

Item No.	Classification: Open	Date: 9 January 2018	Meeting Name: Strategic Director of Environment and Social Regeneration
Report title:		Gateway 1 - Procurement Strategy Approval Southwark Athletics Centre – Demolition of existing and provision of new build facility	
Ward(s) or groups affected:		Rotherhithe	
Cabinet Member:		Director of Leisure	

RECOMMENDATION (S)

1. That the strategic director of environment and social regeneration approves the procurement strategy outlined in this report to enter into single supplier negotiations with Vincent Stokes Ltd (Vincent Stokes) as part of a two stage design and build contract for the demolition of the existing Southwark Athletics Centre and construction of a new facility at an estimated cost of £1.6m, which includes the cost of the first stage tender process (pre-construction services agreement fee) at an estimated value of £168K.

BACKGROUND INFORMATION

2. In January 2017 the strategic director of environment and social regeneration approved a Gateway 2 report to award a contract to Sports and Leisure Management (SLM) for the refurbishment of the Southwark Athletics Centre.
3. Upon award, SLM appointed Vincent Stokes as their preferred sub-contractor to carry out these works. Vincent Stokes has completed a high standard of work on other leisure facilities within the borough and as such we had confidence in their ability to deliver the refurbishment of the athletics centre.
4. Once Vincent Stokes began detailing the design for the refurbishment works it became evident that there was an issue with the structural integrity of the building, as such; additional site and drainage investigations were carried out. The results of these investigations determined that the ground around and under the building was very poor which meant that the council had to decide upon the best way to resolve this issue.
5. In June 2017, the cabinet member approved the recommendation to proceed with demolition of the existing sports facility and provision of new single storey sports facility comprising of a free weights area, changing facilities, office and a club room – the construction of which is the subject of this report.

Summary of the business case/justification for the procurement

6. The construction of the new facility presents an opportunity to reconfigure the layout of the building and its proximity to the athletics track.

7. A new building at the athletics centre will provide a community and school sports facility that will increase participation in physical activity and support athletics development on site and improve customer satisfaction.
8. Design workshops will be held with key stakeholders to ensure their views and feedback are incorporated into the design.
9. This approach is in line with the strategy approved by the cabinet member for communities, safety and leisure in June 2017.

Market considerations

10. There is a niche market for these types of works and the council requires that an experienced and specialist contractor is appointed to carry this work forward. Vincent Stokes is on the Exor approved list and has experience in delivering leisure centres across the borough and country. They work closely with our leisure contractor SLM and are familiar with their requirements. There are other contractors on the council's approved list who have delivered refurbishment and new build leisure centre projects.

KEY ISSUES FOR CONSIDERATION

Options for procurement including procurement approach

11. The procurement routes open to the council are:
 - a. **A competitive tendering process using suppliers from the council's Works Approved List** – A traditional competitive process usually requires the appointment of an architect to design a scheme prior to approaching a contractor. Due to time restrictions placed on the delivery of the project the council is unable to postpone its procurement of the works until the architect has been appointed and they have developed the designs to the relevant stage in order to allow a tender to occur. Without waiting for these designs it would be extremely difficult for the council to attain any cost certainty and there would be substantial risk of tenders for the main works being returned over budget which could significantly impact the time and costs associated with this project.
 - b. **Use of a third party framework** - this contract requires expertise knowledge in the construction of leisure centres. The use of a framework will limit the choice of tenderers with this experience and we have not been able to locate a suitable framework for this project. Vincent Stokes are delivery partners for a number of companies but are not on any frameworks.
 - c. **Single Supplier Negotiation** – this will allow the council to liaise with Vincent Stokes in providing a fee for pre construction services with the view of appointing the design team using a design and build contract. Vincent Stokes already have significant level of background knowledge and experience on this project following their appointment through SLM's.
 - d. **Do nothing** – this is not possible due to the council's commitment to deliver this project and the need to deliver a fit for purpose athletics centre to compliment the new track facilities.
12. As the council does not currently have any designs for the new athletics centre it can either undertake a single or two stage tender process. A two stage, design and build

tender process using single supplier negotiations will allow the contractor to appoint the design team and work together with the appointed quantity surveyor to design a scheme to the value of the agreed budget and provide us with cost certainty. The appointed contractor can obtain market rates from sub-contractors which provides cost certainty through a market tested cost plan which can be verified by an independent quantity surveyor.

Proposed procurement route

13. This report is recommending the council undertake single supplier negotiation to appoint Vincent Stokes as they carried out preliminary surveys for the athletics centre which determined the existing ground conditions, and as such they have the relevant background knowledge required to deliver a design for the new scheme.
14. Vincent Stokes have delivered refurbishment schemes in other leisure centres within the borough and across the country to a high standard and quality and have expert experience in leisure centre construction.
15. There is an urgent need to move this project forward and Vincent Stokes are able to meet our programme.
16. The council is proposing to undertake a two stage tender process for the reasons detailed in paragraph 11. The council will ask Vincent Stokes to submit a fee proposal for pre-construction services which will include them undertaking various tasks in relation to the design and planning of the demolition and construction works, such as:
 - Contribute to the design process itself
 - Advise on buildability, sequencing, and construction risk
 - Advise on the packaging of the works (and the risks of interfaces between packages)
 - Help develop the cost plan and construction programme
 - Help develop the method of construction
 - Obtain prices for work packages from sub-contractors or suppliers on a open book basis
 - Prepare a site layout plan for the construction stage showing temporary facilities
 - Draft the preliminaries for specialist and trade contractor bid documents
 - Provide full architectural and interior design services
 - Submit a full planning application and deal with matters concerning the build phase, such as; waste disposal proposals, construction traffic movements, tree preservation protection etc.

Once assessed, the pre-construction services agreement will be awarded following approval of a Gateway 2 report.

17. Following completion of the first stage tender, Vincent Stokes will be asked to provide a fixed cost for the second stage tender. At this stage the quantity surveyor will ensure the costs reflect the current market rates and provide value for money. Once confirmed, the construction contract will be awarded following a Gateway 2 report.
18. Whilst it is usually the case that the second stage award will be made to the same contractor as the pre-construction services, it is not mandatory to do so and the council reserves the right to re-tender should the fixed price provided by Vincent Stokes for the main works contract not be acceptable.

Identified risks for the procurement

19. The following risks have been identified for this project:

Risk	Risk Rating	How Mitigated
Procurement challenge due to not going out to competitive tender	Low	The estimated contract value is below the EU threshold and legal advice has been sought which advises that the proposed procurement route is justifiable.
Project delivery delayed	Low	A construction programme will be assessed to ensure that the project is delivered against the proposed programme. Project progress will be reported to the parks and leisure programme board on a monthly basis.
Overrun of costs	Low	The works will be undertaken in accordance with a robust specification and a fixed price contract that will be aligned to the allocated Southwark Athletics Centre budget.
Planning permission not granted	Low	Ensure early discussions with the planning team and incorporate them in design workshop meetings to obtain their views on the scheme going forward

Key /Non Key decisions

20. This report deals with a non key decision.

Policy Implications

21. This project is in line with the council's objective of encouraging healthy lifestyles by providing quality leisure services for individuals and families across the borough.

Procurement Project Plan (Non Key Decisions)

Activity	Complete by:
DCRB Review Gateway 1	09/01/2018
Brief relevant cabinet member (over £100k)	10/01/2018
Approval of Gateway 1: Procurement strategy report	12/01/2018
Issue Brief	15/01/2018
Closing date for receipt of proposal	19/01/2018
Completion of evaluation of proposal	26/01/2018

Activity	Complete by:
Stage 1 - Pre-construction Services	
DCRB Review Gateway 2	06/02/2018
Brief relevant cabinet member (over 100K)	07/02/2018
Approval of Gateway 2: Contract Award Report	07/02/2018
Contract award	08/02/2018
Add to Contract Register	09/02/2018
Place award notice on Contracts Finder	09/02/2018
Contract start	19/02/2018
Initial Contract completion date	13/07/2018
Submit planning application	13/07/2018
Stage 2 – Works contract	
Cabinet Member briefing	11/10/2018
DCRB Review Gateway 2	02/11/2018
Notification of forthcoming decision	
Approval of Gateway 2: Contract Award Report	09/11/2018
End of scrutiny Call-in period and notification of implementation of Gateway 2 decision	23/11/2018
Contract award	26/11/2018
Add to Contract Register	26/11/2018
Place award notice on Contracts Finder	27/11/2018
Contract start	07/01/2019
Initial contract completion date	26/07/2019

TUPE/Pensions implications

22. Not applicable

Development of the tender documentation

23. The brief for the pre construction services has been developed by the project manager.

24. Vincent Stokes will be required to enter into a pre construction services agreement to cover the delivery of the services described in paragraph 15. For the construction works it is proposed to use the JCT Design and Build contract incorporating the council's standard amendments.

Advertising the contract

25. As the proposed procurement route is single supplier negotiation, there is no need to advertise the contract.

Evaluation

26. The proposed procurement route is single supplier negotiation with Vincent Stokes.
27. The contract value and specification are to be agreed with Vincent Stokes once approval of this Gateway report has been granted.
28. Vincent Stokes' proposal will be evaluated entirely on price and value for money. This will be assessed by an independent quantity surveyor who has been appointed by the council.

Community impact statement

29. The overall impact will be an improvement to sports facilities in a deprived area, through provision of athletics facilities. The works will allow the council to deliver a programme of community athletics which will have a beneficial impact on service users. No adverse impacts on individuals or groups within the community are anticipated as a result of this contract.
30. The building design will be accessible and Disability Discrimination Act (DDA) compliant, with level access into the building. There will be provision for an accessible WC and shower.

Social Value considerations

31. 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 details of how social value will be incorporated within the tender are set out in the following paragraphs.

Economic considerations

32. Vincent Stokes is a contractor on the council's works approved list and has the appropriate knowledge, experience and suitably qualified labour force to deliver this scheme.
33. Vincent Stokes will be required to pay London Living Wage rates to their staff working on this scheme.
34. Vincent Stokes do not have an apprenticeship scheme and it will not be feasible to include this as part of this project as the budget is not sufficient to cover this cost.

Social considerations

35. The activities that are planned post development are designed to engage local people and bring together the communities that surround the facility and there will be no adverse impact on equalities resulting from this project.
36. Pursuant to section 149 of the Equality Act 2010 the council has a duty to have due regard in its decision making processes to the need to:
 - (a) Eliminate discrimination, harassment, victimisation or other prohibited conduct;

- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not
- (c) Foster good relations between those who share a relevant characteristic and those that do not share it.

37. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. The Public Sector Equalities Duty also applies to marriage and civil partnership, but only in relation to (a) above.

38. As a condition of contract Vincent Stokes will be required to comply with the Employment Relations Act 1999 (Blacklists) Regulations 2010 by ensuring that it will not during the contract term be a party to or concur in any discriminatory employment practice which could be construed as blacklisting or boycotting any person who has sought employment with it, in breach of the Regulations.

Environmental/Sustainability considerations

39. The works will result in improvements to the local area through transforming a derelict sports facilities into high quality facilities for the benefit of the local community.

40. Where possible, materials specified in the scheme will be obtained from sustainable sources. It is the policy of the council to minimise the potentially significant impacts of their operations on the environment. Likewise the council encourages energy efficiency and promotes waste minimisation and environmentally friendly waste disposal.

Plans for the monitoring and management of the contract

41. Vincent Stokes will work closely with council officers in performing the various pre-construction tasks listed under paragraph 15. The construction works contract will be managed by appointed quantity surveyor who will report to the Parks and Leisure Team and ensure that the contractor complies with the specification of the contract. This will be achieved through regular site visits and site meetings.

42. Upon completion of the new sports facility there will be a final site meeting with the contractor, project manager and the client representative to sign off the works.

Staffing/procurement implications

43. This procurement will have no negative impact on staff resources.

Financial implications

44. This report is estimating a contract sum of £1.6million for the proposed appointment of Vincent Stokes Ltd which includes the initial cost for pre-construction services (PCSA) at £168K and the main works which form the second stage of the tender with an estimated value of £1.6million.

45. The total approved budget for this project (L-2200-0088) is £3,187k with £2,027k budget available at the 1st April 2017 (17/18 +). There is sufficient budget within this capital project to cover this proposed appointment.

46. The actual expenditure against the allocations will be monitored and reported on as part of the parks and leisure capital programme management.
47. Staffing and subsequent maintenance costs connected with this project will be contained within existing parks and leisure division revenue budgets.

Legal implications

48. Whilst the proposed appointment of Vincent Stokes Ltd will consist of services and works, the works will form the dominant element, both in terms of time and value and therefore the procurement process will not be subject to the (EU) Public Contracts Regulations 2015.
49. The procurement is, however, subject to the requirements of the council's Contract Standing Orders ("CSOs"). For a contract of this nature and value CSOs require, amongst other things that officers must take all reasonable steps to obtain at least five tenders (from providers on a council approved list) unless exceptional circumstances exist for doing otherwise, in which event the lead contract officer may seek an exemption from the prescribed tendering requirements. Paragraphs 9 to 13 set out the reasons why it is considered necessary and appropriate to appoint Vincent Stokes Ltd by way of single supplier negotiation.
50. The report notes the forms of contract that will be used to regulate the proposed appointment, both of which will include the council's standard amendments. The director of law and democracy (corporate team) will advise and assist officers in connection with the procurement of the construction works following the completion of the pre construction services.

Consultation

51. Consultation has taken place with key stakeholders who have supported the recommendations.
52. Planning permission will be obtained for this scheme and formal public consultation will take place through this process.
53. Additional regular consultation will be planned as required throughout the project life with users and the Council's lead member.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (CAP17/091)

54. This report is requesting the Strategic Director of Environment and Social Regeneration to approve the procurement strategy outlined in this report to enter into single supplier negotiations with Vincent Stokes Ltd (Vincent Stokes) as part of a two stage design and build contract for the demolition of the existing Southwark Athletics Centre and construction of a new facility at an estimated cost of £1.6m, which includes the cost of the first stage tender process (pre-construction services agreement fee) at an estimated value of £168K.
55. The strategic director of finance and governance notes that the costs of the contract will be contained within the departmental capital budgets for the "OLF Southwark Athletics Centre" capital budget allocated under the Council's capital programme.

56. The total expenditure for the scheme will be monitored and reported on as part of the overall capital programme

57. Staffing, subsequent maintenance and any other costs connected with this project to be contained within existing departmental revenue budgets.

Head of Procurement

58. A formal procurement concurrent is not required for this report as the estimated value of the procurement is below the relevant EU (works) threshold.

Director of Law and Democracy

59. A formal legal concurrent is not required for this report as the estimated value of the procurement is below the relevant EU (works) threshold.

FOR DELEGATED APPROVAL

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: 15th January 2018

Designation: Strategic Director of Environment & Social Regeneration

AUDIT TRAIL

Lead Officer	Fiona Dean, Director of Leisure	
Report Author	Hemali Topiwala – Project Manager, Parks and Leisure	
Version	Final	
Dated	12/12/2017	
Key Decision?	No	
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
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes

Corporate Contract Review Board	NA	NA
Cabinet Member	Yes	Yes
Date final report sent to Constitutional/Community Council/Scrutiny Team		N/A

**BACKGROUND DOCUMENT – CONTRACTS REGISTER ENTRY FORM – GATEWAY
1**

Contract Name	Southwark Athletics Centre
Contract Description	Demolition and construction of new sports facility at Southwark Park
Contract Type	Services
Lead Contract Officer (name)	Hemali Topiwala
Lead Contract Officer (phone number)	020 7525 0530
Department	Environment and Social Regeneration
Division	Parks and Leisure
Procurement Route	Single Supplier
EU CPV Code (if applicable)	NA
Departmental/Corporate	Departmental
Fixed Price or Call Off	Fixed
Contract Total Value	£1.6m
Contract Annual Value	£1.6m
Contract Start Date	19 th February 2018
Initial Term End Date	13th July 2018
Number of Remaining Contract Extensions	NA
Contract Review Date	NA
Revised End Date	NA
SME/ VCSE (If either or both include Company Registration number and/or registered charity number)	
Comments	NA
London Living Wage	Yes