

Item No.	Classification: Open	Date: 14 June 2018	Meeting Name: Strategic Director of Environment and Social Regeneration
Report title:		Gateway 2 Contract Award Approval Area Z Camberwell Old Cemetery - Remediation Works Contractor	
Ward(s) or groups affected:		East Dulwich	
From:		Director of Leisure	

RECOMMENDATION(S)

That the strategic director of environment and social regeneration:

1. Approves the award for the remediation works contract at Area Z Camberwell Old Cemetery at a contract value of £1,102,963.80 for a period of 21 weeks from 23 July 2018 to Vertase FLI Ltd.
2. That the strategic director of environment and social regeneration approves the allocation of a contingency totalling £434,209 which will be held within the capital project budget.

BACKGROUND INFORMATION

3. The need to identify burial space in the borough has been an issue for the Council for several years. In June 2012 Cabinet approved a cemetery strategy which identified a number of sites within the borough's cemeteries where new burial space could be provided.
4. Area Z, Camberwell Old Cemetery, was one of the sites identified for new burial space. Area Z had been subject to illegal dumping of contaminated material in 2003 and as such there is a need to undertake remediation works in order to prepare the site to be landscaped to provide burial space.
5. The highest risk to these works is the quantification of the exact level of contaminated material that needs to be taken off site (despite significant site investigation having been undertaken) and as such GW1 approval was given to appoint a contractor on a two stage basis with the view of engaging the contractor early on in the design process to identify how best to minimise this risk.
6. The contract was procured on the basis that contractors provide a cost for the first stage (pre construction services agreement) and also for the cost of the remediation works. Contractors were asked to price three scenarios in terms of the remediation element; optimal recovery (minimal contaminated material to be taken off site), partial recovery (50% contaminated material to be taken off site) and no recovery (all dumped material to be taken off site) on the basis that the average of all three costs would be considered as part of the evaluation process.
7. In March 2018 the director of leisure approved the award of the first stage tender, pre contract services agreement (PCSA) to Vertase FLI Ltd in the sum of £14,848.00.

8. The two stage design and build procurement has allowed the environmental engineer, landscape architect and quantity surveyor to work with the contractor to finalise the design & approach to the value of £1,102,963.80 with the recommendation that the sum be based on the 'optimal recovery' remediation scenario. Added to that it is recommended that a project contingency of £434,209 be allocated.
9. As part of the pre-construction services Vertase FLI Ltd undertook various tasks in relation to the design and planning of the remediation works as per below:
- Contribute to the design specification process
 - Advise on deliverability, process, sequencing and construction risk
 - Assist with developing the methodology for remediation works
 - Obtain costs for any work packages from sub-contractors or suppliers on an open book basis
 - Prepare relevant (risk assessments,, method statements, procedural information and health and safety information associated with the proposed works
 - a site layout plan for the construction stage showing temporary facilities
 - Reviewing the materials management plan
 - Submitted application for a mobile treatment license from the Environment Agency
 - Preparation of relevant drawings
 - Development of a detailed schedule of rates
10. Following completion of the pre construction services, Vertase FLI provided costs for the three scenarios based on the volume of material which ultimately will need to be removed from site, along with a schedule of rates for all the main works. This was evaluated by an independent quantity surveyor to ensure the costs reflected the current market rates and provided value for money.

Procurement project plan (Key decisions)

Activity	Complete by:
DCRB Review Gateway 1:	04/07/2017
Approval of Gateway 1: Procurement strategy report	04/07/2017
Completion of tender documentation consultant brief	15/09/2017
Invitation to tender	15/09/2017
Closing date for return of tenders	06/11/2017
Completion of evaluation of tenders	20/02/2018
Gateway 2: PCSA Contract award report	09/03/2018
Contract award	12/03/2018
Add to Contract Register	12/03/2018
Contract start	12/03/2018
Initial Contract completion date	07/06/2018

DCRB Gateway 2: Main Contract award report	05/06/2018
Cabinet Member briefing	12/06/2018
Notification of forthcoming decision – Five clear working days	15/06/2018
Approval of Gateway 2: Contract Award Report	22/06/2018
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	29/06/2018
Contract award	02/07/2018
Add to Contract Register	02/07/2018
Add to Contracts Finder	02/07/2018
Contract start	23/07/2018
Initial Contract completion date	16/11/2018

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

11. 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 design approach for the remediation works, through the award of the PCSA under the JCT design and build contract 2011.
12. The outcome of stage one confirms the range of costs for the three different remediation scenarios (optimal, partial or no recovery). This provides the council with improved certainty on costs and timescales for the main contract. It should be noted that absolute cost certainty cannot be assured at this point given the unknown and mixed nature of the tipped material.
13. The second stage tender was carried out with the design team and an independently appointed quantity surveyor. The quantity surveyor assessed and challenged each element of the tender packages and tested these against current market rates to ensure value for money was being achieved.
14. This procurement will deliver the remediation of the site to resolve various problems with contaminated materials on-site. The stage two appointment will also be awarded under the JCT design and build contract 2011.
15. Once remediation works are complete, the area will be prepared for final landscaping works, with the latter being undertaken under a separate contract.

Key/Non Key decisions

16. This report deals with a key decision.

Policy implications

17. The award of this contract will allow the council to fulfil its obligation to implement the short term burial proposal as set out in the future service strategy for Southwark Cemeteries report approved by Cabinet in June 2012.

18. Planning permission for this scheme was granted in Oct 2015. In Feb 2017 faculty permission from the Diocese of Southwark was also granted to implement the scheme.
19. The works also require approval from the Environment Agency whom is considering the application and as such the contract will not be awarded until approval has been granted. Approval is expected prior to the 23 July 2018.

Tender process

20. As agreed in the approved Gateway 2 for stage one, Vertase FLI Ltd were appointed, from five tenders invited, to take forward the pre-construction services agreement from Mar 2018.
21. Whilst it is usually the case, that the second stage award will be made to the successful tenderer for the pre-construction services, it is not mandatory to do so and the council had reserved the right to re-tender.
22. During the second stage tender process the council's appointed design team and quantity surveyor scrutinised all aspects of the tender return; including preparation of relevant RAMs, method statements, procedural information and health and safety information associated with the proposed works. The tenderer costs were also scrutinised with areas identified where cost savings could be achieved.
23. Tendered rates were assessed by the quantity surveyor who tested them against market rates to ensure value for money was being achieved.

Tender evaluation

24. As the quality assessment was undertaken as part of the stage one, no further qualitative assessment was considered at the second stage.

Stage 2 construction assessment

25. Following the PCSA design period, Vertase FLI Ltd was required to submit final construction costs for the 3 differing remediation scenarios.
26. Appleyard & Trew, the independent quantity surveyor, have reviewed the final cost proposal from Vertase FLI 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 for similar projects, the costs represent value for money. As a result of the stage 1 process there has been a reduction in the cost of delivering the stage 2 works of £126,428.89.
27. The design team and independent quantity surveyor have been engaged in the second stage tender exercise and have provided the council with confidence that the final contract sum submitted by Vertase FLI Ltd has achieved value for money and is in line with current market rates.

Plans for the transition from the old to the new contract

28. There is no existing contract in place.

Plans for monitoring and management of the contract

29. The contract shall be managed by the lead environmental consultant Sevenoaks Environmental Consultants and the service development officer from the parks and leisure team.
30. Payment of invoices will be certified on satisfactory completion of works and paid in accordance with council timescales.
31. Regular progress meetings with the contractor shall be held to monitor progress against the programme and the budget.
32. Any significant unexpected deviance from either programme or budget shall be highlighted to relevant officers, as issues arise. A quantity surveyor has been appointed as part of these works.

Identified risks for the new contract

33.

Risk	Risk Rating	How Mitigated
Failure to complete project within the allocated budget with regard to the unknown quantity of contaminated materials within the stockpile	High	The contract value for the 'partial recovery' scenario has been agreed following a comprehensive value engineering exercise however, there remains the risk of unknown volumes of contaminated material within the stockpile. This risk is being moderated by having obtained a schedule of rates for removal of all anticipated contaminates. Regular updates and budget meetings with the design team, contractor and quantity surveyor will be held to ensure any additional costs are minimised.
Failure to complete project on time	Medium	A comprehensive monitoring regime will be implemented, comprising of regular updates and progress meetings with the consultant and lead client officer to ensure delays are kept to a minimum. The works are highly dependant on the weather in that they cannot be undertaken in wet conditions, hence works programmed for starting in July.
Provider failure	Low	Respective financial checks have been undertaken for Veratse FLI Ltd dated 30.11.17 and were deemed satisfactory.
Provider under performance	Low	The respective design consultants will be undertaking the contractor administration function and will be on site monitoring quality during the works

Community impact statement

34. This contract to undertake remediation works within Camberwell Old Cemetery will allow the council to deliver a cemetery service that addresses the needs of Southwark's diverse communities. The works are likely to cause disruption to those visiting the cemetery and neighbouring residents in that there will be noise, increased traffic and dust. Residents and users will be notified in advance of the works, timings of works have been limited to those specified in the planning application and works on site include wheel washing and wetting of the ground to limit dust.

Social Value considerations

35. 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 details of how social value will be incorporated within the tender are set out in the following paragraphs.

36. The contract includes a number of measures to manage the risk associated with the works which includes the appointment of a geotechnical expert responsible for ensuring the safe handling of the contaminated material.

37. The contractor is also required to produce and work to method statements to ensure the health and well being of the staff on site, users of the cemetery and neighbouring residents. These method statements will be scrutinised and approved by the project manager.

Economic considerations

38. The promotion of local economic benefit will be delivered by:

- Vertase FLI Ltd using local companies in their sub-contracting and supply chain arrangements where possible
- Vertase FLI Ltd employing additional staffing if required from the local labour market.

Social considerations

39. Vertase FLI Ltd will ensure that all appropriate staff engaged in the delivery of the services are paid the London Living Wage or above and to encourage its sub-consultants (if any) to do the same.

40. The contract will be let in compliance with section 149 of the Equality Act 2010 under which the council has a duty to have due regard in its decision making processes to the need to:

- (a) Eliminate discrimination, harassment, victimisation or other prohibited conduct.
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not.
- (c) Foster good relations between those who share a relevant characteristic and those that do not share it.

41. The relevant protected characteristics are age, disability, gender assignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. The Public Sector Equality

Duty also applies to marriage and civil partnership, but only in relation to (a) above. As the proposed contract is intended to deliver a master plan for the design and implementation of improvements to a well-used local community facility, officers are not aware of any actual or potential adverse impact on any individual or group within the local community having a protected characteristic under the Act.

Environmental considerations

42. Vertase FLI Ltd will be required to address all issues within the works specification including the protection of trees.
43. The scheme seeks to ensure minimal on-going use of resources such as water, energy and chemicals. Of particular importance will be consideration of whole-of-life costs associated with the improvement works and the implications for future maintenance.

Market considerations

44. Vertase FLI Ltd is a private organisation with a national area of activity.

Staffing implications

45. There are no implications for staffing as the client function will be provided by the Parks and Leisure business unit.

Financial implications

46. The cost of the scheme is £1,102,963.80 plus contingency £434,209 making the total contract value of £1,537,172.80. The budget is held within capital code: L-2340-0370.02.
47. The report is recommending approval to hold a project contingency of £434,209 in order to allow for increased costs to manage unforeseen ground contamination. Whilst a range of ground investigations have been undertaken there is still a significant risk that either underground obstacles could be found or below level ground contamination all of which would be required to be removed and the amount needed can be more than the amount stipulated with in the contract sum and contingency.
48. There is sufficient total remaining budget in the cemetery strategy project (L-2340-0370) as per 2018/19 capital programme, which is enough to fund this procurement.
49. The cost of this award sits within the available budget. Note this budget also provides for the follow-on landscape works.
50. The total expenditure incurred against the capital allocation for the scheme will be monitored and reported as part of the overall capital programme.
51. Any future maintenance costs arising from this investment will be funded from the existing Parks and Leisure business unit's revenue budgets.

Legal implications

52. There are no specific legal issues arising from this report. The method used to appoint Vertase FLI Ltd to undertake the remediation works is consistent with the process which is commonly followed under a design and build project and is consistent with legislative requirements and the council's Contract Standing Orders.

Consultation

- 53. Consultation was undertaken in November 2014 which included an exhibition detailing the proposals for Area Z.
- 54. A stakeholder group was also set up to share information and detail on the proposed plans for area Z and the proposed design has been amended to reflect some of the feedback received.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

- 55. A formal concurrent is not required as the estimated value of the works is below the EU advertising threshold.

Director of Law and Democracy

- 56. A formal concurrent is not required as the estimated value of the works is below the EU advertising threshold.

Strategic Director of Finance and Governance

- 57. This report is requesting the Strategic Director of Environment and Social Regeneration to approve the award for the remediation works contract at Area Z Camberwell Old Cemetery to Vertase FLI Ltd. for a period of 21 weeks from 23 July 2018.
- 58. The strategic director of finance and governance notes that the costs of the contract will be contained within the departmental capital budgets for the “cemetery strategy” project allocated under the Council’s capital programme.

FOR DELEGATED APPROVAL

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

Date: 28th June 2018.

Designation: Strategic Director of Environment & Social Regeneration

BACKGROUND DOCUMENTS

Background documents	Held At	Contact
Title of document(s) Gateway 1 – Remediation Works Area Z	Parks and Leisure 160 Tooley Street London SE1 2TZ	Sharon Lomas 020 7525 0878
Gateway 2 – Remediation Works Area Z		
Link: G:\Parks\Bereavement Services\Cemetery development\Cemetery Projects 2011 - 2014\Site Z		

AUDIT TRAIL

Lead Officer	Fiona Dean, Director of Leisure	
Report Author	John Wade, Business Development Manager, Park & Leisure	
Version	Final	
Dated	June 2018	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
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/Community Council/Scrutiny Team	N/A	

BACKGROUND DOCUMENT – CONTRACT REGISTER UPDATE - GATEWAY 2

Contract Name	Area Z Camberwell Old Cemetery - Remediation Works Contractor
Contract Description	Area Z Camberwell Old Cemetery - Remediation Works Contractor
Contract Type	Works
Lead Contract Officer (name)	Sharon Lomas
Lead Contract Officer (phone number)	020 7525 0878
Department	Environment and Social Regeneration
Division	Parks and Leisure
Procurement Route	Five tenders
EU CPV Code (if appropriate)	Not applicable
Departmental/Corporate	Departmental
Fixed Price or Call Off	Fixed Price
Supplier(s) Name(s)	Vertase FLI Ltd
Contract Total value	£1,102,963.80
Contract Annual Value	£1,102,963.80
Contract Start Date	Jul 2018
Initial Term End Date	Nov 2018
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	None
London Living Wage	Yes

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