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| Item No: | Classification: Open | Date: 26 May 2020 | Decision Taker: Strategic Director of Housing and Modernisation |
| Report title | GW2 Wyndham Phase 1 Underground mains Replacement QHIP 18-19 | | |
| Ward(s) or groups affected | Camberwell Green | | |
| From | Head of Investment | | |

RECOMMENDATIONS

1. That the Strategic Director of Housing and Modernisation approves the award of the Wyndham Estate District Heating Mains Replacement Programme Phase 1 QHIP 2018-19 call-off contract via a mini-competition from the major works constructor framework to Vital Energi Utilities Ltd for a period of 58 weeks.
2. **BACKGROUND INFORMATION**
3. 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
4. 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.
5. 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.
6. The scope of works for this scheme includes district heating mains replacement.
7. Lot 3 is applicable to these works.
8. The duration of the works is 58 working weeks.

9. Works are expected to start on 24 March 2020 and complete on 21 May 2021.

Procurement project plan Key Decision

| Activity | Completed by/Complete by: |
|--|---------------------------|
| Forward Plan for this Gateway 2 decision | 03/02/2020 |
| Approval of Gateway 2: Establishment of major works framework agreement | 20/10/2015 |
| Notice of Intention (Applies to Housing Section 20 Leaseholder Consultation) | 12/08/2019 |
| Mini competition invitation | 11/09/2019 |
| Closing date for return of tenders | 25/10/2019 |
| Completion of evaluation of tenders | 12/11/2019 |
| Notice of Proposal (Applies to Housing Section 20 Leaseholder Consultation) | 15/01/2020 |
| Notification of forthcoming decision – Five clear working days | 15/03/2020 |
| Approval of Gateway 2: Mini competition award report | 16/03/2020 |
| Scrutiny Call-in period and notification of implementation of Gateway 2 decision | 18/03/2020 |
| Contract award | 24/03/2020 |
| Add to Contract Register | 24/03/2020 |
| Contract start | 25/03/2020 |
| Publication of award notice on Contracts Finder | 24/03/2020 |
| Contract completion date | 21/05/2021 |

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

10. This scheme consists of works to the underground mains on the Wyndham Estate (Phase1) in the Camberwell Green area. This includes 278 leasehold properties and 12 Right to Buy (RTB) applicants. The address details are as follows:

| Block Address | PHAU |
|--------------------------------|------------|
| Otterburn House 1-80 SE5 OXD | PHAU062810 |
| Crossmount House -80 SE5 OXA | PHAU062805 |
| Coniston House 1-80 SE5 OUF | PHAU062804 |
| Livingstone House 1-45 SE5 OUZ | |
| Gothic Court 1-31 SE5 OUQ | PHUA062806 |
| Venice Court 1-30 SE5 OUU | PHUA062812 |
| Kevan House 1-80 SE5 0LP | PHUA015208 |
| Laird House 1-80 SE5 0LS | PHUA015210 |
| Cameron House 1-61 SE5 0UJ | PHAU015202 |
| Finley Court 1-10 SE5 0LU | PHAU015204 |
| Moules Court 1-30 SE5 0LZ | PHUA015213 |
| Laing House 1-38 | PHUA015210 |

| | |
|-----------------------------|------------|
| Grainger Court 1-20 SE5 0LX | PHAU015205 |
| Grenfell House 1-47 SE5 0LG | PHUA015206 |

Policy Implications

11. This scheme is designed to deal with work under the Quality Homes Investment (QHIP) 2018-2019 which includes works to district mains replacements.
12. Planning consent not is required for the works being undertaken within this scheme.
13. As part of the overall procurement process for this framework, Lot 3 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.
14. 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

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

Mini competition Process

16. The call-off arrangements set out in the 'operation of the framework' document was followed and a mini-competition procedure was carried out.
17. 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 1985, leaseholder consultation was carried out. The council did not receive leaseholder nominations.
18. All contractors listed on Lot 3 were invited to participate in the mini-competition process with instructions to return the tender by 4pm on 25 October 2019. The list of contractors invited is as follows:
 - **Vital Energi Ltd**
 - **MPS Housing Ltd**
 - **BSW Heating Ltd**
 - **K & T Heating Ltd**
 - **Stapletech Ltd**
19. Only **3** contractors returned a tender. K & T Heating Ltd and Stapletech failed to return tender documents. The Project Manager contacted Stapletech on both 11 and 24 September 2019 and received an email response on 24 September advising that they were not in a position to submit a tender on this occasion. K&T were also contacted on 11 September and 24 September but no responses were received. The prices submitted by Vital Energi, MPS Housing Ltd and BSW Heating Ltd fully complied with tender requirements; the tenders were arithmetically checked and found to contain no errors

Mini-competition Evaluation

20. The tenders were evaluated in line with the rules set out in the framework.
21. 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.
22. 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.
23. The quality element of the submissions was assessed on a pass/fail basis.
24. 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.

25. 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.
26. The results of the quality criteria assessments were as follows:

| Contractor | Pass/Fail |
|-------------------|------------------|
| Vital Energi | Pass |
| MPS Housing Ltd | Pass |
| BSW Heating Ltd | Pass |

27. 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.
28. All priced documents submitted were checked for arithmetical errors and general compliance with the tender requirements by Calfordseaden LLP (Calfordseaden).
29. 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.
30. Therefore, on the basis of the mini-tender submitted, the contractor recommended for this scheme is Vital Energi Ltd.

Plans for monitoring and management of the contract

31. 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.
32. 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.

33. 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.
34. 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 and cost management will be provided by Calfordseaden.
35. 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

36. 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 LLP who were appointed on 15 October 2015. 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

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

Financial Implications

38. 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

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

Consultation

40. Consultation meetings were held with residents was held on 21 June 2018, 18 June 2019, 3 July 2019 and with leaseholders on 9 January 2020.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (H&M19/162)

Head of Procurement

41. Major works constructor framework (Lot 3) Wyndham Estate District Heating Mains Replacement Programme Phase 1 QHIP 2018-19
42. 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).
43. The report describes the rationale for these works, how the submissions were evaluated and the results of that process.
44. The report confirms that officers are confident that provider can deliver the required quality for the price detailed in the recommendation and that the pricing is in line with the framework rules.
45. The monitoring and managing arrangements for this contract going forward are described in paragraphs 35 to 39 and should go some way towards ensuring delivery is on time and to the required standards.

Director of Law and Democracy

46. This report seeks the approval of the Strategic Director of Housing and Modernisation to the award of the Wyndham Estate District Heating Mains Replacement Programme Phase 1 QHIP 2018-19 'call-off' contract to Vital Energi Utilities 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.
47. 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.
48. Paragraph 19 confirms that a mini-competition procedure was carried out for these works under Lot 3 to the 5 framework contractors. However, paragraph 21 confirms that only 3 tenders were received including reasons why the other 2 framework contractors did not tender. Paragraph 33 confirms that on the basis of the mini-competition submitted and the evaluation process carried out, Vital Energi Utilities Ltd is proposed as contractor for these works.
49. CSO 2.3 requires that no steps should be taken to award a contract unless the expenditure has been approved. Paragraphs 41-44 confirm 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.



16 June 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.

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| 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 | 26 May 2020 | | |
| Key Decision | Yes | If yes, decision date on forward plan | |
| 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 Governance | Yes | Yes | |
| Director of Exchequer | Yes | Yes | |
| Cabinet Member | n/a | n/a | |
| Date final report sent to Constitutional Officer | 16 June 2020 | | |

BACKGROUND DOCUMENT – CONTRACT REGISTER UPDATE - GATEWAY 2

| | |
|--|--|
| Contract Name | |
| Contract Description | |
| Contract Type | |
| Lead Contract Officer (name) | |
| Lead Contract Officer (phone number) | |
| Department | |
| Division | |
| Procurement Route | |
| EU CPV Code (if appropriate) | |
| Departmental/Corporate | |
| Fixed Price or Call Off | |
| Supplier(s) Name(s) | |
| Contract Total Value | |
| Contract Annual Value | |
| Contract Start Date | |
| Initial Term End Date | |
| No. of Remaining Contract extensions | |
| Contract Review Date | |
| Revised End Date | |
| SME/ VCSE (If either or both include Company Registration number and/or registered charity number) | |
| Comments | |
| London Living Wage | |

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