

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 5 March 2020	<b>Decision Taker:</b> Strategic Director of Housing and Modernisation
<b>Report title:</b>		GW2 - Approval of the procurement of contractor services Sedgmoor Place	
<b>Ward(s) or groups affected:</b>		Brunswick Park	
<b>From:</b>		Director of New Homes Development	

## RECOMMENDATION(S)

The Strategic Director of Housing and Modernisation:

1. Approves the award of a works contract for 13 new homes at Sedgmoor Place SE5 to Neilcott Construction Limited for a period of 65 weeks including mobilisation.
2. Notes the total scheme cost includes associated on-costs and a 5% contingency sum.

## BACKGROUND INFORMATION

3. Planning permission was granted in September 2019 for a total of 13 new homes for council rent.
4. The initial procurement strategy was the subject of a Gateway 1 report which was approved by the Strategic Director of Housing and Modernisation (SDH&M) on 6<sup>th</sup> June 2016. The Gateway 1 report set out the intention to undertake a mini competition procurement exercise via the councils approved list.
5. A “long list” of eleven contractors were identified by the design team. Eleven contractors were chosen on this occasion due to the complexity of the design, market considerations, and a previous failing to obtain five tenders for a similar sized-scheme during a similar time.
6. The council received nine responses to an initial expression of interest. One tenderer was unable to proceed due to their MINT report and financial standing not meeting the required benchmarks. An ITT was issued on 24<sup>th</sup> November 2019 to eight contractors. Five qualified tenders were received by the council at the conclusion of the ITT stage on the 31st January 2020.
7. The procurement strategy relates to the council’s 11,000 new homes programme.
8. Tenders from the framework contractors were sought on the basis of a JCT Design & Build Contract 2016 (with Southwark’s standard amendments) together with Southwark’s Employers Requirements and the Stage 4 scheme design.
9. The works contract will be for a fixed period of 63 weeks including 12 weeks for mobilisation from the date of the transfer of site possession from the council to the contractor.

## Procurement project plan (Key Decision)

10. See table below:

Activity	Completed by/Complete by:
Forward Plan for Gateway 2 decision	27/02/2020
Briefed relevant cabinet member (over £100k)	24/03/2020
Approval of Gateway 1: Procurement Strategy Report	07/06/2016
Invitation to tender	24/11/2019
Closing date for return of tenders	31/01/2020
Completion of evaluation of tenders	26/02/2020
DCRB Review Gateway 2:	31/03/2020
Notification of forthcoming decision – Five clear working days	05/05/2020
Approval of Gateway 2: Contract Award Report	14/05/2020
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	22/05/2020
Contract award	25/05/2020
Add to Contract Register	25/05/2020
Contract start	26/05/2020
Publication of award notice on Contracts Finder	28/05/2020
Contract completion date	27/07/2021

## KEY ISSUES FOR CONSIDERATION

### Description of procurement outcomes

11. The procurement was designed to select one contractor who will deliver construction works in line with the planning approval for the Sedgmoor Place housing development.
12. The tendered price is considered to be competitive and compares favourably with other projects within the 11,000 new homes programme of this complexity. The sum is within a satisfactory range of the pre-tender cost estimate for the works undertaken by the consultant Quantity Surveyor at Philip Pank Partnership.

### Key/Non Key decisions

13. This report deals with a key decision

### Policy implications

14. The construction of these 13 new homes is in line with the council's principles and visions for a new housing strategy which is aimed at increasing the availability,

affordability and quality of homes in the borough. The new homes will play a key role in assisting the council to achieve its target of building 11,000 new homes by 2043. The programme has a short term objective of 2,500 homes by 2022.

**Tender process**

- 15. The Sedgmoor Place construction contract was tendered using the Councils sub-OJEU approved list and a mini-competition with an initial expression of interest followed by an invitation to tender. The call off arrangements set out in the operation of the list were followed
- 16. 11 contractors were selected from the approved list and asked to complete an expression of interest in bidding for the scheme. Eight contractors were invited to tender in accordance with the guidance in the invitation to tender, resulting in five contractors tendering for the work.
- 17. The tendering exercise was undertaken using the council’s E Procurement portal, Pro Contract 3.
- 18. The closing date for the expression of interest was 24<sup>th</sup> November 2019. The closing date for the tenders was 10 January 2020 then extended to 31<sup>st</sup> January 2020.
- 19. The price and contract sum analysis were examined by the appointed Quantity Surveyor for the project, Philip Pank Partnership. Financial checks on each tenderer were completed by the council’s Finance department.

**Tender evaluation**

*Invitation to Tender*

- 20. The tenders were evaluated on the basis of the most economically advantageous tender (MEAT), with a 40/60 quality/price split. For this particular scheme pricing is scored with median price combined with lowest price to prevent distortion from abnormally low tenderers.
- 21. Tenderers were required to provide information to support their quality submission that demonstrated their ability to fulfil the requirements of the contract. The questions asked were focused around the following:
  - a. Experience 8%
  - b. Delivery, Quality & Compliance 8%
  - c. Design Management 3%
  - d. Subcontractors 3%
  - e. Health & Safety 5%
  - f. Constraints and Delivery 4%
  - g. Fire Safety 5%
  - h. Social Value 2%
- 22. The questions within the quality assessment were weighted as listed and detailed in the tender evaluation assessment criteria included within the tender documents. The full quality scores are within the closed report

<b>Tenderer</b>	<b>Rank</b>
Neilcott Construction Limited	1

Thomas Sinden	2
Standage and Co. LTD	3
Ark Build PLC	4
Faithdean PLC	5

23. Tenderers were required to provide a contract sum and a contract sum analysis, which was evaluated by the Employers Agent, Philip Pank Partnership

24. All firms invited to tender submitted a tender.

25. The scoring for price awards maximum points to the tenderer which has an overall combination of the lowest price (50%) and the closest to the median price (50%). Each remaining tenderers' price was awarded a score based on the percentage difference between their submission and that of the most competitive (the lowest bid which could also be an abnormally low bid). The formula used for the price score is below:

Lowest Price Scoring

Price weighting **divided by** (Tender Sum **divided by** Lowest Tender Sum) **multiplied by** 50% **equals** Lowest Scoring

Median Scoring

Tender Sum **minus** Median Tender Sum **converted** from negative to positive (if necessary) **equals** Adjusted Sum

Median Tender Sum **plus** Adjusted Sum **equals** Average Sum

Price Weighting **divided by** (Average Sum **divided by** Median Tender Sum) **multiplied by** 50% **equals** Median Scoring

Total Scoring

Lowest Scoring **plus** Median Scoring **equals** Total Scoring

26. All tenderers met the quality threshold scores (score of 3/5 or above) in accordance with the evaluation assessment criteria and there were no tenders excluded. The successful tenderer was Neilcott Construction Limited. The combined scores achieved by the tenderers were as follows:

Tenderer	Rank
Neilcott Construction construction	1
Thomas Sinden	2
Standage and Co.	3
Ark Build PLC	4
Faithdean PLC	5

27. The successful tenderer submitted a contract sum that was acceptable.

28. A full breakdown of both quality and cost scores for all tenderers on each package is provided in the closed report and associated appendices.

**Plans for the transition from the old to the new contract**

29. Not applicable as not a transition to a new contract.

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

30. The project management, including the management and administration of the contractor appointment, will be run and resourced through the New Homes Development Team. Performance of the consultant team will be subject to constant scrutiny and monthly formal review including reviews on cost, quality and programme. The officer client team will use a number of mechanisms for monitoring and controlling the financial and programme performance of the contract, including:

- Strategic cost plan, which will be regularly reviewed and updated
- Monthly site meetings and monthly progress reports
- Monthly financial statements by the contractor and verification by the Employers Agent
- Monthly appraisals of progress against programme
- Tracking and chasing actions on critical issues
- Periodic project team 'look ahead' workshops covering key phases of work and risks
- Risk and issues log

31. Payment will be made on a monthly on the basis of a valuation that has been verified and agreed by the Employers Agent.

**Identified risks for the new contract**

32.

RISK		RISK LEVEL	MITIGATION ACTION
1	Contractor has inadequate resources and management arrangements to mobilise and deliver the contract	Low	The New Homes Delivery Team will monitor the contract and regularly review performance.
2.	Contractor risk of insolvency	Low	The New Homes Delivery Team has undertaken a credit check that gives Neilcott Construction Limited a score of 99% January 2020 and are satisfied that the credit scoring is satisfactory. NHBC insolvency cover will be obtained by the contractor, in addition a parent company guarantee for this project will be sought.
3.	Project cost overruns	Low	The form of contract used for this project is a JCT Design and Build 2016 contract and the contract sum is all inclusive subject to any provisional sums and future variations. All the surveys which the council anticipates will be necessary have been carried out which should help mitigate against there being any unforeseen

			site conditions or abnormalities. The Employer's Agent has assessed Neilcott Construction Limited's offer and calculated that their provisional sums can be covered by the 5% contingency which has been added to the total scheme cost. Any future variations will be fully scrutinised, justified and costed by the Employer's Agent prior to instruction. Value engineering will take place where necessary to ensure that the budget is achieved.
4.	Project delivery delays resulting from discharge of planning conditions and liaison with third party organisations.	Medium	The new homes delivery team will assist where possible with liaison with third parties to help mitigate delays, particularly any which may result from the discharge of planning conditions or necessary approvals from within the council. Any extension of times will be fully scrutinised, justified and costed by the Employer's Agent and concerns monitored at regularly meetings with the contractor. Liquidated Ascertained Damages sums have been included as part of the contract and will be claimable should the project overrun without justification.
5	Contractor seeks negotiations on contractual terms prior to entering into contract.	Low	The tender documents and clarifications during the tender process have been robust and clearly define the terms of the contract.
6	Covid-19	Medium	At time or writing there could still be supply chain delays, labour shortages and new methods of working that may impact upon timescales for delivery. This will be monitored together with national and local guidance on policy and supply chain activity.

33. A performance bond /and parent company guarantee will be provided for this contract.

**Other considerations (Design Specification Compliance)**

34. Southwark council has standard specifications in a number of areas of work and these will be used as appropriate. This will include using Southwark Housing Design Standards.

**Community impact statement**

35. Southwark is a borough with high levels of deprivation, low income levels and high levels of housing need. Southwark's housing Strategy 2009-16 identified that there is a shortage of affordable housing in the borough, particularly of larger homes. Households from black and ethnic minority communities tend to be over-represented among those living in overcrowded, poor quality housing.
36. Cabinet agreed a new vision for Southwark through its 2013 to 2043 housing strategy which included a principle to use every tool at our disposal to increase the supply of all kinds of homes across Southwark.
37. The proposals to increase the supply of affordable, good quality homes will benefit households in need from all Southwark communities, and will increase the housing options available for older people and people with disabilities.
38. Those households in the vicinity of the new developments may experience inconvenience and disruption in the short term, whilst works are taking place but such communities will benefit in the longer term from the provision of new homes. Particularly as 50% of these homes will be let to existing tenants from the local area subject to an agreed local lettings policy.
39. Local residents will continue to be consulted at each stage of the development proposals as outlined in the Charter of Principles agreed by cabinet in November 2014.

#### **Social Value considerations**

40. 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 social value considerations included in the tender (as outlined in the Gateway 1 report) are set out in the following paragraphs in relation to the tender responses, evaluation and commitments to be delivered under the proposed contract.
41. The council's approach to procurement of design, development and construction process will ensure a requirement to maintain and improve the sustainability of each tendered project.
42. A low energy, efficient and cost effective building engineering services design that keeps running costs to a minimum will be an essential component of the project brief. Key considerations will include;
  - Consideration of whole life-cycle costs
  - Sustainable sourcing
  - Incorporation of environmentally benign heating and lighting provision
  - Provision of facilities and equipment to encourage the re-use and recycling of materials including, where practical, water recycling.
  - Ensuring projects achieve Code of Sustainable Homes criteria or any successor requirement.
43. The appointed contractor will be participating in a local employment and training initiative in line with Southwark Economic Wellbeing Strategy 2012-20. The initiative will generally conform to any Local Government policy including requirements set-out by the Homes and Community Agency and/or Greater London Authority that

generally will encompass the Contractor, wherever possible, being encouraged to employ local subcontractors and labour and shall involve the training and employment of local people. Such employment and training will be relevant to the needs of the local community.

### **Economic considerations**

44. The design briefs for the new homes will be developed in consultation with the 'user client' officers and make it clear that the council is seeking developments that are not only attractive and functional in their design but also durable and easy to maintain with low running costs.
45. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, our contractors and subcontractors pay their staff at a minimum rate equivalent to the LLW rate. The Gateway 1 report dated 06 June 2016 confirmed, for the reasons stated in that report, payment of LLW was an appropriate and best value requirement for this contract. The 11,000 new homes programme is a strategically important undertaking for the council and its benefits are expected to be realised in a number of ways, including the recruitment of qualified staff, retention of staff and an improved service delivery to the council. Neilcott Construction Limited have confirmed that they will pay their staff and subcontractors the London Living Wage.
46. Following award, quality improvements and costs implications linked to the payment of LLW will be monitored as part of the contract review process.

### **Social considerations**

47. The new housing will provide high quality affordable housing for local people in need of accommodation. 50% of these homes will be made available to existing tenants in the local area based on an agreed local lettings policy. The remainder will be made available to other households in need of accommodation from the council's housing register.
48. The new rented homes will be let at social rent levels.
49. The council can exclude companies who break the law by blacklisting or have not put into place genuine actions concerning past black listing activities. The council can require "self cleaning" which enables a potential contractor to show that it has or will take measures to put right its earlier wrongdoing and to prevent them from re-occurring and to provide evidence that the measures taken by the economic operator are sufficient to demonstrate it has:
  - "owned up": clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities.
  - "cleaned up": taken concrete technical, organisational and personal measures that are appropriate to prevent further criminal offences or misconduct, and
  - "paid up": paid or undertaken to pay compensation in respect of any damage caused.
50. The council has requested the necessary information from Neilcott Construction Limited (using the council's standard documentation in relation to blacklisting) and

they have confirmed that they are not in breach of the requirements under Regulations 3(1) of the Employment Relations Act 1999 (Blacklisting) Regulations 2010. The contract conditions also includes an express condition requiring compliance with the Blacklisting Regulations and include a provision to allow the contract to be terminated for breach of these requirements.

51. The contractor is obliged to work with council approved local employment and skills agencies to recruit borough residents into construction industry apprenticeships. They will provide a minimum of 3 unemployed borough residents with sustained construction industry employment, they will train a minimum of 3 borough residents with short courses and they will provide at least 3 new construction Industry Apprenticeships or NVQ Starts.

### **Environmental considerations**

52. By investing in high quality and well designed buildings and estates the Council aim to achieve positive impacts which will benefit the environment and increase the stock of environmentally friendly buildings within the borough.
53. As part of the design development process, there will be a requirement for environmental assessments to be completed, with a view to identifying what impact would be caused by any proposed development.

### **Market considerations**

54. The market for construction related consultancy services is good. Five were invited to tender. This level of response is considered to be good.
55. Neilcott Construction Limited is an organisation that operates nationally with offices in London, the South-East and Ireland. It is comprised of approximately 55 permanent staff.

### **Staffing implications**

56. There are no specific staffing implications to this report.

### **Financial implications**

57. The value of the contract arising from the procurement described in this forms part of a wider programme. The project will also have associated on The associated on costs include contingency routinely added to all design and build contracts to cover unknown risks.
58. The costs of delivery of new council rented homes can be part financed from grant funding from the Greater London Authority's Affordable Homes Programme. This scheme has been allocated GLA funding (with 50% drawdown on start on site and 50% on practical completion), with the remaining costs being financed from resources supporting the Housing Investment Programme, including borrowing if required.

### **Investment implications**

59. The costs of this contract will be charged to the respective project cost programmed in the capital allocation for new homes delivery budgeted within the council's Housing Investment Programme.

**Second stage appraisal (for construction contracts over £250,000 only)**

60. A MINT credit check has been undertaken, which details the following:

- A credit score which indicates the company is secure with failure normally occurring only as a result of exceptional changes within the company or the market in which it operates.

61. In line with the requirements of the Contract Standing Orders, this report confirms that a procurement using the councils approved list was undertaken and the correct procedures followed.

**Legal implications**

62. Please see concurrent from the Director of Law and Democracy.

**Consultation**

63. Local residents have been and will continue to be consulted at each stage of the development as outlined in the Charter of Principles agreed by Cabinet in November 2014.

**Other implications or issues**

64. Not applicable.

**SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

**Head of Procurement**

65. Not required as under OJEU threshold

**Director of Law & Democracy**

66. This report seeks the approval of the strategic director of housing and modernisation to the appointment of Neilcott Construction Limited for the New Homes delivery programme in relation works to construct 13 new homes at Sedgmoor Place SE5.

67. At the estimated contract value noted, this contract award can be approved by the relevant chief officer, after consideration of the report by DCRB.

68. The value of these works mean that they fall below the EU procurement threshold for works and as such they are not subject to the full tendering requirements of the Public Contracts Regulations 2015. The contract was therefore tendered using the council's approved list for below EU procurement threshold procurements, with an initial expression of interest from contractors on the list followed by an invitation to tender.

69. The council, using the evaluation methodology set out in the invitation to tender has identified the most economically advantageous tender for the works, and this is, therefore, recommended for award.
70. The strategic director's attention is drawn to the Public Sector Equality duty (PSED General Duty) under the Equality Act 2010, which requires public bodies to have regard, when making decisions, to the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and those who do not share it. The strategic director is specifically referred to the community impact statement at paragraphs 35-39, setting out the consideration that has been given to equalities issues which should be considered when approving the recommendations in this report.
71. Contract standing order 2.3 requires that no steps are taken to award a contract unless the expenditure involved has been included in approved estimates, or otherwise approved by the council. Paragraphs 57-58 confirm the financial implications of this award.

### **Strategic Director of Finance and Governance (H&M19/184)**

72. The report seeks approval from the Strategic Director of Housing and Modernisation to award the contract to construct 13 new council homes at Sedgmoor Place to Neilcott Limited
73. The report identifies the total costs of works and fees including The financial implications section of the report details how this will be funded. Any other costs associated with these works will be contained within existing departmental revenue budgets.
74. 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 costs of these works are carefully monitored and that accurate forecasting is in place to enable efficient financing of capital expenditure over the life of the programme.
75. Any other variation or extension of the contract beyond the scope of this report will require further approval in line with the council's procurement protocols.

### **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(s) contained in the above report.

Signature 

Date 15 May 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>
Not applicable

<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>
Not applicable

<b>6. DECLARATION ON CONFLICTS OF INTERESTS</b>
<b>I declare that I was informed of no conflicts of interests.</b>

**BACKGROUND DOCUMENTS**

<b>Background documents</b>	<b>Held At</b>	<b>Contact</b>
GW1 Contractor Procurement	160 Tooley Street, SE1	Tim Bostridge

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**APPENDICES**

No	Title
n/a	

**AUDIT TRAIL**

<b>Lead Officer</b>	Stuart Davis, Director of New Homes Development	
<b>Report Author</b>	James Cross, Development Manager	
<b>Version</b>	Final	
<b>Dated</b>	5 May 2020	
<b>Key Decision?</b>	Yes	
<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 (for housing contracts only)	N/a	N/a
<b>Cabinet</b>	N/a	N/a
<b>Date final report sent to Constitutional/Community Council/Scrutiny Team</b>	n/a	

**BACKGROUND DOCUMENT – CONTRACT REGISTER UPDATE - GATEWAY 2**

Contract Name	Works Contract for the New Homes Delivery programme – Commercial Way
Contract Description	Works Contract for the New Homes Delivery programme – Sedgemoor Place
Contract Type	Works
Lead Contract Officer (name)	Stuart Davis
Lead Contract Officer (phone number)	0207 525 7201
Department	Housing & Modernisation
Division	Asset Management
Procurement Route	Tender from Council Approved Works List
EU CPV Code (if appropriate)	N/A
Departmental/Corporate	Departmental
Fixed Price or Call Off	Fixed Price
Supplier(s) Name(s)	Neilcott Construction Limited
Contract Total Value	£5,423,717.25
Contract Annual Value	N/A
Contract Start Date	<b>TBC</b>
<b>Initial Term End Date</b>	<b>TBC</b>
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	
London Living Wage	Not fixed

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