly identifiable, safe entrance point and safe evening access to the site;
 - d. Child friendly spaces that are good to play in, plus intrinsically safe and easy for play workers and parents to supervise unobtrusively;
 - e. Respect for the existing buildings and park by remaining below the height of existing street and park trees;
 - f. Form and elevations that make a positive contributions to the street, the park and the boundaries between areas;
 - g. Better links between the two adventure play areas; and
 - h. A robust, sustainable building.
12. Planning permission for the new building was granted and a separate planning application for the landscape works is awaiting determination.

Procurement project plan (Key Decision)

Activity	Completed by/Complete by
Forward Plan for Gateway 2 decision	02/06/2017
Briefed relevant cabinet member (over £100k)	29/05/2017
Approval of Gateway 1: Procurement Strategy Report	23/09/2016
Invitation to tender	21/07/2016

Activity	Completed by/Complete by:
Closing date for return of Stage 1 (PCSA) tenders	26/08/2016
Completion of evaluation of tenders	07/10/2016
Approval of Gateway 2: PCSA Contract Award Approval	01/11/2016
Closing date for return of Stage 2 tender	07/04/2017
Completion of evaluation of tender	26/06/2017
DCRB Review Gateway 2: Main Contract Award	28/06/2017
Request for Urgent Implementation	28/06/2017
Approval of Gateway 2: Main Contract Award Report	03/07/2017
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	N/A
Main Contract award	03/07/2017
Add to Contract Register	03/07/2017
Contract start	03/07/2017
Publication of award notice on Contracts Finder	03/07/2017
Contract completion date	28/02/2018
Contract completion date – if extension(s) exercised	29/01/2018

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

13. The use of the two stage design and build procurement route has allowed the council to bring a contractor on board early in this project to take forward the completion of the designs through the award of the PCSA under the JCT Design & Build Contract 2011.
14. This, the second stage of the tender, now confirms the price, based on completed designs and will also be awarded under the JCT Design & Build Contract 2011. This provides the council with more certainty in the costs of the main contract and ensures the Contractor carries total design responsibility for the scheme.
15. The building works will provide:
 - An accessible entrance;
 - Two accessible activity rooms on two levels;
 - Children's kitchen and art space;
 - Outdoor growing space at first floor level;
 - A child- oriented climbing facility;
 - New accessible toilet facilities;
 - New staff facilities;
 - Heating and ventilation with low energy costs; and
 - A low maintenance, sustainable building with BREEAM "Very good" rating

16. Landscaping works (subject to a future planning application) will provide:

- A new, safe and secure entrance;
- Secure access to the MUGA from the adventure play area;
- A new adventure playground; and
- Facilities for footballers and cyclists

Key/Non Key decisions

17. This report deals with a key decision.

Policy implications

18. The delivery of this project fits with the council's objectives as outlined in the fairer future promises, specifically:

- Promise 1: Value for Money
- Promise 5: Nurseries and Childcare
- Promise 6: A Greener Borough
- Promise 9: Revitalised Neighbourhoods

Tender process

19. The council undertook a two stage tender process inviting six contractors selected from the council's Works Approved list.
20. The ITT was issued to six contractors on 21 July 2016, with responses due 26 August 2016. A clarification process followed and as a result Neilcott Construction Ltd was awarded the PCSA contract on 1 Nov 2017 as set out in the Gateway 2 report dated 1 November 2016.
21. With this two stage approach to procurement, there is an expectation and likelihood that the contractor appointed for pre-construction services would be appointed for the works contract, subject to the formal decision of the contracting authority to proceed. Value for money is obtained through the application of competitively tendered framework rates for main contractor's core costs (i.e. management, design, certain preliminaries and overheads and profit) and by competitive tendering of the works packages by the main contractor.
22. As the successful tenderer at Stage 1, Neilcott Construction Ltd was invited in February 2017 to submit a Stage 2 tender return against the Employer's Requirements, which consisted of the overall scheme proposals including the design and specification for the project.
23. Due to an extended design process, discussions were held with the contractor and, as stated in paragraphs 2 and 3, an enabling works package and early orders were proposed in advance of the main contract award in order to assist in the overall project timetable. The enabling works package included the demolition and site clearance of the former adventure playground building and the early order package included the order for design of the structure of the new building and reservation of the piling rig to ensure a start on site date of 3 July 2017.

24. Following the process of design development and packaging of the scheme proposals, Neilcott Construction Ltd submitted prices for Stage 2 on 3 April 2017. A breakdown of the submission is set out in paragraph 5 of the closed report. The council's cost consultants discussed and negotiated the details with Neilcott Construction Ltd which resulted in a further submission received on 1 June 2017. The details of that submission are set out in paragraph 6 of the closed report.

Tender evaluation

25. As the quality assessment was undertaken as part of the Stage 1 tender evaluation, no further qualitative assessment was considered at the second stage.

Stage 2 – Construction Assessment

26. Following the PCSA design period, Neilcott Construction Ltd was required to submit a final construction cost for the works. This cost breakdown was then compared against the cost plan submitted within the Stage 1 tender submission.
27. The council received Neilcott Construction's original submission for these works in April 2017. However, as detailed in the closed report, it was not considered good value for money by the council's cost consultants and was over their initial proposal.
28. As a result, discussions have taken place between the capital projects team, Neilcott Construction Ltd and the council's professional services team, and their proposed cost plan and submitted rates have been subject to further interrogation. The final cost proposal submitted by Neilcott Construction Ltd on 1 June 2017 of £1,914,701.76 includes costs for the building and landscape works and represents value for money. Further details are set out in the closed report.
29. The council's external cost consultant has reviewed the final cost proposal from Neilcott Construction Ltd to ensure that it meets the council's requirements in terms of value for money. They have confirmed that, when benchmarked against comparative market data from other providers for similar projects, the price represents value for money.

Plans for the transition from the old to the new contract

30. The terms of engagement and Employers Requirements predicated in the PCSA agreement shall form part of the Stage 2 Contract Documentation.

Plans for monitoring and management of the contract

31. Monitoring and management of the contract will be carried out by Mace (Project Manager) & Mott McDonald (Quantity Surveyor) and Erect Architecture (Client side Landscape Architect). On-going management during construction will be through the necessary change control protocol identified within the JCT Design and Build Contract 2011 and through the council's internal governance arrangements.

Identified risks for the new contract

RISK		RISK LEVEL	MITIGATION ACTION
1.	Contractor has inadequate resources and management arrangements to deliver the main works project.	Low	The project team has ensured that the Contractor plans to – (1) deploy adequate resources and is willing to supplement additional resources to the project, if required. (2) put adequate management arrangements in place to deliver the project.
2.	Insolvency of contractor.	Low	An up-to-date financial check was obtained and this found the contractor to be at 'below average risk company; little reason to doubt credit'. The council shall closely monitor performance of firm once appointed.
3.	Construction delays on site due to: <ul style="list-style-type: none"> • Hidden obstructions below ground; and • Contamination below ground. 	Low	Desktop studies and non-intrusive surveys have been undertaken to anticipate and plan for potential hazards on site. Investigation and remediation works undertaken in enabling works contract have de-risked the site in readiness for the main contract works.
4.	Construction delays on site and additional costs.	Medium	Neilcott will pre-order components with long delivery period. Ensure that site operations are thoroughly and realistically planned, prior to commencement of the works. Allow appropriate contingency provision in the programme to cover possible loss and expense claims arising from delay and disruption of the works. Include Liquidated Damages for non-completion of contract by the contractor. This is also assisted by appointing Neilcott Construction Ltd which ensures consistency across the project.
5.	Delay to approval of planning conditions.	Low	The majority of planning conditions have now been discharged. Any further planning approvals will be submitted for planning approval in a timely manner to allow for approval periods.
6.	Default by key subcontractor/supplier.	Low	A select list of well established sub-contractors by trade maintained by the main contractor, which includes financial health checks and

	RISK	RISK LEVEL	MITIGATION ACTION
			performance monitoring.
7.	Delay to final agreement of contractor's proposals and contract documents.	Low	On going monitoring and forward programming to ensure close can be achieved.
8.	Failure to deliver the project within the specified budget	Medium	Throughout the design process the team have worked with the contractor to ensure proposed designs are within the approved budget. A VE exercise has also been undertaken to identify further savings. Extensive surveys have been undertaken on site to reduce any unknowns and both the contractor and the council's cost consultants will be regularly monitoring the progress of the project against the cost plan

Community impact statement

32. The proposed redevelopment of Mint Street Adventure Playground is intended to provide a range of public services of benefit to the local community. One of the main objectives of the design brief for the new facilities at Mint Street Adventure Playground will be to ensure the facilities are accessible to all members of the community regardless of age, disability, faith/religion, gender, race and ethnicity and sexual orientation.

Social Value considerations

33. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well being of the local area can be secured. The social value considerations included in the tender (as outlined in the Gateway 1 report) are set out in the following paragraphs in relation to the tender responses, evaluation and commitments to be delivered under the proposed contract.

Economic considerations

34. This proposal is bringing facilities up to a good standard enabling the service to continue existing provision with potential for reduced running costs to parks and leisure team budgets.
35. The completed works will benefit all the local community from improved access to community facilities and a community focal point.
36. Under promise 8 Education, employment and training of the Fairer Future Promises, the council has made a commitment to create 2,000 new apprenticeships by 2018. In accordance with council policy, Neilcott Construction Ltd has agreed to provide a minimum of two apprenticeship places. This is included within the contractual obligations and will be monitored in accordance with council policy.

37. The Stage 2 design and build contract for the main works to Revitalise Peckham Rye is recommended to be awarded to Neilcott Construction Ltd for a contract value of £1,914,701.76.

Social considerations

38. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, our contractors and subcontractors pay staff at a minimum rate equivalent to the LLW rate. Neilcott has confirmed that they already meet the LLW requirements. Following award, quality improvements and costs implications linked to the payment of LLW will be monitored as part of the contract review process.
39. The council can exclude companies who break the law by blacklisting if they are either still blacklisting or have not put into place genuine actions concerning past blacklisting activities. The council can require "self cleaning" which enables a potential contractor to show that it has or will take measures to put right its earlier wrongdoing and to prevent them from re-occurring and to provide evidence that the measures taken by the economic operator are sufficient to demonstrate it has:

"Owned Up": clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities
"Cleaned Up": taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct, and
"Paid Up": paid or undertaken to pay compensation in respect of any damage caused.
40. The council has requested the necessary information from Neilcott Construction Ltd (using the council's standard documentation in relation to blacklisting), and Neilcott Construction Ltd have confirmed that they have not taken part in any blacklisting. The contract conditions also include an express condition requiring compliance with the blacklist regulations, and include a provision to allow the contract to be terminated for breach of these requirements'.

Environmental/Sustainability considerations

41. The council aspires to deliver new buildings that will achieve at least BREEAM very good and whilst that is not required by planning in this instance, the design team have engaged an environmental consultant and have held workshops in order to ensure the design takes in to account the BREEAM standards and these have been incorporated in the design.
42. Neilcott Construction Ltd was assessed at the Stage 1 tender return on how they will conduct the works in a sustainable manner, and provided a 'satisfactory' response to the sustainability question.

Market considerations

43. Neilcott Construction Limited is a large regional company, operating in London and the south east of England. They have the ability to deliver a wide range of construction projects and have previously operated in both the public and private sectors.

Staffing implications

44. The monitoring and management of the contract is provided for via the council's appointment of Faithful & Gould. The Regeneration - Capital Works and Development team have oversight of this and this will be managed within the existing team resources.

Financial implications

45. The cost of £1,914,701.76 can be met from existing budgets contained within "Mint Street Adventure Playground" project.
46. The total expenditure incurred against the capital allocation for the scheme will be monitored and reported on as part of the overall Capital Programme.
47. Staffing and any other costs connected with this recommendation are to be contained within existing business unit budgets.
48. Any future maintenance connected with the asset after completion of this contract to be contained within existing Leisure Directorate revenue budgets.

Investment implications

49. There are no investment implications

Second stage appraisal (for construction contracts over £250,000 only)

50. In undertaking an Experian credit rating, it is confirmed that Neilcott Construction Ltd is rated as 'below average risk company; little reason to doubt credit' transactions to the limit assigned.

Legal implications

51. Please refer to paragraphs 64-67 for the concurrent of the Director of Law & Democracy

Consultation

52. The project team have undertaken a significant consultation process for this project. Numerous public consultation events have been held and feedback has been taken on board throughout the design process. A design reference group has been formed, with membership drawn from the local 'friend's of' group, the café operators, football clubs operating in the area, the play room managers and the local ward member. The project team will continue to meet with the design reference group throughout the construction process

Other implications or issues

53. None

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (CAP17/022)

54. This report is requesting the Chief executive to approve the award of the Mint Street Adventure Playground main contract to Neilcott Construction Ltd for a maximum value of £1,914,701.76, including enabling works and early orders, for the period of 30 weeks commencing on 3 July 2017.
55. The report also seeks confirmation from Chief Executive of the prior approval of an enabling works package awarded to Neilcott Construction Ltd to the value of £87,952.70, which is not in addition to the main contract but forms part of the total contract award value, for the reasons stated in paragraph 23 of the open report.
56. The report also seeks confirmation from Chief Executive of the prior approval of an early order package awarded to Neilcott Construction Ltd to the value of £23,400, which is not in addition to the main contract but forms part of the total contract award value, for the reasons stated in paragraph 23 of the open report.
57. The strategic director of finance and governance notes that the capital costs associated with this contract will be fully contained within the capital budgets for "Mint Street Adventure Playground" project, as mentioned in the financial implications.
58. The total expenditure incurred against the capital allocation for the scheme will be monitored and reported as part of the overall Capital Programme.
59. Staffing and any other costs relating to the monitoring of the contract will be contained within existing divisional resources.

Head of Procurement

60. This report seeks approval from the Chief Executive for the award of the main works contract for Mint Street Adventure Playground to Neilcott Construction Group for a maximum value of £1,914,701.76, which includes prior approval for an enabling works package and early orders, for the period of 30 weeks.
61. As the value of the works fall below the EU threshold it was not necessary to undertake an EU compliant tendering process. Tenders were therefore sought from suppliers on the council's works approved list in accordance with CSOs, on the basis of a two stage design and build procurement route. In November 2016 a Gateway 2 was approved to appoint Neilcott Construction Ltd, the successful tenderer at Stage 1, for pre-construction services in relation to this project. In line with the nature of a two staged approach to procurement, as detailed in paragraph 21, Neilcott Construction Ltd were then invited in February 2017 to submit a Stage 2 tender return against the Employer's Requirements for the main contract subject to value for money being demonstrated and satisfaction of the council's requirements.
62. Neilcott Construction Ltd's final cost proposal has been reviewed against comparative market data and the council's cost consultant has confirmed that the project represents value for money and meets the council's requirements.

63. The report confirms the monitoring and management arrangements that will be in place during the life of the contract including how Neilcott Construction Ltd have confirmed that they will provide a minimum of two apprenticeship places in line with council policy.

Director of Law and Democracy

64. This report seeks the approval of the chief executive to the award of the stage 2 contract (including enabling and early works packages) for the Mint Street Adventure Playground to Neilcott Construction Limited. As the decision falls within the circumstances noted in contract standing order (CSO) 6.5.2(i) it must be taken by the relevant chief officer or under their delegated authority in line with the department's scheme of management.
65. As the value of the works fall below the EU threshold it was not necessary to undertake an EU compliant tendering process. Tenders were therefore sought from suppliers on the council's works approved list in accordance with CSOs, on the basis of a two stage design and build procurement route. Neilcott Construction have already been appointed for the pre-construction services in relation to this project, which was approved in November 2016. As noted in paragraph 21, the nature of a 2 stage procurement approach is that there is an expectation that the contractor appointed for pre-construction services will be appointed for the main contract. However this is subject to value for money being demonstrated. As noted in paragraph 29, the council's external cost consultant has reviewed the final cost proposal, which represents value for money when benchmarked against comparative market data.
66. The chief executive's attention is drawn to the Public Sector Equality duty (PSED General Duty) under the Equality Act 2010, and when making decisions to have regard to the need to (a) eliminate discrimination, harassment, victimisation or other prohibited conduct, (b) to advance equality of opportunity and (c) foster good relations between persons who share a relevant protected characteristic and those who do not share it. The relevant characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation, The duty also applies to marriage and civil partnership but only in relation to (a). The chief executive is specifically referred to the community impact statement at paragraph 32 setting out the consideration that has been given to equalities issues which should be considered when approving this award.
67. CSO 2.3 requires that no steps are taken to award a contract unless the expenditure involved has been included in approved estimates or is otherwise approved by the council. Paragraphs 45-49 confirm the financial implications of this award

PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS

Under the powers delegated to me in accordance with the council's Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report.

Signature

Simon Blum

Date.....

29/4/17

Designation

DIRECTOR OF PLANNING

PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:

- 1) All key decisions taken by officers
- 2) Any non-key decisions which are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available.

1. DECISION(S)

As set out in the recommendations of the report.

2. REASONS FOR DECISION

As set out in the report.

3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION

Not applicable.

4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION

5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST

If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.

6. DECLARATION ON CONFLICTS OF INTERESTS

I declare that I was informed of no conflicts of interests.*

or

~~I declare that I was informed of the conflicts of interests set out in Part B4.*~~

(* - Please delete as appropriate)

BACKGROUND DOCUMENTS

Background documents	Held At	Contact
Gateway 1 Procurement Strategy Approval Mint Street Adventure Playground Building and Landscape Link: On request	Regeneration – Capital Works & Development	Laura Wannop 020 7525 5352
Gateway 2 - Contract Award Approval Mint Street Adventure Playground Building and Landscape Stage 1 Tender return and Pre-Construction Services Agreement Link: On request	Regeneration – Capital Works & Development	Laura Wannop 020 7525 5352

APPENDICES

No	Title
None	

AUDIT TRAIL

Lead Officer	Bruce Glockling, Head of Regeneration – Capital Works & Development	
Report Author	Laura Wannop, Project Manager	
Version	Final	
Dated	29 June 2017	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
Cabinet Member	N/A	N/A
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	N/A	N/A
Cabinet	N/A	N/A
Date final report sent to Constitutional Team		TBC

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