

Item No:	Classification: Open	Date: 19 September 2019	Decision Taker: Strategic Director of Housing and Modernisation
Report title	GW2 Four Squares / Rouel Rd Plant Rooms & Water Tower QHIP 17-18		
Ward(s) or groups affected	South Bermondsey		
From	Director of Asset Management		

RECOMMENDATIONS

1. That the Strategic Director of Housing and Modernisation approves the award of the Rouel Rd / Four Squares Plant Room and Water Tank Replacement Programme 2017-18 QHIP via a mini-competition from the major works constructor framework to BSW Heating Ltd for a period of 70.

BACKGROUND INFORMATION

2. In October 2015, Cabinet approved the establishment of the major works constructor framework ('the framework') for a period of 4 years from 1 March 2016 in the four Lots as follows:
 - a. Lot 1 - Main building works (low value schemes up to £3.5m)
 - b. Lot 2 - Main building works (high value schemes over £3.5m)
 - c. Lot 3 - District mains, boilers and internal works
 - d. Lot 4 - Communal and electrical works
3. It was noted to Cabinet that the Strategic Director of Housing and Modernisation will take the decisions for works being instructed through the framework in line with his scheme of delegation and approval was obtained for exemption from contract standing order 4.5.2(h) requiring consideration of approval reports by the relevant DCRB for works being instructed through the framework.
4. The framework supports and works alongside the council's 3 existing major works partnering contracts ('partnering contracts') but more specifically, undertakes work in contract areas 1 and 2 where the partnering contracts were mutually concluded. It should be noted that 2 of the 3 partnering contractors act as reserve contractors for contract areas 1 and 2. The partnering contracts for contract areas 3, 4 and 5 are now in place until 13 June 2020 and have non-exclusive extensions in place with termination at will clauses. However, mini-competition through the framework will be used where there are no partnering contracts in existence.
5. The scope of works for this project includes - installation of hydraulic separation to all 5 plant rooms to the secondary heating circuit (Lucey Way, Amina 1 & 2, Rock Grove Way, and Woolstaplers) and all 4 plant rooms on the Four Squares Estate also to the secondary heating circuit (New Place Square, Lockwood Square, Marden Square & Layard Square) and renewal and relocation of the communal water tanks supply the whole estate and repositioning of the water tanks supply the estate (previously from the water tower).

6. Lot 3 is applicable to these works.
7. The duration of the works is 70 working weeks.
8. Works are expected to start on 4 November 2019 and complete on 15 March 2021.

Procurement project plan Key Decision

Activity	Completed by/Complete by:
Forward Plan for this Gateway 2 decision	01/05/2019
Approval of Gateway 2: Establishment of major works framework agreement	20/10/2015
Notice of Intention (Applies to Housing Section 20 Leaseholder Consultation)	06/11/2018
Mini competition invitation	12/12/2018
Closing date for return of tenders	13/02/2019
Completion of evaluation of tenders	11/03/2019
Notice of Proposal (Applies to Housing Section 20 Leaseholder Consultation)	16/05/2019
Notification of forthcoming decision – Five clear working days	11/09/2019
Approval of Gateway 2: Mini competition award report	16/09/2019
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	24/09/2019
Contract award	30/09/2019
Add to Contract Register	30/09/2019
Contract start	04/11/2019
Publication of award notice on Contracts Finder	04/11/2019
Contract completion date	15/03/2021

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

9. This scheme consists of works to **Four Square & Rouel Rd Estates** in the Bermondsey area. This includes 470 leasehold properties, 74 freehold properties and 22 Right to Buy (RTB) applicants. The address details are as follows:

Block Address
Amina Way 01
Amina Way 02
Lucey Way
Woolstaplers Way
Rock Grove Way
Marsden Square
Layard Square

Lockwood Square
New Place Square

Policy Implications

10. This scheme is designed to deal with work to meet the **Quality Homes Investment Programme (QHIP) 2017/18** which includes works to improvement works to district heating networks.
11. Planning consent **is not** required for the works being undertaken within this scheme.
12. As part of the overall procurement process for this framework, BSW Heating Ltd were assessed and indicated compliance with the council's equal opportunities policy. This scheme is for works to the housing stock and will benefit all residents in the blocks affected.
13. This report confirms that, where applicable, this scheme is designed in compliance with the council's design specification as included in the overall procurement process for the framework.

Mini competition Process

14. The call-off arrangements set out in the 'operation of the framework' document was followed and a mini-competition procedure was carried out.
15. As the scope of this work is of a nature where charges can be recovered from leaseholders under section 20 of the Landlord and Tenant Act 1987, leaseholder consultation was carried out. The council did not receive leaseholder nominations.
16. All contractors listed on Lot 3 were invited to participate in the mini-competition process with instructions to return the tender by 4pm 13 February 2019. The list of contractors invited is as follows:
 - **Vital Energi Utilities Ltd**
 - **StapleTech Ltd**
 - **K&T Heating Ltd**
 - **MPS Housing Ltd**
 - **BSW Heating Ltd**
17. Only 2 contractors returned a tender. Vital Energi Utilities Ltd declined to tender as they felt they didn't have enough time to submit a sufficient tender within the deadline date. K&T Heating Services Ltd opted out of tendering and Staple-Tech Ltd declined to tender for this project due to lack of resources.

Mini-competition Evaluation

18. The tenders were evaluated in line with the rules set out in the framework.
19. Representatives from Calfordseaden LLP (Calfordseaden) participated in the tender evaluation process which involved checking whether all requirements set out in the checklist were met and assessment of price and quality specific to this scheme.
20. All tenderers were required to complete and confirm that they meet the requirements set out in the checklist. The checklist was satisfactorily completed by all tenderers.
21. The quality element of the submissions was assessed on a pass/fail basis.
22. The quality criteria for these works were as follows:

- Resources and management of call-off contract.
- Management of sub-contractors.
- Health and Safety (H&S) proposals for the call-off contract.
- Design Proposals.

23. The quality submissions were scored using a 1 – 3 scoring systems as set out in the 'operation of the framework' document. At this stage, tenderers were required to meet a minimum threshold of 3. If they failed to meet this standard, they were not assessed any further in this process. All tenderers achieved the threshold 3.
24. The results of the quality criteria assessments were as follows:

Contractor	Pass/Fail
MPS Housing Ltd (formerly Mitie Ltd)	Pass
BSW Heating Ltd	Pass

25. Tenderers were required to complete a scheme specific schedule of rates. The price evaluation included the pricing of an actual works package plus rates for composite items. Separately tendered percentages applied to overheads and profit. The costs obtained for this scheme are based on the rates tendered within the framework. This does not preclude the contractor from offering a lower rate than the framework tender.
26. All priced documents submitted were checked for arithmetical errors and general compliance with the tender requirements by Calfordseaden LLP (Calfordseaden)
27. The prices submitted by BSW Heating Ltd and MPS Housing Ltd fully complied with tender requirements; the tenders were arithmetically checked and found to contain no errors.
28. The prices submitted by MPS Housing Ltd complied with tender requirements; the tender was arithmetically checked and found to contain no errors (albeit subject to financial adjustments in accordance with the framework conditions – the total, under the preliminaries section of the pricing document is £214,394.11, 6% of the building works value which is under their framework entitlement of 9% for measured works within the £2,000,000 - £3,500,000.00 range). Also, the framework rates for measurement work under the Major Projects Lot 3 framework agreement are generally not comparable with the scope of works for the proposed Rouel Rd Plant Rooms project due to the large proportion of general building works (not covered in the framework or where there is no corresponding comparable framework rate for specialist plant and equipment.

29. The prices submitted by BSW complied with tender requirements; however, they have not priced their tender return in accordance with Major Projects Constructor Framework. BSW have confirmed they are unable to utilise the framework rates as the majority of the units/items are not relevant in pricing this particular project. This is principally due to the amount of general building work for which there is no framework rates for under the Major Works Constructor Framework.
30. BSW have confirmed they have priced the preliminaries required in order to undertake the works which includes but are not limited to the fees associated with road closures, site welfare, site boards, site resource (Site Manager, RLO etc.) and Main Contractors design fees for the Contractors Designed elements of the works. BSW's rates and prices contained within their tender pricing schedule are consistently more competitive than that of MPS Housing Ltd although within an acceptable margin which when compared to the Pre-Tender estimate demonstrate a trend in the rates / prices.
31. The council's appointed quantity surveyor has confirmed that the pricing has been checked in line with the framework's schedule of rates and confirmed that they are a combination of equal to or lower than the rates set out on the framework.
32. Vital Energi Utilities Ltd opted out of submitting a tender on 17th January 2019 and confirmed the works are not related to their field of business. K&T Heating Services Ltd and Stapletech failed to respond to the opportunity. CSLLP have contacted K&T Heating Services Ltd have confirmed they are currently unable to resource the tender opportunity due other commitments.
33. Therefore, on the basis of the mini-tender submitted, the contractor recommended for this scheme is BSW Heating Ltd.

Plans for monitoring and management of the contract

34. The performance of the framework contractors is monitored and managed by the investment team in accordance with the framework. Each project manager in the investment delivery team or other departmental officers calling from the framework provide a quarterly monitor on the performance of the framework contractors on the schemes they are working on as the framework contractors are expected to achieve certain targets set out in the Key Performance Indicators (KPIs) around the areas of time, cost and quality.
35. The framework contractors are monitored against these KPIs on a regular basis as if the framework contractors fail to perform to the required standard, their 'call-off' contract(s) can be terminated, their mini-competition opportunities can be restricted or they can be removed from the framework.
36. It is confirmed that this framework contractor has had 0] contracts terminated, 0 mini-competition opportunity exclusions and they have not been removed from the framework for Lot 3
37. These 'call-off' contracts, whilst predominantly design and build contracts, have all design and work proposals examined and checked by both internal lead designers and cost consultants or by one of the council's professional technical services consultants, Calfordseaden LLP (Calfordseaden) or Potter Raper Ltd (formerly Potter Raper Partnership (PRL). It is confirmed for this scheme that the lead design services will be provided by Calfordseaden and cost management by Calfordeaden.
38. The spend and performance is monitored by the head of investment and reported each quarter to the major works core group led by the Deputy Leader and Cabinet Member for Housing, the Housing Investment Board led by the Strategic Director of Finance and Governance.

Health and Safety Plan

39. The CDM 2015 regulations require a developed health and safety plan to be in place prior to commencement of works and the appointment of the principal designer at scheme inception. It is confirmed that the principal designer role will be provided by Calfordseaden who were appointed on 15 April 2016. Works will not commence on site until it is confirmed that the health and safety plan is sufficiently developed for the type of works proposed.

Leasehold Implications

40. Formal legal consultation with leaseholders has been undertaken by the council's specialist housing services team. These works are rechargeable to leaseholders.

Legal Implications

41. It is confirmed that this scheme falls under Lot 3 and the 'call-off' contract to be used is JCT Intermediate Building Contract with Contractor's Design 2011. The contract documentation will be passed to legal services to formalise a contract for the scheme in due course.

Consultation

42. Consultation meetings were held with residents on 29 November 2018, 22 January 2019, 14 February 2019, 8 May 2019 and 13 May 2019.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (Ref)

43. Not required

Head of Procurement

44. This report is seeking Strategic Director of Housing and Modernisation approval for a works contract following a mini competition from the Major Works Construction Framework (lot 3) for the Rouel Road/Four Squares boiler tank rooms.
45. The report describes how the submissions were evaluated and the results of that process. It confirms that only two bidders were able to submit tenders out of the 5 for Lot 3 as two other firms advised that it was outside the scope of their business and the other firm already had other commitments.
46. As quality has been pre-assessed as a condition for entry onto the Major Works framework only price was evaluated for the purposes of this project. Despite there being only two bids the consultant and council officers confirm they are satisfied that the recommended provider can deliver the required quality for the price detailed in the recommendation.
47. The monitoring and managing arrangements for this contract going forward are described in paragraphs 42 to 47 and should ensure delivery is on time and to the required standards.

Director of Law and Democracy

- 48. This report seeks the approval of the Strategic Director of Housing and Modernisation to the award of the Rouel Road/Four Squares plant room and water tanks replacement programme QHIP 2017/ 2018 'call-off' contract to BSW Heating Ltd as further detailed in paragraph 1. It is confirmed at paragraph 4 that the decision to award works instructed through the major works constructor framework is reserved to the Strategic Director of Housing and Modernisation without the need for consideration of this report by his DCRB.
- 49. The value of the works is such that they are subject to taking all reasonable steps to obtain at least five tenders following a publicly advertised competitive tender process in accordance with contract standing orders (CSO) 4.3. However, paragraph 3 of this report confirms that in October 2015 a major works constructor framework was established, following an EU compliant tendering exercise, through which mini-competition procedures are undertaken under each of the four Lots.
- 50. Paragraph 19 confirms that a mini-competition procedure was carried out for these works under Lot 3 to the 5 framework contractors. However, paragraph 20 confirms that only 2 tenders were received including reasons why the other 3 framework contractors did not tender. It is necessary to consider whether the receipt of only 2 tenders allows the council to demonstrate that value for money has been obtained and paragraph 35 sets out reasons why BSW Heating Ltd is proposed as contractor for these works. Based on the information contained in this report, it is confirmed that this mini-competition was carried out in accordance with the major works constructor framework mini-competition process.
- 51. CSO 2.3 requires that no steps should be taken to award a contract unless the expenditure has been approved. Paragraphs 44-47 confirm the financial implications of this award.

Director of Exchequer (for housing contracts only)

- 52. These are works of repair and are therefore chargeable to leaseholders under the terms of their leases. There are 470 leasehold properties, 74 freehold properties and 22 RTB applicants included in the contract that will be affected by the works. In accordance with the Landlord and Tenant Act 1985 (as amended) Notices of Intention were served on 10 September 2018 and the observation period ended on 6 November 2018.
- 53. Section 20 notices of proposal were served on 8 April 2019 and expired on 16 May 2019. There were 27 observations received from homeowners included in this package and they were responded to in writing. The observations were not of a nature that would impact on the commencement of these works.

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 contained in the above report.

Signature.....  Date *10 October 2019*

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
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 <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>
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

Title:	Held at	Contact
Major works project file	160 Tooley Street, SE1 2QH	

APPENDICES

Appendix number	Title of appendix
n/a	

AUDIT TRAIL

Lead Officer	Ferenc Morath, Head of Investment		
Report Author	Bola Odusanya, Project Manager		
Version	Final		
Dated	19 September 2019		
Key Decision	Yes	If yes, decision date on forward plan	N/A

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
Director of Exchequer	Yes	Yes
Cabinet Member	n/a	n/a
Date final report sent to Constitutional Officer		

