

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 4 June 2019	<b>Meeting Name:</b> Strategic Director Environment and Leisure
<b>Report title:</b>		<b>Gateway 2 - Contract Award Approval</b> Drainage Work for Traded Services	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Director of Environment	

### RECOMMENDATION(S)

1. That the Strategic Director of Environment and Leisure approves the award of Contract A for Traded Services to MSJ Drainage and Maintenance for the estimated maximum contract sum of £525,000 for a period of 24 months commencing from 1 July 2019.
2. That the Strategic Director of Environment and Leisure approves the award of Contract B for Traded Services to Technical Drain Solutions for the estimated maximum contract sum of £475,000 for a period of 24 months commencing from 1 July 2019.

### BACKGROUND INFORMATION

3. The planned procurement strategy was the subject of a Gateway 1 report approved by the Strategic Director of Environment and Leisure on 13 February 2019. The approved competitive tendering procurement strategy was followed.
4. The total estimated value for the contracts stands at £1m for a period of 24 months.
5. The prices are fixed for the duration of the contracts.
6. The scope of works will be as follows:
  - Drain jetting
  - Drainage repairs
  - Above ground drainage works
  - CCTV survey
7. Both contractors will back each other up should there be issues with performance.

## Procurement project plan (Key Decision)

8.

Activity	Completed by/Complete by
Forward Plan for Gateway 2 decision	21/03/2019
Briefed relevant cabinet member (over £100k)	05/02/2019
Approval of Gateway 1: Procurement Strategy Report	13/02/2019
Invitation to tender	23/04/2019
Closing date for return of tenders	10/05/2019
Completion of evaluation of tenders	21/05/2019
DCRB Review Gateway 2:	04/06/2019
Notification of forthcoming decision – Five clear working days	11/06/2019
Approval of Gateway 2: Contract Award Report	11/06/2019
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	18/06/2019
Contract award	19/06/2019
Add to Contract Register	20/06/2019
Contract start	01/07/2019
Publication of award notice on Contracts Finder	21/06/2019
Contract completion date	30/06/2021

### KEY ISSUES FOR CONSIDERATION

#### Description of procurement outcomes

9. Traded Services aims to deliver drainage repair works in-house and these contracts will ensure that the council has arrangements in place to meet peak demands and provide a backup to Traded Services.

#### Key/Non Key decisions

10. This report deals with a key decision

#### Policy implications

11. The works provided through these contracts will contribute to the council's Fairer Future Promise of quality affordable homes, improving housing standards and revitalising neighbourhoods.

## Tender process

12. As outlined in the Gateway 1 report approved on 13 February 2019, contract standing orders (CSOs) require a minimum of 5 contractors to be invited to tender from the council's works Approved List. On this occasion 5 contractors were invited to tender for these works.
13. Prior to tendering, all companies were contacted via email and telephone, outside of the e-portal, in order to notify them of the opportunity and to ensure that they had access to the pro-contract system and the tender documents.
14. Tenders were issued on 23 April 2019 with a return date by 1pm on 10 May 2019. Responses were received from three tenderers. Two of those invited to tender did not return a tender submission without giving reasons despite showing initial interest.

## Tender evaluation

15. Three bids were returned via the e-portal by the deadline of 1pm on 10 May 2019. They were unsealed by an officer from the Finance and Governance department on 13 May 2019 and checked for compliance.
16. Tenders were evaluated on the basis of price and quality as outlined in the Gateway 1 report. This included a check of tenderers documents and registration with Exor/Safe Contractor approved list.
17. All tenders were initially checked for completeness and compliance with the tender documents as set out in "6 – Drainage Evaluation Information" before the price evaluation was carried out. The price was evaluated by a quantity surveyor from Traded Services.
18. A price evaluation model was used that contained pre-priced rates covering the main work carried out in drainage repairs. The total of these rates provided a baseline price against which the tenderers were required to add or subtract their percentage. This percentage adjusted price was then used to rank the tenderers.
19. The baseline price for total rates was £58,813.45. Tenderers could apply their percentage adjustments to come in higher or lower than this figure. The lowest two tenderers would be awarded contracts in accordance with the Gateway 1 report.
20. As a measured term contract is proposed, the figures and quantities used in the price evaluation were indicative only, to enable an evaluation of the relative prices of the tenders.
21. Final expenditure will be demand led in accordance with the available budget.
22. Tender prices submitted and the respective rankings are as follows.

Ranking	Contractor	Tender sum
1	MSJ Drainage and Maintenance Ltd	£43,210.84

2	Technical Drain Solutions Ltd	£81,747.18
3	Bidder C	£108,691.52

23. The evaluation methodology detailed that two contracts would be awarded based on the most economically advantageous rates. Contract A will be awarded to the lowest price tenderer and Contract B will be awarded to the second lowest tenderer.

24. Following clarification, officers are reassured that the winning tender price is not abnormally low and is sustainable.

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

25. The council's Traded Services team will develop an overall plan to manage and monitor this critical phase ensuring transition from the current service delivery arrangements to the three new contracts successfully.

26. The mobilisation plan will include:

- Setting up contractors and schedule of rates on Impact Response
- Impact Response training for contractors
- Provision of keys, data, permits and all necessary assets to the new contractors
- Distribution of the asbestos register and briefing to new contractors
- Contractors' internal mobilisation planning including fleet preparation, stock acquisition and staff briefings.

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

27. The contracts will be managed by the Traded Services management team.

28. Key Performance Indicators (KPIs) will be set and monitored to ensure the successful contractors' performance. In particular, targets will be set to ensure all drainage works are completed within the contractual timespans.

29. The below table shows the KPIs for the contracts.

NO	Key Performance Indicator	Minimum Target Percentage %
1.	Right first time	90%
2.	Percentage of Priority Code 1 and 3 Orders completed within the stipulated time periods.	95%
3.	Average Completion Days for all non priority orders (Days)	15

30. The Traded Services team will undertake audit site inspections to ensure works are compliant and delivered to a high standard.

31. The Traded Services team will review all applications for payment and monitor and administer defaults and recovery of costs for poor performance.

32. Monthly progress meetings with the contractors and the Traded Services management team will be arranged and recorded to review performance and compliance.

33. Each contractor will be required to complete and return annual compliance checks to ensure they comply with the London Living Wage payment undertakings, contractual insurance and professional certification. The commercial team will carry out annual financial checks.

**Identified risks for the new contract**

34. The table below identifies the specific risks associated with these contracts, the likelihood of occurrence and the controls in place to mitigate the risks.

R/N	Risk	Likelihood	Risk Control
R1	Any or all the contractors go into liquidation, administration or cease trading.	Low	The contracts contain the provision for both contractors to act as backup for each other. If all contractors cease trading, then the council's works Approved List will be used whilst re-procuring the contract(s) should this occur. The financial stability of the organisations will be continuously monitored throughout the contracts through the contract management process. Retention will be held on all interim payments to mitigate against the risks of company failure by any contractor. A Parent Company Guarantee will not be taken up as all of the contractors are stand alone entities.
R2	Ineffective mobilisation	Low	Mobilisation meetings and communications will be carried out in the short run to contract start.
R3	One or all contractors unable to fulfil the requirements of the contract e.g. poor performance, leading to the need to terminate the contract.	Low	The council will use back up arrangements within the contract. If all fail, the Approved list of contractors will be used whilst re-procuring the contract(s) should this occur.

**Other considerations (For Housing Department works contracts only)**

35. Not applicable

### **Community impact statement**

36. The Public Sector Equality Duty contained in the Equality Act 2010 has been considered and no individual or group has been nor will be disadvantaged, either in the procurement process or following award of contracts.
37. The two contracts support the council's Fairer Future Promises for quality affordable homes and revitalised neighbourhoods.

### **Social Value considerations**

38. 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.

### **Economic considerations**

39. The full cost to the council and the life span of each contract is set out in paragraphs 1 and 2 of this report.
40. Each contractor will provide two week slots for one (1) student per annum for local school work experience for administration work and each provide opportunity for one (1) apprenticeship for the duration of the initial term of the contracts. This will be monitored by the Traded Services team and reported in the annual performance review reports.
41. The contract conditions includes an express condition requiring compliance with the Employment Relations Act 1999 (Blacklists) Regulations 2010 and include a provision to allow the contract to be terminated for a breach of these requirements. The commercial team will carry out an annual check to ensure compliance with the regulations as part of the annual performance review.

### **Social considerations**

42. The contractors have demonstrated that they operate an Equal Opportunity Policy and that they are fully aware of and compliant with the council's own Equal Opportunity Policy in particular.
43. The two contractors have each confirmed that they exceed the LLW requirements. Following award, quality improvements and costs implications linked to the payment of LLW will be monitored as part of each contract review process.

### **Environmental/Sustainability considerations**

44. The use of low emission vehicles and the planning of journeys will be encouraged within the contracts.

### **Market considerations**

45. MSJ Drainage and Maintenance Ltd is a regional, small enterprise (less than 50 employees), private limited company based in the neighbouring borough of Lambeth (Streatham).

46. Technical Drain Solutions Ltd is a regional, medium enterprise (150 employees), private limited company based in Essex (Upminster).

#### **Staffing implications**

47. The contract administrator for this contract will be the Commercial Manager within the Traded Service Division of the Environment and Leisure department.

48. Staffing implications associated with the contract award will be contained within existing staffing budgets.

#### **Financial implications**

49. The Drainage Works for the Traded Services contract is estimated to cost £500,000 per annum and forms an element of the works delivered across all key service delivery components including, PPP, PPV, Communals and Temporary Accommodation..

50. These works are currently carried out by a mixture of SBS direct labour and ad hoc arrangements with contractors.

51. The two contracts have been sought to assist with peak demands and provide back up, whilst a recruitment plan is implemented to enable the SBS direct labour to deliver a bigger proportion of the works. The recommendation as laid out in paragraphs 1 and 2 above is for 2 external contractors to have the capacity to carry out works up to a combined £500,000 per annum ceiling, delivering any works SBS direct labour does not have the capacity to deliver for the next 2 years from the 1 July 2019.

52. The tender sum is based on the prices submitted by the tenderers against a specified project in the price evaluation document. The total estimated contract value reflected in the recommendations are based on the total budget available for various work streams expected in this area using the rates submitted by the tenderers. The activity level however is controlled by the client and the final expenditure is demand led based on the budget available.

53. The annualised cost is budgeted within the HRA.

#### **Investment implications**

54. There are no investment implications

#### **Legal implications**

55. The procurement process described above and the proposed contract awards are consistent with relevant legislation and with the requirements of the council's Contract Standing Orders.

#### **Consultation**

56. Consultation has been carried out with all relevant parties.

## SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

### Strategic Director of Finance and Governance (EL19/015)

57. This report recommends that the strategic director of Environment and Leisure approves the award of the contract A to MSJ Drainage and Maintenance and contract B to Technical Drain Solutions for a period of 24 months commencing from 1 July 2019. The combined value of both contracts is estimated to be £500k per annum.
58. The strategic director of finance and governance notes that the source of the funding for the contract is the Housing Revenue Account and that there are no other financial implications.
59. Contract expenditure will be monitored on a regular basis as part of the departmental revenue monitoring process. Staffing and any other costs connected with this report to be contained within existing departmental revenue budgets.

### Head of Procurement

60. A formal procurement concurrent is not required as the estimated value of the contracts is below the EU advertising threshold for works.

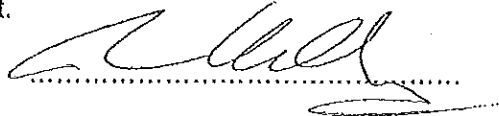
### Director of Law and Democracy

61. A formal concurrent is not required as the estimated value of the contracts is below the EU advertising threshold for works.

## 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: 14<sup>th</sup> June 2019

Designation: Chief Executive

## 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.



**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**

*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.*

**6. DECLARATION ON CONFLICTS OF INTERESTS**

I declare that I was informed of no conflicts of interests.

## BACKGROUND DOCUMENTS

Background documents	Held At	Contact
Gateway 1 Procurement Strategy Approval for Backup Drainage Works for Traded Services	Traded Services	Steven Johnston 07927567305
Link: <a href="K:\Procurement\Drainage\Gateways\GW1 Drainage Works for Traded Services.pdf">K:\Procurement\Drainage\Gateways\GW1 Drainage Works for Traded Services.pdf</a>		

## AUDIT TRAIL

<b>Lead Officer</b>	John Wade, Acting head of Traded Services	
<b>Report Author</b>	Steven Johnston, Senior Quantity Surveyor, Traded Services	
<b>Version</b>	Final	
<b>Dated</b>	23/05/2019	
<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
Cabinet Member	N/A	N/A
<b>Contract Review Boards</b>		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	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	Drainage Works for Traded Services
Contract Description	Drainage works across the borough of Southwark in assistance to SBS operatives
Contract Type	Works
Lead Contract Officer (name)	Steven Johnston
Lead Contract Officer (phone number)	07927567305
Department	Environment and Leisure
Division	Traded Services
Procurement Route	5 tenders from the approved list
EU CPV Code (if appropriate)	N/A
Departmental/Corporate	Departmental
Fixed Price or Call Off	Fixed
Supplier(s) Name(s)	MSJ Drainage and Maintenance Ltd Technical Drain Solutions Ltd
Contract Total Value	£1,000,000
Contract Annual Value	£1,000,000
Contract Start Date	1 July 2019
Initial Term End Date	30 June 2020
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)	MSJ Drainage 05628837 Technical Drain Solutions 6125647
Comments	N/A
London Living Wage	Yes

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

