

Item No.	Classification: Open	Date: 21 March 2018	Decision Taker: Strategic Director of Housing and Modernisation
Report title:		Gateway 2 - Contract Award Construction of new build units at Pelier Street	
Ward(s) or groups affected:		Newington	
From:		Director of Asset Management	

RECOMMENDATION(S)

The Strategic Director of Housing and Modernisation:

1. Approves the award of works contract for Pelier Street to Neilcott Construction Ltd for the sum of £4,831,910, commencing Monday 2nd April 2018 for a period of 56 weeks from site possession.
2. Notes the total scheme costs of £5,699,713 details in paragraph 60.

BACKGROUND INFORMATION

3. Planning permission was granted in December 2016 for the construction of 17 new flats to be let at council rent levels.
4. Initially the planned procurement strategy was the subject of a Gateway 1 report which was approved by the Strategic Director of Housing and Modernisation on 19th September 2016. This was in accordance with the initial feasibility which estimated the contract sum as £2,612,880. However as the design proposals were put together and further site surveys were carried out the estimate cost sum increased to a pre-tender estimate of £4,160,000. Therefore the estimated contract sum exceeded the parameters to use the Council approved list of contractors for an under OJEU process and the procurement strategy outlined in the Gateway 1 report dated 19th September 2016. Therefore these works were procured following the OJEU restricted procedure.
5. This contract award relates to the council's housing strategy and commitment to build 11,000 new homes as agreed by Cabinet on 27 January 2015.
6. The tender is sought for a JCT Design & Build Contract 2011 based on Southwark's Employers Requirements and the Stage 4 scheme design.
7. The works contract will be for a fixed period of 56 weeks from date of the transfer of site possession from the council to the contractor.
8. The site referred to as Pelier Street throughout this report is located on the land to the North side of Hillingdon street at junction with Pelier Street, bounded to the East by a railway viaduct and West by Pelier Park, SE17.

Procurement project plan

9. See table below:

Activity	Completed by/Complete by:
Forward Plan for Gateway 2 decision	01/03/2018
Briefed relevant cabinet member (over £100K)	15/01/18
Approval of Gateway 1: Procurement Strategy Report	19/09/16
Invitation to tender	31/07/17
Closing date for return of tenders	10/10/17
Completion of evaluation of tenders	01/12/17
DCRB Review Gateway 2:	22/01/18
Notification of Forthcoming Decision	01/03/2018
Approval of Gateway 2: Contract Award Report	01/03/18
Scrutiny Call-in Period and Notification of Implementation of GW2 Decision	06/03/2018
Debrief Notice and Standstill Period (if applicable)	16/03/18
Contract award	16/03/18
Add to Contract Register	19/03/18
Publication of award notice in the OJEU	19/03/18
Publication of award notice on Contracts Finder	19/03/18
Contract start	02/04/18
Contract completion date	29/04/19

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

10. The procurement has enabled one contractor to be selected who will deliver construction works in line with the planning approval for 17 new homes. These new homes are part of the council's 11,000 new homes programme.
11. The contract value is considered to represent value for money. The build cost per square metre equates to approximately £3,256 /sqm which is considered value for money as detailed in paragraph 60/61.

Key/Non Key decisions

12. This report deals with a key decision

Policy implications

13. The 17 new homes at Pelier Street are in line with the council's principles and visions for a new housing strategy which is aimed at increasing the availability, affordability and quality of homes in the borough. The new homes will play a key role in assisting the council to achieve its target of building 11,000 new homes by 2043 and 1,500 by 2018.

Tender process

14. The works contract has been procured via the EU restricted procedure that follows two stages, Pre-Qualification (PQQ) followed by Invitation to Tender (ITT).
15. Following advertisement through the OJEU and the London tenders portal 9 contractors responded to the pre qualification questionnaire. The PQQ evaluation was conducted in accordance with the guidance in the invitation to tender, with the top 5 scoring contractors invited to tender (ITT Stage).
16. The tendering exercise was undertaken using the council's E Procurement portal, Pro Contract 3.
17. The closing date for the pre qualification questionnaire was 02/06/17. The closing date for the tenders was 10/10/17. The tenders were reviewed on 17/10/17. Three of the five firms invited to tender submitted a tender. Of those whom did not submit a tender, the reasons given were due to insufficient resources to complete the bid on time.
18. The pre qualification questionnaire and the quality section of the subsequent tenders were evaluated by two LBS officers and a representative from Pellings LLP (appointed as Employers Agent for the project). A consensus scoring method was used during this evaluation.
19. The price and contract sum analysis were examined by Pellings LLP (appointed as Quantity Surveyor for the project). Financial checks on each tenderer were completed by the council's Finance department.

Tender evaluation

Pre Qualification Questionnaire

20. The pre qualification questionnaire included a quality assessment that focused on the following:
 - a. Experience
 - b. Quality and Value for Money
 - c. Community Engagement
21. The following tables show the quality scores for the tenderers. The top 5 scoring tenderers highlighted in green were shortlisted and invited to ITT stage. The lowest scoring 4 contractors highlighted in red were not invited to ITT stage:

PQQ Overall Summary - With Exclusions		
Tenderer	Quality Score (100%)	Rank
Thomas Sinden Ltd	81%	1 st
Neilcott Construction Ltd	71%	2 nd
Osborne Property Services Ltd	71%	3 rd
Guildmore	67%	4 th
Star Contractors Ltd	66%	5 th
Glenman Corporation	65%	6 th
Sandwood Design and Build Ltd	56%	7 th
Bonds Builders and Contractors Ltd	54%	8 th
Skillcrown	0%	9 th

Invitation to Tender

22. As stated in the Gateway 1 report the most economically advantageous tender (MEAT) was adopted with a 60/40 price/quality split.
23. Tenderers were required to provide information to support their quality submission that demonstrated their ability to fulfil the requirements of the contract, the questions asked were focused around the following:
 - a. Quality, Innovation and Value for Money
 - b. Constraints and Delivery
 - c. Defects, Quality and Future Maintenance
24. The questions within the quality assessment were detailed in the tender evaluation assessment criteria included within the tender documents. The tender evaluation was carried out by two Council officers and the Employers Agent. The price/quality weightings are stated above (paragraph 23).
25. Tenderers were required to provide a contract sum and a contract sum analysis, which was scrutinised by the Employers Agent/ Quantity Surveyor.
26. Three of the five contractors invited to tender submitted a tender. Of those whom did not submit a tender, the reasons given were due to insufficient resources to complete the bid on time.
27. All tenderers met the quality threshold scores in accordance with the evaluation assessment criteria and therefore none of the tenders were excluded. The successful tenderer was Neilcott Construction Ltd. The scores achieved by the tenderers were as follows:
28. Tender Clarifications were sought on a number of points as detailed in the Tender Report in Appendix 1.
29. The successful tender submitted a contract sum of £4,831,910.

Plans for the transition from the old to the new contract

30. Not applicable

Plans for monitoring and management of the contract

31. The project clienting, including the management and administration of the contractor appointment will be run and resourced through the New Homes Delivery Team in the Asset Management Division of the Housing & Modernisation Department. Performance of the consultant team will be subject to constant scrutiny and monthly formal review including reviews on cost, quality and programme. The officer client team will use a number of mechanisms for monitoring and controlling the financial and programme performance of the contract, including,

- Strategic cost plan, which will be regularly reviewed and updated
- Monthly site meetings and monthly progress reports
- Monthly financial statements by the contractor and verification by the Employers Agent
- Monthly appraisals of progress against programme
- Tracking and chasing actions on critical issues
- Periodic project team 'look ahead' workshops covering key phases of work and risks
- Risk and issues log

32. Payment will be made monthly on the basis of a valuation that has been verified and agreed by the Employers Agent.

Identified risks for the new contract

RISK		RISK LEVEL	MITIGATION ACTION
1	Contractor has inadequate resources and management arrangements to mobilise and deliver the contract	Low	Contractors ability to resource and mobilise for the project has been tested through the procurement of this contract.
2.	Contractor risk of insolvency	Low	The New Homes Delivery Team has undertaken a credit check and are satisfied that the credit scoring is satisfactory. The Finance department have also undertaken financial checks and are satisfied with the financial standing of the company. A performance bond / guarantee for this project will be sought.
3.	Project cost overruns	Low	Surveys have been carried out which should help mitigate against there being any unforeseen site conditions or abnormalities which could lead to cost overruns. Any future variations will be fully scrutinised, justified and costed by the Employers Agent prior to instruction.

			<p>Value engineering will take place where necessary to ensure that the budget is achieved.</p> <p>A contingency has been included in the overall costs as detailed below in paragraph 60.</p>
4.	Project delivery delays resulting from discharge of planning conditions and liaison with third party organisations.	Medium	<p>The new homes delivery team will assist where possible with liaison with third parties to help mitigate delays, particularly any which may result from the discharge of planning conditions or necessary approvals from within the council. Reliance on utility companies remains a risk, particularly in relation to the relocation of the electrical substation. However the tender process tested the contractors experience in delivering construction projects, relying on successful liaison with third party organisations.</p>
5.	Project delivery delays (general)	Medium	<p>Liquidated ascertained damages sums have been included as part of the contract and will be claimable should the project overrun without any justification. Any extension of times will be fully scrutinised, justified and costed by the Employers Agent prior to agreement. Project progress will be monitored and slow progress will be addressed in the monthly project meetings.</p>
6.	Contractor seeking further negotiations on contractual terms prior to entering into contract.	Low	<p>A standard JCT works contract is being used, with the council's amendments to the terms clearly set out from the start of the tender process. The tender documents and clarifications during the tender process have been robust and clearly define the terms of the contract.</p>
7.	Damage to Network Rail Infrastructure	Low	<p>Contractors competency and experience in working in close proximity to Network Rail infrastructure has been assessed during the tender process.</p> <p>An independent risk assessment has been completed to assess the council's risk exposure in this regard.</p>
8.	Network Rail BAPA delays in signature.	Medium	<p>Network Rail have been consulted throughout and a draft BAPA has been agreed in principle, however this requires sign off from Southwark. An independent risk assessment has been completed to assess the council's risk exposure in this regard to enable signature of the agreement.</p>

33. A performance bond/guarantee will be provided by the contractor which is included within the works cost of this contract.

Other considerations (Design Specification Compliance)

34. Southwark council has standard specifications in a number of areas of work and these will be used as appropriate. This will include using Southwark Housing Design Standards.

Community impact statement

35. Southwark is a borough with high levels of deprivation, low income levels and high levels of housing need. Southwark's housing Strategy 2009-16 identified that there is a shortage of affordable housing in the borough, particularly of larger homes. Households from black and ethnic minority communities tend to be over-represented among those living in overcrowded, poor quality housing.
36. Cabinet agreed a new vision for Southwark through its 2013 to 2043 housing strategy which included a principle to use every tool at our disposal to increase the supply of all kinds of homes across Southwark.
37. The proposals to increase the supply of affordable, good quality homes will benefits households in need from all Southwark communities, and will increase the housing options available for older people and people with disabilities.
38. Those households in the vicinity of the new developments may experience inconvenience and disruption in the short term, whilst works are taking place but such communities will benefit in the longer term from the provision of new homes. Particularly as 50% of these homes will be let to existing tenants from the local area subject to an agreed local lettings policy.
39. Local residents will continue to be consulted at each stage of the development proposals as outlined in the Charter of Principles agreed by cabinet in November 2014. The pre-planning consultation with residents ran from February 2016 until the design was submitted for planning. There was an attempt to set-up a resident project team however only one resident expressed an interest in being involved in this kind of consultation. Therefore the decision was made to hold three drop in sessions in order to engage the maximum amount of residents.

Social Value considerations

40. 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.
41. The councils approach to procurement of design, development and construction process will ensure a requirement to maintain and improve the sustainability of each tendered project.

42. A low energy, efficient and cost effective building engineering services design that keeps running costs to a minimum will be an essential component of the project brief. Key considerations will include;
- Consideration of whole life-cycle costs
 - Sustainable sourcing
 - Incorporation of environmentally benign heating and lighting provision
 - Provision of facilities and equipment to encourage the re-use and recycling of materials including, where practical, water recycling.
 - Ensuring projects achieve Code of Sustainable Homes criteria or any successor requirement.
43. The appointed contractor will be participating in a local employment and training initiative in line with Southwark Economic Wellbeing Strategy 2012-20. The initiative will generally conform to any Local Government policy including requirements set-out by the Homes and Community Agency and/or Greater London Authority that generally will encompass the Contractor, wherever possible, being encouraged to employ local subcontractors and labour and shall involve the training and employment of local people. Such employment and training will be relevant to the needs of the local community.

Economic considerations

44. The design briefs for the new homes will be developed in consultation with the 'user client' officers and make it clear that the council is seeking developments that are not only attractive and functional in their design but also durable and easy to maintain with low running costs.
45. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, contractors engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. The 11,000 new homes programme is a strategically important undertaking for the council and its benefits are expected to be realised in a number of ways, including the recruitment of qualified staff, retention of staff and an improved service delivery to the council. Due to the nature of the professional service being sought those employed will be paid in excess of the LLW. Each firm has agreed to this in section 2.2 of the contract amendments issued with the tender.

Social considerations

46. The new housing will provide high quality affordable housing for local people in need of accommodation. 50% of these homes will be made available to existing tenants in the local area based on an agreed local lettings policy. The remainder will be made available to other households in need of accommodation from the council's housing register.
47. The new rented homes will be let at social rent levels.
48. Apprenticeship and work placement opportunities will be sought from suppliers as expected by the council linked to the value of the contract. It is anticipated that at least 4 apprenticeship opportunities will result from this contract. This will be secured within this contract. The facilitation of the apprentice opportunities will be coordinated with the council's Local Economy Team.

49. The contractor will be required, once appointed, to adhere to the council's commitment to the London Living Wage, which will apply to all staff working directly on this contract.

Environmental considerations

50. By investing in high quality and well designed buildings and estates the Council aim to achieve positive impacts which will benefit the environment and increase the stock of environmentally friendly buildings within the borough.
51. As part of the design development process, there will be a requirement for environmental assessments to be completed, with a view to identifying what impact would be caused by any proposed development.
52. The development secured planning permission on the basis of meeting the current environmental standards in relation to carbon reduction and on site energy production. The development demonstrates a reduction in carbon emissions by more than the 35% reduction (baselined from the 2011 building regulations) as required by the London Plan.

Market considerations

53. The market for construction services is good. Of the 9 firms that expressed an interest in the project at SQ stage, 5 were invited to tender and 3 subsequently provided a bid. This level of response is considered to be satisfactory.

Staffing implications

54. There are no specific staffing implications to this report.

Financial implications

55. The value of the contract arising from the procurement described in this report is £4,831,910, which form part of a wider programme. The project will also have associated on costs of £867,803, as detailed in the table below (62), which gives a total scheme cost of £5,699,713.
56. The project (100% Affordable Housing) can be funded 30% from Right to Buy (RTB) receipts allocated for new build and 70% from developer contributions under section 106, the latter subject to Planning Committee approving allocations to the relevant schemes.
57. The project has been modelled through the Council's Appraisal viability model which, based on cost estimates and assumptions at this stage, demonstrates that the proposal would be viable with a Cost to Value ratio of 68%. The cost per square meter is relatively higher than would normally be expected at £3,256 /sqm. This is in part due to the design and massing of the building which involves 17 units over 7 stories. The building has been designed to maximise the number of new homes on a small but open site in line with Planning Policy. When constructing a relatively small number of units in a relatively tall building, proportionately, the build costs are expected to be higher. A taller building has higher build costs due to the additional structural design requirements and increased cost (per unit) of the lift and stair core. The design was also required

by the Local Planning Authority to demonstrate 'exemplary design' in order to justify the higher density development, again increasing costs.

58. The contract sum is higher than the pre-tender cost estimate for the works (estimated by Quantity Surveyor Pellings LLP) of £4,160,000. However this was estimated before the detailed design work for tender stage had been completed. The successful tender sum of £4,831,910 results from a competitive tender process and reflects current market conditions. As detailed above the successful contractor did not submit the lowest tender sum but scored very highly on the quality element of the ITT submission, achieving the highest score overall in line with the evaluation methodology.
59. The following tables show the breakdown of the total scheme costs:

Project Cost Element Breakdown		
Works	£	4,831,910
Consultancy Fees	£	307,028
Surveys	£	21,858
Planning Payments	£	44,045
Network Rail BAPA	£	60,000
Internal Fees (4%)	£	193,276
Contingency (5%)	£	241,596
Total	£	5,699,713

Investment implications

60. The costs of this contract will be charged to the respective project cost programmed in the capital allocation for new homes delivery budgeted within the council's Housing Investment Programme.

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

61. A MINT credit check has been undertaken by the Council's Finance department.
62. In line with the requirements of the Contract Standing Orders, this report confirms that a restricted OJEU tender process was undertaken and that adequate financial provisions to fund the expenditure associated with the delivery of this project are set out in the paragraph 58 of this report. There are no other specific legal implications.

Legal implications

63. Please refer to paragraph 71 of this report for the legal concurrent.

Consultation

64. Local residents have been consulted throughout the design stage of the project and will continue to be consulted through a range of methods through each stage of the development, as outlined in the Charter of Principles agreed by Cabinet in November 2014.

Other implications or issues

65. Not applicable.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

66. This report is requesting approval from the Director of Housing and Modernisation to award a works contract for Pelier St to Neilcott Construction Ltd in the sum of £4,831,910.
67. The report confirms the procurement process that was followed in accordance with the Gateway 1 approval on 6 June 2017, which was to follow the EU (two stage) restricted procedure.
68. Paragraphs 15- 30 describe the tender process and how submissions were evaluated, which was on the basis of award to the most economically advantageous tender (MEAT) using a 60/40 price quality split. The report confirms that whilst Neilcott Construction Ltd price is 10.2% higher than the lowest bid, the quality element is significantly higher.
69. Paragraphs 33 to 34 detail the monitoring and management arrangements that will be in place during the life of the contract including payment terms that will be based on the monthly valuation.

Director of Law & Democracy

70. The Director of Law and Democracy notes the contents of this report which seeks the approval of the Strategic Director of Housing and Modernisation to the award of a works contract for the New Homes Delivery programme at Pelier Street to Neilcott Construction Limited.
71. Paragraph 4 of the report references the reasons for the change to the procurement strategy from an under EU threshold procurement using the council's approved list to an OJEU restricted tender process.
72. The council's Contracts Standing Orders (CSOs) 4.4 states that all contracts above the EU threshold values require compliance with the Public Contracts Regulations 2015 (PCR 2015) following a publicly advertised competitive tendering process, as set out in the CSOs and in line with the procurement guidelines. It is considered that these works fall under the Public Contracts Regulations 2015. On the basis of the information contained in this report it is confirmed that the procurement was carried out in accordance with CSOs and the PCR 2015.
73. Paragraph 59 states that whilst Neilcott Construction Limited was not the lowest priced bidder it scored very highly in the quality element thereby achieving the highest score overall in line with the evaluation methodology.
74. As part of the contract award process, there will need to be a standstill period of a minimum of 10 calendar days between notification of the successful tenderer

that they have won the contract and the award of the contract to that tenderer, so as to allow unsuccessful tenderers the opportunity to challenge (if they decide to) the award of the contract.

- 75. A contract award notice will need to be posted in the OJEU within 30 days of the award of the contract.
- 76. The CSO provides that a contract may only be awarded if the expenditure has been included in approved revenue or capital estimates or has been otherwise approved by, or on behalf of the council. Paragraph 57 of this report confirms how the proposed contract will be funded.

Strategic Director of Finance and Governance (H&M16/020)

- 77. The report is requesting delegated approval from the Director of Housing and Modernisation to award the new build contract for Pelier Street to Neilcott Construction Ltd for the sum of £4,831,910
- 78. The report identifies the total cost of works including fees and contingency to be £5,699,713. The financial implications section details how the scheme is to be funded and it is noted that these affordable units will be funded from S106 and RTB receipts. Any other costs connected with this contract are to be contained within the existing department revenue budgets.
- 79. There is an estimated resource shortfall for the Housing Investment programme for 2017/18 and also over the life of the whole programme. There is also likely to be further demand on the capital programme as a consequence of local or national demands for resources following the Grenfell fire. It is, therefore, important that the cost of these works is carefully monitored and that accurate forecasting is in place.
- 80. Any variation or extension to the contact beyond the scope of this report will require further approval.in line with the Council's procurement protocols.

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.



29 March 2018

Signature Date.....
Michael Scorer, Strategic Director of Housing and Modernisation

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
None
4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION
none
5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST
<i>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.</i>
none
6. DECLARATION ON CONFLICTS OF INTERESTS
<p>I declare that I was informed of no conflicts of interests.*</p> <p>or</p> <p>I declare that I was informed of the conflicts of interests set out in Part B4.*</p> <p>(* - Please delete as appropriate)</p>

BACKGROUND DOCUMENTS

Background documents	Held At	Contact
GW1 Contractor Procurement – Under OJEU (19 September 2016)	160 Tooley Street, SE1	Tim Bostridge

APPENDICES

No	Title
Appendix 1	Tender Report

AUDIT TRAIL

Lead Officer	Dave Markham, Direct of Asset Management	
Report Author	Simon Masters	
Version	Final	
Dated	21 March 2018	
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	N/a	N/a
Date final report sent to Constitutional Team		29 March 2018

BACKGROUND DOCUMENT – CONTRACT REGISTER UPDATE - GATEWAY 2

Contract Name	Works Contract for the New Homes Delivery programme – Pelier Street
Contract Description	Works Contract for the New Homes Delivery programme – Pelier Street
Contract Type	Works
Lead Contract Officer (name)	David Markham
Lead Contract Officer (phone number)	0207 525 7201
Department	Housing & Modernisation
Division	Asset Management
Procurement Route	Restricted OJEU
EU CPV Code (if appropriate)	45000000
Departmental/Corporate	Departmental
Fixed Price or Call Off	Fixed Price
Supplier(s) Name(s)	Neilcott Construction Ltd
Contract Total Value	£4,831,910
Contract Annual Value	N/A
Contract Start Date	05/03/18
Initial Term End Date	28/05/19
No. of Remaining Contract extensions	N/A
Contract Review Date	N/A
Revised End Date	N/A
SME/ VCSE (If either or both include Company Registration number and/or registered charity number)	N/A
Comments	
London Living Wage	Not fixed

This document should be passed to the member of staff in your department responsible for keeping your departmental contracts register up to date.