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| Item No. | Classification: Open | Date: 7 October 2015 | Meeting Name: Strategic Director of Environment and Leisure |
| Report title: | | Gateway 2 - Contract Award Approval Honor Oak Crematorium – Installation of new cremators, ancillary equipment and associated building works | |
| Ward(s) or groups affected: | | All | |
| From: | | Parks & Open Spaces Manager | |

RECOMMENDATION(S)

1. That the strategic director of environment and leisure approves the award of the Honor Oak Crematorium – installation of new cremators, ancillary equipment and associated building works contract to Facultatieve Technologies Ltd comprising the following:
 - (a) The installation of two mercury abated cremators, ancillary equipment and associated building works in the sum of £930,664 for a period of 56 weeks.
 - (b) A maintenance contract in the sum of £195,425 for a period of five years.
 - (c) The total contract sum of £1,126,089
2. That the strategic director of environment and leisure approves the allocation of a five per cent contingency of the contract sum totalling £46,533 which will be held within the capital project budget.

BACKGROUND INFORMATION

3. The council's two cremators are both in urgent need of replacement as they are in very poor condition with a high risk of regular service downtimes. This is limiting the council's ability to deliver vital services and could lead to reputational risk and loss of income.
4. In December 2014 the strategic director of environment and leisure approved the procurement strategy to use the Braintree District Council framework for the supply and installation of two cremators, ancillary equipment and associated works.
5. Dunn and Co Limited have been appointed as the lead consultants to deliver the project.
6. The contract is a design and build contract and as such planning approval and listed building consent (including consultation with English Heritage) will be sought once the contract award has been approved.

Procurement project plan (Key decisions)

| Activity | Completed by/Complete by: |
|--|---------------------------|
| Approval of Gateway 1: Procurement Strategy Report | December 2014 |

| Activity | Completed by/Complete by: |
|--|---------------------------|
| Completion of tender documentation | 20 February 2015 |
| Invitation to tender | 15 April 2015 |
| Closing date for return of tenders | 22 May 2015 |
| Completion of evaluation of tenders | 23 July 2015 |
| DCRB Review Gateway 2: Contract award report | 12 August 2015 |
| Notification of forthcoming decision – Five clear working days | 29 September 2015 |
| Approval of Gateway 2: Contract Award Report | 7 October 2015 |
| Scrutiny Call-in period and notification of implementation of Gateway 2 decision | 8 October 2015 |
| Debrief Notice and Standstill Period | 8 – 18 October 2015 |
| Contract award | 19 October 2015 |
| Add to Contract Register | 19 October 2015 |
| Contract start | October 2015 |
| Contract completion date - installation | August 2016 |
| Contract completion date – R&M | August 2021 |

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

7. This procurement will deliver a capital funded project.
8. The project will deliver the installation and maintenance of two mercury abated cremators to replace the current cremators and provision of ancillary equipment, as well as improvements to the building.
9. The cremators proposed are two heavy duty double ended gas fired cremators capable of taking weights of up to 300 kilograms together with a mercury abatement system.

Key/Non Key decisions

10. This report deals with a key decision.

Policy implications

11. The award of this contract enables the council to comply with a statutory direction from DEFRA, under the Environmental Permitting (England and Wales) Regulations 2007.
12. This award also supports Strategic Policy 13: *High Environmental Standards* from the council's Core Strategy.

13. The contract will deliver the short – medium term burial strategy as set out in the councils Cemetery Strategy Action Plan (2012).

Tender process

14. Braintree District Council has awarded a framework agreement for use by any UK public body for the provision of cremators and all associated equipment, maintenance and works for a four year period ending May 2017.
15. The Framework Agreement was advertised in the Official Journal of the European Union (OJEU) (2013/S 014-019181) in compliance with relevant EU procurement regulations.
16. There are two providers on the framework.
17. Both providers were invited to tender on 15 April 2015 and subsequently submitted a valid tender.
18. Both providers met all the requirements of the specification with regard to both mercury abated cremators and associated building works.

Tender evaluation

19. The tender evaluation was based on 'MEAT' (Most Economically Advantageous Tender). A price/quality ratio of 60:40 was applied.
20. The tender was evaluated jointly by the cemeteries and crematorium manager, service development officer, the appointed consultant and quantity surveyor.
21. The evaluation methodology sent to both tenderers made it very clear that the Council requires submissions received to be of a consistently good level of quality across all areas so tenderers will be required to achieve a minimum score in all 6 questions.
22. Tenderer A scored satisfactorily for all areas of the quality evaluation and as such were taken forward to the third stage of the process.
23. Tenderer B scored a less than satisfactory score on the method statement in relation to experience and the provision of three references. The tender documentation stated that the council could follow up their own independent references and as such further references were sought from other crematorium.
24. A high number of good references were obtained for Tenderer A whilst the references for Tenderer B were varied, with two references citing failures in equipment supplied.
25. As Tenderer B failed to achieve a satisfactory minimum score they were discounted from the competition, in line with the requirements set out in the Invitation to Tender.

Price

26. Tenderer A submitted a contract sum of £930,664 to install two mercury abated cremators, ancillary equipment and associated building works

27. Tenderer A also submitted a maintenance proposal in the sum of £195,425 for a period of five years.

28. In total Tenderer A submitted a total contract sum of £1,126,089

Plans for the transition from the old to the new contract

29. The transition between the existing and new cremators will be key in ensuring the current service is kept running at all times. There will always be one cremator operational during the installation period which will be written into the contract and the works programmed accordingly.

Plans for monitoring and management of the contract

30. The installation contract will be monitored on a day-to-day basis by Dunn and Co, who along with the quantity surveyor will inspect and sign off each payment stage of the project.

31. Fortnightly progress meetings with the appointed contractor, lead consultant and lead client officer will be held to monitor progress against the programme and budget.

32. The contractor will be responsible for commissioning tests to ensure satisfactory performance of the new plant under normal operating conditions. In the event of the plant not passing the prescribed tests, the contractor will remedy all faults immediately and retest to the satisfaction of the environmental regulator.

33. The maintenance contract will be monitored by the cemetery and crematorium manager who will undertake regular reviews of the service taking into account call out response times, scheduled service visits, operator feedback, quality and reliability of service provision.

34. Any significant unexpected deviance from either programme or budget will be highlighted by the lead consultant to the lead client officer, as soon as issues arise, for resolution. There could be unforeseen building works which are not able to be identified until the exiting cremators are removed from site.

Identified risks for the new contract

35.

| Risk | How Mitigated |
|---|--|
| Ensuring the project is completed within the allocated budget | A comprehensive monitoring regime will be implemented, comprising of regular updates and budget meetings with the consultant and quantity surveyor to ensure no additional costs are attributed to the project |
| Delay in installation of new cremators | Adherence to the programme will be closely monitored through regular site meetings with the contractor who will be required to submit progress reports at key stages. |
| Contract not completed due to | Company checks have been undertaken |

| | |
|---|---|
| company failure | and the successful company meets the requirements for a minimum acceptable risk score. For the installation work a pre-contract meeting will establish a detailed programme with clear staged payment plan. A performance bond has been applied to the contract and no payments are made up front until installation has been completed |
| Increase in costs due to unforeseen building works which could be found once existing cremators are removed from site | The setting aside of a 5 per cent contingency to cover any unforeseen costs |

Community impact statement

36. The delivery of the new cremators will enable the council to deliver funeral services that address the needs of Southwark's diverse communities. They will ensure that the needs of all sections of the community continue to be met by the service, by ensuring that cremation remains an available choice.

Economic considerations

37. There are no local suppliers of cremators or abatement equipment.
38. The provision of a good quality service in the borough's cemeteries will positively impact on local businesses such as funeral directors and stonemasons, who provide services in the bereavement industry.
39. The main revenue costs to the council are from utilities and the increased cost of maintenance of the capital plant.
40. The current maintenance arrangement for the cremators is not fully inclusive and therefore leaves the council liable for significant ad hoc repair costs. As both cremators are approaching the end of their life span, repair costs are expected to increase. The enhanced servicing and monitoring standards required by the new legislation mean that it has become necessary to establish a fully inclusive contract that covers the cremators and plant.

Social considerations

41. Due to the specialist nature of the works and the fact that an existing framework was being used, small and medium size enterprises (SME's) and black and minority ethnicity (BME's) could not be identified. The contract requires the successful company to ensure that they comply with the council's London Living Wage (LLW) requirements where applicable.
42. The contract will be let in accordance with section 149 of the Equality Act 2010. The council has a duty to have due regard in its decision making processes for 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.

43. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. The Public Sector Equality Duty also applies to marriage and civil partnership, but only in relation to (a) above.
44. This procurement will provide benefits for all sections of the community and will not negatively impact or disadvantage any individual or group.
45. There are considered to be no equalities issues arising from the award of this contract.

Environmental considerations

46. This contract award will allow the council to install equipment that will prevent mercury emission entering the atmosphere in order to meet the council's obligation to improve the environmental conditions within the Borough.
47. This contract will create a safer working and community environment by preventing mercury from being emitted into the atmosphere during the cremation process and therefore improving air quality, including the removal of harmful dioxins and acid gases.
48. The contract includes the installation of heat exchangers and a central boiler system offering the ability to harness a proportion of the energy used by the cremators to providing heating to the crematorium chapel. Currently the chapel is heated by the use of electric heat bars.
49. It is expected that the increase in electricity consumption from the mercury abatement plant will be offset by a reduction in electricity consumed by heating the chapel.

Market considerations

50. The successful supplier is a private organisation.
51. The successful supplier has fewer than 50 employees.
52. The successful supplier has a national area of activity.

Staffing implications

53. There are no implications for staffing as the client function will be provided by the Parks and Open Spaces business unit.

Financial implications

54. The capital cost of the recommendation is £930,664.00. The cost will likely to be incurred as follows:
- £300k in 2015/16
 - £584k in 2016/17
 - £47k in 2017/18

55. A contingency of 5 per cent of the contract sum (i.e. £46,533) is being held within the wider capital project budget to cover any unforeseen costs, for example additional building works may be needed once the existing cremators are removed from site.
56. The total expenditure incurred against the capital allocation for the scheme will be monitored and reported on as part of the overall Capital Programme.
57. The five year maintenance contract cost of £195,425, i.e. an annual cost of £39,085, arising from this recommendation will be funded from the existing crematorium revenue budget.
58. This particular tender sum from the compliant tenderer for the supply and installation of two mercury abated cremators is higher than the estimated cost approved in the Gateway 1. It is essential that these works are carried out, there is enough capital budget to cover the cost and it can be contained within this.
59. Staffing and any other costs connected with this recommendation are to be contained within existing business unit budgets.
60. It is proposed that none of the contract costs are paid in advance of the completion of the relevant works.
61. A credit rating check was carried out for the preferred supplier via Experian reports. The preferred supplier is a low risk company and is a part of a group of many companies.

Legal implications

62. See concurrent report from Director of Legal Services

Consultation

63. Public consultation will be undertaken as part of the planning process which will also include consultation with English Heritage as the crematorium is a listed building.
64. Several internal departments have been consulted with including planning, finance and environmental health. All of which are in agreement of the proposed works.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

65. This gateway two report seeks the strategic director of environment and leisure's approval of the award of a contract for the installation of two cremators, ancillary equipment and associated works together with a five year maintenance contract at a total cost of £1,126m.
66. A procurement strategy report for the contract was approved by the strategic director of environment and leisure in December 2015.
67. The gateway two report details the services to be delivered within the proposed contract.
68. The two providers on the Braintree District Council framework agreement were invited to tender.
69. The report confirms the process and the criteria that were used at tender evaluation to select a provider to deliver this contract including the breakdown of the price: quality evaluation ratio.
70. The report identifies that tenderers were required to achieve a minimum score of three for all six questions. Tenderer B was scored two marks only in relation to a question on their experience and references.
71. The report notes however that officers and their advisers consider that the procurement process undertaken was in line with that described at gateway one stage and that the process undertaken has been compliant with both CSOs and relevant legislation.
72. The installation contract will be overseen by the technical consultant supported by a quantity surveyor whilst the maintenance contract will be monitored by the cemetery and crematorium manager. A performance bond has been applied to the contract and payments will not be made until satisfactory installation has been completed.

Director of Legal Services

73. This report seeks approval of the award of a contract to Facultatieve Technologies Ltd as detailed in paragraph 1.
74. The director of legal services ("DLS", acting through the corporate team) has advised officers throughout this procurement and confirms that the framework agreement established by Braintree District Council had been procured in compliance with EU procurement regulations and had been available to all local authorities to use. With Braintree's consent, appropriate amendments have been made to the service contract conditions in order to meet some specific Southwark requirements.
75. The report summarises the key features of the tender evaluation methodology and the steps taken by officers to ascertain the quality of works and services delivered by the two framework contractors and the extent to which other contracting authorities had been satisfied with the installation and maintenance of their cremators and associated equipment.

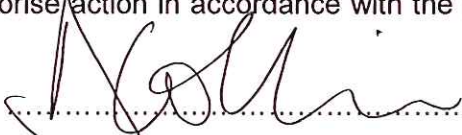
76. In conjunction with officers from Environment and Leisure the DLS has reviewed the invitation to tender and the evaluation methodology in order to be satisfied as to the propriety of the tender evaluation process and, in particular, the allocation of scores.
77. As the procurement exercise has generated only one compliant tender which is recommended for acceptance, the decision to approve the report recommendations is one which may be taken by the strategic director of environment and leisure in line with Contract Standing Orders ("CSOs"). CSOs also require that adequate expenditure shall have been identified and set aside for the purpose of funding the contract, and paragraphs 54 to 58 advise how this requirement is to be fulfilled.

Strategic Director of Finance and Corporate Services (CAP15/086)

78. This report seeks the approval of the strategic director of environmental and leisure to award the Honor Oak Crematorium contract for the installation of two new mercury abated cremators, ancillary equipment and associated building works to Facultatieve Technologies Ltd for the sum of £930,664 for a period of 56 weeks, following a tender evaluation process as detailed in the report.
79. The strategic director of finance and corporate services notes the allocation of a five per cent contingency of the contract sum totalling £46,533 which will be held within the capital project budget.
80. The strategic director of finance and corporate services also notes that the capital costs associated with this contract will be fully contained within the departmental capital budget for "cemetery burial strategy" allocated under the council's capital programme. The total expenditure for the scheme will be monitored and reported on as part of the overall capital programme.
81. It is noted that the five year maintenance contract cost of £195,425 arising from this contract will be funded from the existing departmental crematorium revenue budget.
82. Staffing and any other future maintenance costs connected with this contract to be contained within existing departmental revenue budgets.

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 8/10/15
 Designation STRATEGIC DIRECTOR - ENVIRONMENT & LEISURE

BACKGROUND DOCUMENTS

| Background documents | Held At | Contact |
|----------------------|-----------------------------|-----------------|
| Title of document(s) | Public Realm/Parks and Open | Hemali Topiwala |

| | | |
|-------|---|---------------|
| | Spaces 160 Tooley Street London SE1 2TZ | 020 7525 0530 |
| Link: | | |

APPENDICES

| No | Title |
|----|-------|
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AUDIT TRAIL

| | | |
|---|--|--------------------------|
| Lead Officer | Rebecca Towers, Parks and Open Spaces Manager | |
| Report Author | Hemali Topiwala, Project Manager, Park & Open Spaces | |
| Version | Final | |
| Dated | 7 October 2015 | |
| Key Decision? | Yes | |
| CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER | | |
| Officer Title | Comments Sought | Comments included |
| Head of Procurement | Yes | Yes |
| Director of Legal Services | Yes | Yes |
| Strategic Director of Finance and Corporate Services | Yes | Yes |
| Contract Review Boards | | |
| Departmental Contract Review Board | Yes | Yes |
| Corporate Contract Review Board | No | No |
| Cabinet | No | No |
| Date final report sent to Constitutional/Community Council/Scrutiny Team | N/A | |

BACKGROUND DOCUMENT – CONTRACT REGISTER UPDATE - GATEWAY 2

| | |
|--|---|
| Contract Name | Honor Oak Crematorium – Installation of two cremators |
| Contract Description | Installation of two mercury abated cremators, ancillary equipment and associated building works |
| Contract Type | Works |
| Lead Contract Officer (name) | Hemali Topiwala |
| Lead Contract Officer (phone number) | 020 7525 0530 |
| Department | Environment & Leisure |
| Division | Public Realm |
| Procurement Route | Braintree Framework Agreement |
| EU CPV Code (if appropriate) | N/A |
| Departmental/Corporate | Departmental |
| Fixed Price or Call Off | Fixed |
| Supplier(s) Name(s) | Facultatieve Technologies |
| Contract Total Value | £1,126,089 |
| Contract Annual Value | |
| Contract Start Date | October 2015 |
| Initial Term End Date | August 2016 installation August 2021 R&M |
| 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) | |
| Comments | N/A |
| London Living Wage | Yes |

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