

Item No:	Classification: open	Date: 28 January 2020	Decision Taker: Strategic Director of Housing and Modernisation
Report title	Gateway 2 – Major works constructor framework Lot 2 Fair Street Estate QHIP 2018/2019		
Ward(s) or groups affected	London Bridge and West Bermondsey		
From	Head of Investment		

RECOMMENDATIONS

1. That the Strategic Director of Housing and Modernisation approves the award of the Fair Street Estate QHIP 2018/2019 call-off contract via a mini-competition from the major works constructor framework to Engie Regeneration Ltd for a period of 62 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 external works, kitchen and bathrooms (tenanted properties only), mechanical and electrical works, asbestos removal, window overhaul, asphalt repair, front entrance doors.
6. Lot 2 is applicable to these works.
7. The duration of the works is 62 working weeks.
8. Works are expected to start on 23 March 2020 and complete on 29 May 2021.
9. These works were initially programmed to commence in 2018; however, due to the complexity of the works and observation periods significantly impacted on the slippage of this project.

Procurement project plan (Key Decision)

Activity	Completed by/Complete by:
Forward Plan for this Gateway Decision	02/02/2020
Approval of Gateway 2: Establishment of major works framework agreement	20/10/2015
Notice of Intention (Applies to Housing Section 20 Leaseholder	11/04/2018
Mini competition invitation	03/05/2019
Closing date for return of tenders	16/05/2019
Completion of evaluation of tenders	10/06/2019
Notice of Proposal (Applies to Housing Section 20 Leaseholder Consultation)	13/08/2019
Notification of forthcoming decision – Five clear working days	03/02/2020
Approval of Gateway 2: Mini competition award report	05/02/2020
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	12/02/2020
Contract award	13/02/2020
Add to Contract Register	13/02/2020
Contract start	23/03/2020
Publication of award notice on Contracts Finder	20/03/2020
Contract completion date	29/05/2021

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

10. This scheme consists of works to Fair Street Estate in the South Bermondsey area. This includes 231 leasehold properties and 2 Right to Buy (RTB) applicants. The address details are as follows:

Block Address
Devon Mansion Building 1 (Block 1-3)
Devon Mansion Building 2 (Block 4-7)
Devon Mansion Building 3 (Block 8-13) and Hartland House
Devon Mansion Building 4 (Block 14-19)
Devon Mansion Building 5 (Block 20-21)
1-32 Lewes House
St Olaves Estate
2 Fair Street

11. The key work elements and indicative costs are as follows:

Work Element
External Works
Concrete Works
Kitchens
Bathroom & WC
Other Rooms
Mechanical & Electrical
Ld2s
Asbestos Removal
Windows
FRA Works
External Decorations
Sundries
Roof Works
Metal Work
Asphalt / Walkways
Doors
Brickwork Repairs
Scaffold / Temp Access

Policy Implications

12. This scheme is designed to deal with work to meet the Quality Housing Investment Program (QHIP) which includes works to maintain the decency of the buildings and deliver the council's commitment to quality kitchens and bathrooms.
13. Planning consent is required and application has been made for the installation of windows to block 1-40 St Johns Estate being undertaken within this scheme. Planning consent not yet received.
14. As part of the overall procurement process for this framework, Engie Regeneration 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.
15. 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

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

Mini competition Process

17. The call-off arrangements set out in the 'operation of the framework' document was followed and a mini-competition procedure was carried out.
18. 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.
19. All contractors listed on Lot 2 were invited to participate in the mini-competition process with instructions to return the tender by Friday 5 May 2019 by 12pm. The list of contractors invited is as follows:
 - Axis Europe Plc (Axis)
 - Durkan Limited
 - Engie Regeneration Ltd
 - Lakehouse Contracts Ltd (Lakehouse)
 - Mears Limited (Mears)
 - Mullaley and Co. Ltd
20. The contractors were granted a two week extension due to the tender period covering Easter holidays and contractors were instructed to submit their tenders by the revised deadline of 16 May 2019.
21. Only three contractors returned a tender. Axis emailed on 15 April 2019, via the council's e-portal system, that they opted out of this mini-competition exercise because they had limited resources to respond and Mears emailed on 16 April 2019 that they opted out of this mini-competition exercise because the workload they had in their tendering department meant they were unable to give the necessary attention to the opportunity.
22. No response was received from Lakehouse. However, Companies House records showed that this company was in administration at the time.

Mini-competition Evaluation

23. The tenders were evaluated in line with the rules set out in the framework.
24. Representatives from Calfordseaden LLP (Calfordseaden) 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.
25. 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.
26. The quality element of the submissions was assessed on a pass/fail basis.
27. 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.
28. The quality submissions were scored using a 1 – 3 scoring system 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.

29. The results of the quality criteria assessments were as follows:

Contractor	Pass/Fail
Durkan Ltd	Pass
Engie Regeneration Ltd	Pass
Mullaley and Co. Ltd	Pass

30. 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.
31. All priced documents submitted were checked for arithmetical errors and general compliance with the tender requirements by Calfordseaden.
32. The prices submitted by Durkan Ltd, Engie Regeneration Ltd and Mullaley and Co. Ltd fully complied with tender requirements; however, when the tenders were arithmetically checked, they were all found to contain the same error in one of the cells as a figure was not carried forward to reflect in the total. This error was due to a formula input error in the spreadsheet provided at mini-competition stage.
33. On 3 May 2019 Durkan Ltd, Engie Regeneration Ltd and Mullaley and Co. Ltd were notified of this error via the council's e-portal system and on 16 May 2019 all 3 contractors submitted revised tender sums.
34. 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.
35. Therefore on the basis of the mini-tender submitted, the contractor recommended for this scheme is Engie Regeneration Ltd.

Plans for monitoring and management of the contract

36. 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 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.
37. 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.
38. 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 1.
39. 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 or Potter Raper Ltd (formerly Potter Raper Partnership). It is confirmed for this scheme the lead design services will be provided by Calfordseaden and cost management by Calfordseaden.
40. 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, as well as the Housing Investment Board led by the strategic director of finance and governance.

Health and Safety Plan

41. 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 25 October 2017. 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

42. Formal legal consultations with leaseholders have been undertaken by the council's specialist housing services team.

Financial Implications

43. 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

44. It is confirmed that this scheme falls under Lot 2 and the 'call-off' contract to be used is JCT Intermediate Building 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

45. Consultation meetings were held with residents on 19 April 2018 and 30 October 2018 to discuss the scope of works. In addition, a leaseholders meeting was held on 10 September 2019 and on the 7 October 2019 to discuss the contributions. All residents, the T&RA and local councillors will be written to advise the commencement date of the works and a further meeting will be held.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (H&M19/)

46. The report is requesting delegated approval from the Strategic Director of Housing and Modernisation to award the works contract entitled Fair Street Estate QHIP 2018/2019 via a mini-competition from the major works constructor framework to Engie Regeneration Ltd.
47. Any other costs connected with this contract but outside the scope of this report are to be contained within existing departmental revenue budgets.
48. There is an estimated resource shortfall for the Housing Investment programme. There is also likely to be further demand on the capital programme and it is, therefore, important that the cost of these works is carefully monitored and that accurate forecasting is in place.
49. Any variation or extension to the contract beyond the scope of this report will require further approval in line with council's procurement protocols.

Head of Procurement

50. 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 2).
51. The report describes how the submissions were evaluated and the results of that process. Paragraphs 27 to 35 explains that both quality and price was evaluated for the purposes of this project. The report advises that council officers involved in the project are satisfied that the recommended provider can deliver the required quality for the price detailed in the recommendation.
52. The monitoring and managing arrangements for this contract going forward are described in paragraphs 39 to 43 and should go some way to ensuring the contract delivers to the time and price parameters of the award.

Director of Law and Democracy

53. This report seeks the approval of the Strategic Director of Housing and Modernisation to the award of the Fair Street Estate QHIP 2018/ 2019 'call-off' contract to Engie Regeneration 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.
54. 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.
55. Paragraph 20 confirms that a mini-competition procedure was carried out for these works under Lot 1 to the 6 framework contractors. However, paragraphs 22 and 23

confirm that only 3 tenders were received including reasons why the other 3 framework contractors did not tender. Paragraph 38 confirms that on the basis of the mini-competition submitted and the evaluation process carried out, Engie Regeneration Ltd is proposed as contractor for these works.

56. CSO 2.3 requires that no steps should be taken to award a contract unless the expenditure has been approved. Paragraphs 46-49 confirm the financial implications of this award.

Director of Exchequer (for housing contracts only)

57. These are works of repair and are therefore chargeable to leaseholders under the terms of their leases. There are 231 leasehold properties and 2 Right to Buy 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 12 October 2018 and the observation period ended on 12 December 2018.
58. Section 20 notices of proposal were served on 13 August 2019 and expired on 22 October 2019. There were 25 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.

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.



6 February 2020

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

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

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	Ola Adefala– Contract Manager		
Version	Final		
Dated	27 January 2020		
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		

BACKGROUND DOCUMENT – CONTRACT REGISTER UPDATE - GATEWAY 2

Contract Name	Fair Street TMO QHIP 18/19
Contract Description	QHIP refurbishment works.
Contract Type	JCT Intermediate Building Contract with Contractor's Design 2011
Lead Contract Officer (name)	Ola Adefala
Lead Contract Officer (phone number)	020 7525 1380
Department	Major Works
Division	Housing & Modernisation
Procurement Route	'Call-off' Major Works Constructor Framework
EU CPV Code (if appropriate)	N/A
Departmental/Corporate	Departmental
Fixed Price or Call Off	Call Off
Supplier(s) Name(s)	Engie LTD
Contract Annual Value	N/A
Contract Start Date	23 March 2020
Initial Term End Date	29 May 2021
No. of Remaining Contract extensions	0
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)	
Comments	
London Living Wage	Yes

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

