

Item No.	Classification: Open	Date: 14 February 2022	Decision Taker: Strategic Director of Housing and Modernisation
Report title:		Gateway 2 - Contract Award Approval Professional Services (Employers Agent) for the Ledbury Estate	
Ward(s) or groups affected:		All	
From:		Director of New Homes	

RECOMMENDATION(S)

1. The Strategic Director of Housing and Modernisation approves the award of the contract for Employers Agents for the Ledbury Estate regeneration to Calford Seaden LLP, at an estimated fee (based on percentages set out in paragraph 20) of £848,000 from 24 January 2021 for the period noted in paragraph 9.

BACKGROUND INFORMATION

2. This planned procurement strategy was the subject of a Gateway 1 report which was approved by the Strategic Director of Finance and Governance on 16 August 2021.
3. The award of this contract is a key decision. The approval process to enter into this contract sits with the Strategic Director of Housing and Modernisation in line with the contract standing orders.
4. This procurement exercise relates to a site that form part of the council's New Homes Development Programme, which is part of the council's commitment to build 11,000 new homes by 2043 and to deliver 2,500 by 2022.
5. The Gateway 1 report proposed to procure employers agent services through a direct award using the Notting Hill Housing Consultants Framework 3 agreement.
6. The Notting Hill Housing Consultants Framework 3 agreement was due to expire on the on May 2021 but has been extended until May 2022.
7. This Gateway 2 report relates to Ledbury Estate Regeneration which will deliver in excess of 100 new homes at an estimated contract value of £100m+.
8. The tender sought includes the full range of Employer's Agent services to enable the project to be developed from obtaining planning consent,

securing a contractor and entering into the JCT Design & Build Contract 2016 through to issuing the final certificate.

9. The services provided by the employer's agent are not for a fixed period of time, this is however estimated to be up to four years.
10. The total estimated value of employer's agent services was noted as £1m in the Gateway 1 report.

Procurement project plan (Key Decision)

11.

Activity	Completed by/Complete by:
Approval of Gateway 1: Procurement Strategy Report	16 August 2021
Invitation to tender	02 December 2021
Closing date for return of tenders	10 December 2021
Completion of evaluation of tenders	13 December 2021
Forward Plan for Gateway 2 decision	01 December 2021
Briefed relevant cabinet member (over £100k)	17 December 2021
DCRB Review Gateway 2:	10 January 2022
Notification of forthcoming decision – Five clear working days	25 January 2022
Approval of Gateway 2: Contract Award Report	25 February 2022
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	14 February 2022
Contract award	31 February 2022
Add to Contract Register	31 February 2022
Contract start	31 February 2022
Publication of award notice on Contracts Finder	31 February 2022
Contract completion date	31 February 2022

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

12. The procurement enables one firm to be selected who will help ensure that a this project can be delivered, and for best value.

Key/Non Key decisions

13. This report deals with a key decision.

Policy implications

14. It will help deliver the council's 11,000 new homes programme by 2043.

Tender process

15. Contract Standing Orders require that as the contract values are over Public Contract Regulation (PCR) (2015) threshold for services and PCR compliant procurement exercise should be undertaken. This has been achieved by carrying out direct award through the Notting Hill Housing Consultants Framework 3 (Lot 2), which covers employers agents.

16. The tender documents were uploaded on Pro-Contract on 02 December 2021. The Deadline for submission was 10 December 2021.

Tender evaluation

17. The quality aspect of the tenders for each of the packages were reviewed by the Project Manager.

18. The tenderer was required to submit:

- a. Price
- b. Details of the proposed project team
- c. A resourcing strategy
- d. A statement to demonstrate that the policies and procedures that they have in place to ensure equal access to employment for women, Black, Asian and Minority Ethnic groups.

19. Officers were satisfied that the tenderer can deliver the scope of the services set out in the tender document.

20. The table below sets out the proposed fee of the tenderer:

Tenderer	Project	Est. Constr. Costs	EA Fee	Cost Fee	Over all Fee %	Fee Value
Caflord Seaden LLP	Ledbury Estate	£100,000,000	£548,000	£300,000	0.848 %	£848,000

21. The fee is based on an estimated project value, whereas the actual fees will be calculated on the build costs. Consequently, the estimated fee recommended for approval allows for a change in the size of the projects and the construction value. The actual fees for each project will be

approved by the Director of New Homes and will be reported in line with CSO's.

Plans for the transition from the old to the new contract

22. Not applicable as no contracts currently exist.

Plans for monitoring and management of the contract

23. The council's contract register publishes the details of all contracts over £5,000 in value to meet the obligations of the Local Government Transparency Code. The Report Author must ensure that all appropriate details of this procurement are added to the contract register via the eProcurement System.

24. The project clienting, including the management and administration of the consultant appointments will be run and resourced through the New Homes Delivery Team in the Asset Management Division in Housing & Modernisation.

25. Payment will be made at the following periods of the contract:

- | | |
|--|-----|
| a. Completion of Feasibility Design (RIBA Stage 2): | 15% |
| b. Completion of Planning Submission (RIBA Stage 3): | 10% |
| c. Exchange of Building Contracts: | 10% |
| d. Mid-point in Construction Programme | 25% |
| e. Practical Completion: | 30% |
| f. Issue of Final Certificate | 10% |

26. 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,

- On-going design reviews, checking quality and cost against agreed standards and budgets
- Monthly financial statements by the consultant
- Monthly appraisals of progress against programme and monthly reports by the consultant
- Tracking and chasing actions on critical issues
- Periodic project team 'look ahead' workshops covering key phases of work and risks
- Risk and issues log
- Annual performance reports in line with Contract Standing Orders

27. Internal governance arrangements for the programme resides with the Delivery Programme Board, chaired by the Strategic Director of Housing & Modernisation.

Identified risks for the new contract

28. The successful tenderer will enter into JCT Consultancy contract which has been amended to include specific requirements of the council including a requirement for professional indemnity insurance of a minimum of £5,000,000 to be provided.

Risk No.	Identified Risk Procurement	Risk Likelihood	Risk Control
1.	Risk of increase in price	Low	The contract will be awarded on the basis a fee percentage.
2.	Financial stability	Low	There is a risk of companies being more exposed to financial difficulties and/or going in to liquidation. We will undertake a credit check.

Other considerations (For Housing Department works contracts only)

29. Not applicable.

Community, equalities (including socio-economic) and health impacts

Community impact statement

30. The Public Sector Equality Duty requires public bodies to consider all individuals when carrying out their day to day work, in shaping policy, in delivering services and in relation to their own employees. It requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. The council's consultation with residents on the 11,000 council homes programme has been specifically designed to be inclusive of all the borough's communities and provide a range of mechanisms to provide residents with the opportunity to engage.
31. Southwark is a borough with high levels of deprivation, low income levels and high levels of housing need. Southwark's Housing Strategy to 2043 identifies that the supply of affordable housing in the borough does not meet the demand. There is a demand for larger properties for younger families, many of whom are experiencing overcrowding.
32. Cabinet has agreed a vision for the future housing strategy including a principle to use every tool at our disposal to increase the supply of all kinds of homes across Southwark.
33. 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.

34. 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 at least 50% of these homes will be let to existing tenants from the local area subject to an agreed local lettings policy.
35. Local residents have been consulted and will continue to be consulted at each stage of the development proposals as outlined in the council's Charter of Principles.

Equalities (including socio-economic) impact statement

36. The council will ensure that the supplier has appropriate employment policies regarding equality and diversity, and can demonstrate equal access to employment for women, Black, Asian and Minority Ethnic groups.

Health impact statement

37. The provision of new quality homes provides a positive impact on health inequalities, as the scheme is designed to current quality and space standards that will contribute towards addressing health inequalities. As 50% to 100% of the new homes will be allocated to existing residents/those in housing need in the borough, residents who are living in overcrowded conditions, or unsuitable housing will benefit. In addition to this rent levels are set at council rent, that are lower than London Affordable rent levels and market rent levels making them genuinely affordable. Health and wellbeing are further addressed by providing residents with individual balconies for outdoor space, along with communal landscaping.
38. 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.

Climate change implications

39. The developments resulting from this procurement will comply with Building Regulations Part L that addresses the conservation of fuel and power, and guarantees eco-friendly efficient properties and minimise carbon emissions, as part of a drive towards a greener future.

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.

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 tender documentation asked the tenderer to demonstrate the policies and procedures that they have in place to ensure equal access to employment for women, Black, Asian and Minority Ethnic groups. Other local community benefits will be sought from the tenderer during the contract.

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, practices engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. It is required that payment of the LLW by the successful practices for these contracts will result in quality improvements for the council. The successful practices will be expected to meet the LLW requirements and contract conditions requiring the payment of LLW will be included.

Social considerations

46. 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.
47. The new rented homes will be let at social rent levels.

Environmental/Sustainability considerations

48. 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.
49. 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

50. The market for construction related consultancy services is good and Southwark have experienced a healthy responses where these kind of tenders have gone out to a number of tenderers.

Staffing implications

51. The staff resources deployed to this procurement are sufficient to meet the proposed timetable.
52. The project will be resourced by existing staff, within existing budgets.
53. Officer time relating to the management of this project is funded from the capital budgets for the individual projects.

Financial implications

54. The value of the professional fees arising from the procurement described in this report are estimated to be £848,000 for this project and is circa £152,000 below our expectations.
55. The cost of this contract will be met from resources supporting the council's Housing Investment Programme, including GLA grant, and borrowing where appropriate. The estimated spend profile is set out in the table below.

WBS Code	WBS Name	2021/2 2	2022/2 3	2023/2 4	2024/2 5	Total
		£	£	£	£	£
	Ledbury Estate	£212,000	£212,000	£212,000	£212,000	£848,000
Total		£212,000	£212,000	£212,000	£212,000	£848,000

Investment implications

56. The costs of the employers agent services from this firm will be charged to the respective project cost programmed in the capital allocation for new homes delivery (H-8888-9842.01) and budgeted for within the council's Housing Investment Programme.

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

57. Not applicable as procurement was carried out using PCR compliant frameworks.

Legal implications

58. Please see the concurrent from the Director of Law & Governance.

Consultation

59. Local residents will be consulted at each stage of the development of each project as outlined in the Charter of Principles.

Other implications or issues

60. Not applicable.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (H&M 21/144)

61. This report seeks approval from the Strategic Director of Housing and Modernisation to award the contract for Employer's Agent for the Ledbury Estate regeneration project to Calford Seaden LLP, at an estimated fee of £848,000. As outlined in this report, the actual fee is not known at this stage and is dependent on the cost of construction, which will not be known until the project is complete. The method of fee calculation and basis of stage payment is set out in the report, and the financial implications section details how the costs will be met.

Head of Procurement

62. The Strategic Director of Housing and Modernisation approves the award of the contract for Employers Agents for the Ledbury Estate regeneration to Calford Seaden LLP, for an estimated fee of £848,000 from 24 January 2021 for a period of up to four years.
63. The Strategic Director of Housing and Modernisation notes the procurement exercise is detailed in paragraphs 15 to 21, management and monitoring of the contract is detailed in paragraphs 23 to 27, risks are detailed in paragraph 28, the impact on equalities, health and climate change are detailed in paragraphs 36 to 39, confirmation of payment of the LLW is detailed in paragraph 45, there are no social value commitments pertaining to this award.

Director of Law and Governance

64. This report seeks the approval of the Strategic Director of Housing and Modernisation to the award of a contract for Employers Agents for the

Ledbury Estate regeneration to Calford Seaden LLP, at an estimated fee (based on percentages set out in paragraph 20) of £848,000 from 24 January 2021 for the period noted in paragraph 9. By virtue of Contract Standing Order 6.5.2(f) the decision may be taken by the relevant Chief Officer after consideration of the report by the Departmental Contract Review Board.

65. As the estimated contract value for these services (at Gateway 1 stage) exceeded the Public Contract Regulations 2015 (PCR15) threshold of £189k, the contract was subject to the full tendering requirements of those Regulations. The council undertook a direct award through the Notting Hill Housing Consultants Framework 3, thereby satisfying the PCR 15 requirements. This framework has been established following a PCR15 compliant tendering process and is established to allow local authorities to use for their own requirements, either through a direct award or a mini competition process. The tendering requirements of the PCR15 are therefore satisfied. The tender evaluation is outlined in paragraphs 17 to 20 of this report and officers have confirmed that they are satisfied that Calford Seaden can deliver the scope of the services set out in the tender document.
66. Contract Standing Orders 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 54 to 55 of this report confirm the financial implication of this award.
67. 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, equalities (including socio-economic) and health impacts at paragraphs 35 to 38 of this report setting out the consideration that has been given to equalities issues which should be considered when approving the recommendation in this report.

Director of Exchequer (for housing contracts only)

68. Not applicable.

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 (and as otherwise recorded in Part B below).

Signature Michael Scorer Date.....3 February 2022
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 that are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available (see ‘FOR DELEGATED DECISIONS’ section of the guidance).

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
none

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.

none

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)

* Under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the council is required to put in place a scheme for recording and publishing some officer executive decisions. This process is sometimes referred to as "Regulation 13(4)".

BACKGROUND DOCUMENTS

Background documents	Held At	Contact
N/A		

APPENDICES

No	Title
N/A	

AUDIT TRAIL

Lead Officer	Stuart Davis, Director of New Homes	
Report Author	Tim Bostridge, Head of Development	
Version	Final	
Dated	25 January 2022	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Officer Title	Comments Sought	Comments included
Head of Procurement	Yes	Yes
Director of Law & Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet	No	No
Date final report sent to Constitutional Team		14 February 2022