

Item No:	Classification: Open	Date: 23 September 2019	Decision Taker: Strategic Director of Housing and Modernisation
Report title	Gateway 2 – Major works constructor framework (Lot 3) Brimmington District Heating Mains Replacement QHIP 2018/19		
Ward(s) or groups affected	Nunhead & Queens Rd		
From	Head of Investment		

RECOMMENDATIONS

1. That the Strategic Director of Housing and Modernisation approves the award of the Brimmington District Heating Mains Replacement Programme QHIP2018/19 via a mini-competition from the major works constructor framework to BSW Heating Ltd for a period of 44 weeks.

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 scheme includes replacement of the District Heating Network (underground mains pipework).
6. Lot 3 is applicable to these works.
7. The duration of the works is 44 working weeks.

8. Works are expected to start on 11 November 2019 and complete on 14 September 2020.

Procurement project plan (Key Decision)

Activity	Completed by/Complete by:
Forward Plan for this Gateway 2 decision	17/06/2019
Approval of Gateway 2: Establishment of major works framework agreement	16/06/2016
Notice of Intention (Applies to Housing Section 20 Leaseholder Consultation)	02/10/2018
Mini competition invitation	19/11/2018
Closing date for return of tenders	23/01/2019
Completion of evaluation of tenders	11/03/2019
Notice of Proposal (Applies to Housing Section 20 Leaseholder Consultation)	31/05/2019
Notification of forthcoming decision – Five clear working days	28/09/2019
Approval of Gateway 2: Mini competition award report	03/10/2019
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	10/10/2019
Contract award	11/10/2019
Add to Contract Register	11/10/2019
Contract start	11/11/2019
Publication of award notice on Contracts Finder	11/11/2019
Contract completion date	14/08/2020

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

9. This scheme consists of works to Brimington Estate in the Nunhead Queens Rd area. This includes 143 Leasehold properties, 7 Right to Buy (RTB) applicants and 48 Freeholders. The address details are as follows:

Block Address: Brimington Estate
117-147 Asylum Rd, London, SE15 2LB
1-101 Bath Close (odd), London, SE15 2JT/ 2JP
2-164 Bath Close (even), London, SE15 2JP/ 2JU
1-33 Blanch Close, London, SE15 2LD
2-116 Clifton Way (even), London, SE15 2LG
37-111 Clifton Way (odd), London, SE15 2LH
4-32 Culmore Rd, London, SE15 2RQ
1-41 King Arthur Close, London, SE15 2LP
1-51 Laburnum Close, London, SE15 2LJ
2-22 Loder St, London, SE15 2LF

1-81 Montague Square, London, SE15 2LQ/ 2LR
26 Pomeroy St, London, SE14 5BT
1-24 Roman Way, London, SE15 2JZ
1-150 Staveley Close, London, SE15 2JL/ 2JN/ 2JW

Policy Implications

10. This scheme is designed to deal with works to meet the Quality Homes Investment Programme (QHIP) 2018/19 which includes works to district heating system.
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.

Decent Homes

14. Once all works are completed under this scheme, all properties will achieve the Government's Decent Homes standard.

Mini competition Process

15. The call-off arrangements set out in the 'operation of the framework' document was followed and a mini-competition procedure was carried out.
16. 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.
17. All contractors listed on Lot 3 were invited to participate in the mini-competition process with instructions to return the tender by 4pm on 23 January 2019. The list of contractors invited is as follows:
 - **BSW Heating Ltd**
 - **MPS Housing Ltd (formerly MITIE Property Services (UK) Ltd)**
 - **Vital Energi Utilities Ltd**
 - **K&T Heating Services Ltd**
 - **Staple – Tech Ltd**
18. Only 2 contractors returned a tender; MPS Housing Ltd and BSW Heating Ltd. 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

19. The tenders were evaluated in line with the rules set out in the framework.
20. Representatives from Calford Seaden LLP and the Investment Team 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.
21. 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.
22. The quality element of the submissions was assessed on a pass/fail basis.
23. 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.
24. 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.
25. The results of the quality criteria assessments were as follows:

Contractor	Pass/Fail
BSW Heating Ltd	Pass
MPS Housing Ltd	Pass

26. 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.
27. All priced documents submitted were checked for arithmetical errors and general compliance with the tender requirements by Calford Seaden LLP.
28. The prices submitted by BSW Heating Ltd (BSW) fully complied with tender requirements; the tender was arithmetically checked and found to contain no arithmetical errors. The preliminaries equated to approximately 9.9% of the works sum and were deemed to be higher than expected for a project of this nature. It was also noted that 9.9% is higher than BSW's submitted framework percentage of 6%. BSW's submitted design fees are lower than their framework fees of 4%. Clarifications were raised by Calford Seaden LLP on 06 March 2019 and BSW confirmed on 06 March 2019 that 9.9% was the correct percentage (as explained in paragraph below).
29. The prices submitted by BSW Heating Ltd did not comply with the tender requirements return in accordance with Major Projects Lot 3 framework agreement. BSW Heating Ltd have confirmed their price is based on a sub –contractor quote (Isoplus) for the underground district heating pipework and associated civils works (excavation, backfilling and making good trenches) plus BSW Heating Ltd.'s preliminary costs required to resource and undertake the works in addition to a percentage addition for overheads and profits. "Calford Seaden LLP contacted BSW Heating Ltd who have confirmed they cannot accept any commercial adjustment to their tender figure to align with framework agreement and confirmed their tender sum is reflective of the works involved and the resource required to undertake the works."

30. The prices submitted by MPS Housing Ltd complied with the tender requirements; the tender was arithmetically checked and found to contain arithmetical errors which decreased their submitted tender. These errors were queried by Calford Seaden LLP on 06 March 2019 and MPS Housing Ltd confirmed on 06 March 2019 their revised tender sum.
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. 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

33. 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.
34. 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.
35. 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.
36. 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, Calford Seaden LLP. It is confirmed for this scheme that the lead design services will be provided by Calford Seaden LLP and cost management by Calford Seaden LLP.
37. 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

38. 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 Calford Seaden LLP 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

39. Formal legal consultation with leaseholders has been undertaken by the council's specialist housing services team.

Financial Implications

40. In addition to the works cost, it is considered prudent to add a 5% risk contingency fund, as identified in paragraph 2 above, to the contract sum to allow for any unforeseen issues. Any additional works will be agreed with the lead designer and project manager and any costs arising due to any unforeseen works will be agreed by the quantity surveyor.

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 and their representatives on 07 August 2018, 17 January 2019, 26 February 2019 and 22 May 2019.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (Ref)

- 43.

Head of Procurement

44. N/A

Director of Law and Democracy

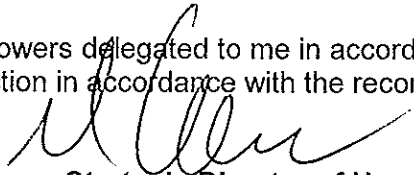
Director of Exchequer (for housing contracts only)

45. These are works of repair and are therefore chargeable to leaseholders under the terms of their leases. There are 143 leasehold properties, 48 freeholder properties, and 7 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 17 July 2018 and the observation period ended on 2 October 2018.
46. Section 20 notices of proposal were served on 18 April 2019 and expired on 5 June 2019. There were 2 observations received from leaseholders 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.

Project Manager	Date
Design & Delivery Manager	Date
Head of Investment	Date
Director of Asset Management	Date

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 *9 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>

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

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

APPENDICES

Appendix number	Title of appendix

AUDIT TRAIL

Lead Officer	Ferenc Morath, Head of Investment		
Report Author	Bola Odusanya Project Manager		
Version	1		
Dated	06/08/2019		
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/NO	
Director of Law and Governance	YES	YES/NO	
Director of Exchequer	YES	YES/NO	
Cabinet Member	YES	YES/NO	
Date final report sent to Constitutional Officer			