

<b>Item No:</b>	<b>Classification:</b> Open	<b>Date:</b> 25 March 2020	<b>Decision Taker:</b> Strategic Director of Housing and Modernisation
<b>Report title</b>	Gateway 2 - water source heat pumps		
<b>Ward(s) or groups affected</b>	Camberwell Green, Newington and Rye Lane		
<b>From</b>	Head of Engineering		

## RECOMMENDATIONS

1. That the Strategic Director of Housing and Modernisation approves the award of the Consort, Newington and Wyndham District Heating Heat Pump installations call-off contract to Vital Energi Utilities Ltd for a period of 50 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 district mains, boiler house works, heating controls upgrade and replacement, heat pumps installation and electrical upgrades to the support the above.
6. Lot 3 is applicable to these works.
7. The duration of the works is 50 working weeks.

8. Works are expected to start on 15 April 2020 and complete on 31 March 2021.

### Procurement project plan (Key Decision)

Activity	Completed by/Complete by:
Forward Plan for this Gateway 2 decision	18/11/2019
Approval of Gateway 2: Establishment of major works framework agreement	20/10/2015
Mini competition invitation	30/01/2020
Closing date for return of tenders	27/02/2020
Completion of evaluation of tenders	12/03/2020
Notification of forthcoming decision – Five clear working days	02/04/2020
Approval of Gateway 2: Mini competition award report	03/04/2020
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	13/04/2020
Contract award	14/04/2020
Add to Contract Register	14/04/2020
Contract start	15/04/2020
Publication of award notice on Contracts Finder	15/04/2020
Contract completion date	31/03/2021

### KEY ISSUES FOR CONSIDERATION

#### Description of procurement outcomes

9. This scheme consists of works to the heating systems on the Consort Estate in the Peckham Rye area, the Newington Estate in the Newington area and the Wyndham Estate in the Camberwell area. In total 2,196 properties are served by the district heating systems at these estates. These properties are a mixture of rental and home owner properties, though no works will be taking place to the dwellings themselves, only to the boiler houses and district heating communal areas. The address details of the works are therefore as follows:

Block Address
Consort Boiler House and external communal areas – no other blocks and no dwellings affected
Newington Boiler House and external communal areas – no other blocks and no dwellings affected
Wyndham Boiler House and external communal areas – no other blocks and no dwellings affected

#### Policy Implications

10. This scheme is designed to deal with work to meet the District Heating Strategy and Climate Emergency policies which includes works to improve the resilience of the council's district heating systems and to reduce carbon emissions.

11. Planning consent is required for a new UKPN sub-station that will be necessary at Newington Estate. The planning application for this will be the responsibility of the appointed contractor, Vital Energi Utilities Ltd, and is not expected to be contentious. All other works being undertaken within this scheme do not require planning consent.
12. As part of the overall procurement process for this framework, Vital Energi Utilities 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. The works to be completed under this scheme will improve the resilience of the District Heating systems at the three estates which supports the council achieving 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. All contractors listed on Lot 3 were invited to participate in the mini-competition process with instructions to return the tender by 5pm on 27 February 2020. The list of contractors invited is as follows:
  - BSW Heating Ltd
  - K&T Heating Services Ltd
  - MPS Housing Ltd
  - Staple-Tech Ltd
  - Vital Energi Utilities Ltd
17. Only one of the five contractors on the framework returned a tender - Vital Energi Utilities Ltd. The other four contractors all declined to return a tender. Responses were:
  - a. On 18 February 2020 BSW Heating Ltd emailed via the messaging facility of London Tenders Portal that they were opting out of the mini-competition citing an "unable to be competitive" reason.
  - b. On 23 January 2020 K&T Heating Services Ltd emailed via the messaging facility of London Tenders Portal that they were opting out of the mini-competition due to having insufficient resources at that time.
  - c. On 5 February 2020 MPS Housing Ltd emailed via the messaging facility of London Tenders Portal citing the reason "we will be unable to return the tender submission documents with the current level of risk regarding the RHI income funding % rate and the confirmed 31 March 2021 delivery date requirement for the completion of the three phases of the project."
  - d. On 4 February 2020 Staple-Tech Ltd emailed via the messaging facility of London Tenders Portal that they were opting out of the mini-competition due to having insufficient resources at that time.

### **Mini-competition Evaluation**

18. The tenders were evaluated in line with the rules set out in the framework.

19. Representatives from Calfordseaden LLP (Calfordseaden) and the engineering and compliance 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.
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 tenderer.
21. The quality element of the submission 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 submission was 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. The one tenderer achieved the threshold 3.
24. The results of the quality criteria assessments were as follows:
 

<b>Contractor</b>	<b>Pass/Fail</b>
Vital Energi Utilities Limited	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.
27. 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.
28. Therefore, on the basis of the mini-tender submitted, the contractor recommended for this scheme is Vital Energi Utilities Ltd.

**Plans for monitoring and management of the contract**

29. 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.
30. 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.
31. 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.

32. 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. It is confirmed for this scheme that the lead design services will be provided by Calfordseaden and cost management also by Calfordseaden.
33. 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**

34. 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 19 November 2019. 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**

35. As agreed with the council's specialist housing services team, these works are non-rechargeable to leaseholders. It has also been agreed that since the project produces a net income for the council (see paragraph **Error! Reference source not found.**) over the 20 year anticipated lifetime of the heat pumps, that no increases in heating charge or heating maintenance charge will be applied to leaseholders as a result of this project. Leaseholders have, however, been consulted along with other residents to ensure they are aware of the proposed project and any possible disruption on their estates.

### **Financial Implications**

36. In addition to the works cost, it is considered prudent to add a 10% risk contingency fund 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**

37. It is confirmed that this scheme falls under Lot 3 and the 'call-off' contract to be used is the 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**

38. Letters were sent to Tenant Resident Associations (TRA) during the feasibility phase to make residents aware of the project from the earliest stages. When the feasibility was complete consultation meetings were then held with residents at Consort Estate on 25 November 2019, at Wyndham Estate on 7 January 2020 and at Newington Estate on 13 January 2020 to discuss the scope of works. Ward councillors have all been emailed about the project and some chose to attend the resident meetings that were held. TRAs have had further email updates as the project has progressed. All residents, the TRA and local councillors will receive a further letter to let them know the commencement date of the works and further meetings will be held to introduce Vital Energi Utilities Ltd.

## **COVID-19 Implications**

39. Due to the rapid spread of the COVID-19 virus and the need for social distancing, the UK government has issued instructions for everyone to stay at home with a few exceptions. This includes working from home wherever possible. With this in mind, the Council intends to let this contract to Vital Energi Utilities Limited with the instruction that they and their sub-contractors should undertake design elements of the contract but not start work on site until further instruction is provided. The Council will also include a general clause within the contract to stipulate that every part of the supply chain must abide by the government's advice regarding COVID-19 to ensure that this contract does not contribute to the spread of the virus or endanger the lives of our communities, staff or the contractors themselves.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Finance and Governance (H&M 19/183)**

40. This report seeks approval from the Strategic Director of Housing and Modernisation to award a contract to Vital Energi Utilities Limited to provide heat pump installations for the Consort, Newington and Wyndham district heating systems.
41. There is an estimated resource shortfall for the whole life of the Housing Investment Programme. There is also likely to be further demand on the capital programme as a consequence of local or national demand for resources following the Grenfell fire. It is therefore important that the costs of these works are carefully monitored and that accurate forecasting is in place.
42. Any variation or extension of the contract beyond the scope of this report will require further approval in line with the council's procurement protocols

### **Head of Procurement**

43. This report is requesting approval from the Strategic Director Of Housing and Modernisation to award a works contract for Consort, Newington and Wyndham Estate to Vital Energi Utilities Ltd.
44. The report details the procurement process that was followed namely a mini competition from the Council's major works construction framework Lot 3 that was awarded 1 March 2016.
45. Paragraphs 15 - 28 describe the call off process and confirms the only submission received was evaluated, with the rules established when the framework was awarded. The report confirms that only one contractor submitted a compliant bid with the other four contractors invited unable to make submissions for the reasons detailed in paragraph 17.
46. The Council's appointed quantity surveyor has confirmed that the price submitted by Vital Energi Utilities Ltd is in line with the frameworks schedule of rates, being equal or lower than the rates set in the framework.
47. Paragraphs 29 to 33 detail the monitoring and management arrangements that will be in place during the 50 week period of this contract including payment terms that will be based on the monthly valuation.

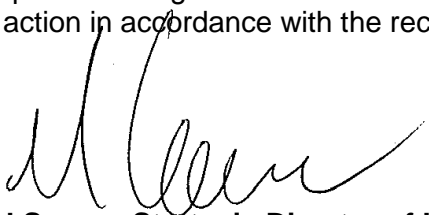
### **Director of Law and Democracy**

48. This report seeks the approval of the Strategic Director of Housing and Modernisation to the award of the Consort, Wyndham and Newington District Heating Heat Pump Installation 'call-off' contract to Vital Energi Utilities Ltd as further detailed in paragraph

1. It is confirmed at paragraph 3 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 2 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. This report confirms that a mini-competition procedure was carried out for these works under Lot 3 to the 5 framework contractors and only 1 tender was received. However, as noted in paragraph 17, the reasons why the other 4 framework contractors declined to bid are included. It is necessary to consider whether the receipt of 1 tender allows the council to demonstrate that value for money has been obtained. Officers are satisfied that the mini-competition was carried out in accordance with the major works constructor framework mini-competition process and that Vital Energi Utilities Ltd's bid was priced in line with the framework rates.
51. CSO 2.3 requires that no steps should be taken to award a contract unless the expenditure has been approved. Paragraph 36 confirms the financial implications of this award.

**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 3 April 2020  
**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.

<b>1. DECISION(S)</b>
As set out in the recommendations of the report.
<b>2. REASONS FOR DECISION</b>
As set out in the report.
<b>3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION</b>
Not applicable.
<b>4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION</b>

<b>1. DECISION(S)</b>
<b>5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST</b>
<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>
<b>6. DECLARATION ON CONFLICTS OF INTERESTS</b>
I declare that I was informed of no conflicts of interests.*
or
<del>I declare that I was informed of the conflicts of interests set out in Part B4.*</del>
(* - 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

<b>Lead Officer</b>	Tony Hunter, Head of Engineering		
<b>Report Author</b>	Tom Vosper, Strategic Project Manager – Heat Networks		
<b>Version</b>	Final		
<b>Dated</b>	25 March 2020		
<b>Key Decision</b>	Yes	<b>If yes, decision date on forward plan</b>	March 2020
<b>CONSULTATION WITH OTHER OFFICERS/DIRECTORATES/CABINET MEMBER</b>			
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments Included</b>	
Strategic Director of Finance and Governance	Yes	Yes	
Head of Procurement	Yes	Yes	
Director of Law and Democracy	Yes	Yes	
Director of Exchequer	N/a	N/a	
Cabinet Member	N/a	N/a	
<b>Date final report sent to Constitutional Officer</b>	6 April 2020		



## BACKGROUND DOCUMENT – CONTRACT REGISTER UPDATE - GATEWAY 2

Contract Name	Consort, Newington and Wyndham District Heating Heat Pump installations
Contract Description	Design and build district heating improvement works
Contract Type	JCT Intermediate Building Contract with Contractor's Design 2011
Lead Contract Officer (name)	Tom Vosper
Lead Contract Officer (phone number)	020 7525 7244
Department	Housing and Modernisation
Division	Asset Management
Procurement Route	'Call-off' Major Works Constructor Framework
EU CPV Code (if appropriate)	N/A
Departmental/Corporate	Departmental
Fixed Price or Call Off	
Supplier(s) Name(s)	Vital Energi Utilities Limited
Contract Total Value	£6,995,695.00
Contract Annual Value	
Contract Start Date	15/4/2020
Initial Term End Date	31/3/2021
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.