

<b>Item No:</b>	<b>Classification:</b> Open	<b>Date:</b> 18 March 2019	<b>Decision Taker:</b> Strategic Director of Housing and Modernisation
<b>Report title</b>	<b>Gateway 2 – Major works constructor framework (Lot 3)</b> District Heating Network Replacement at Salisbury Estate 2016/17		
<b>Ward(s) or groups affected</b>	North Walworth		
<b>From</b>	Head of Investment		

## RECOMMENDATIONS

1. That the strategic director of housing and modernisation approves the award of the District Heating Network Replacement at Salisbury Estate 2016/17 via a mini-competition from the major works constructor framework to MPS Housing Ltd for a period of 52 weeks.

## BACKGROUND INFORMATION

2. 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
3. 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.
4. 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.
5. The scope of works for this scheme includes replacement of the District Heating Network (boilers and underground boilers and underground mains replacement).
6. Lot 3 is applicable to these works.
7. The duration of the works is 52 working weeks.
8. Works are expected to start on 22 April 2019 and complete on 17 April 2020.

## Procurement project plan (Key Decision)

Activity	Completed by/Complete by:
Forward Plan for this Gateway 2 decision	18/03/2019
Approval of Gateway 2: Establishment of major works framework agreement	20/10/2015
Notice of Intention (Applies to Housing Section 20 Leaseholder Consultation)	17/01/2018
Mini competition invitation	23/08/2018
Closing date for return of tenders	26/10/2018
Completion of evaluation of tenders	09/11/2018
Notice of Proposal (Applies to Housing Section 20 Leaseholder Consultation)	24/12/2018
Notification of forthcoming decision – Five clear working days	25/03/2019
Approval of Gateway 2: Mini competition award report	15/03/2019
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	25/03/2019
Contract award	25/03/2019
Add to Contract Register	25/03/2019
Contract start	22/04/2019
Publication of award notice on Contracts Finder	22/04/2019
Contract completion date	17/04/2020

## KEY ISSUES FOR CONSIDERATION

### Description of procurement outcomes

9. This scheme consists of works to blocks on the Salisbury Estate in the Walworth area. This includes 8 freehold properties, 63 leasehold properties and 2 Right to Buy (RTB) applicants. The address details are as follows:

Block Address
2-46 Chatham House
1-32 Salisbury
1-29 Hemp Walk
61-203 Rodney Rd
1-36 Hillery Close
1-34 Locksfield SHU

### Policy Implications

10. This scheme is designed to deal with work to meet the Quality Homes Investment (QHIP) 2016/17 programme which includes works to district heating systems.
11. Planning consent is not required for the works being undertaken within this scheme.
12. As part of the overall procurement process for this framework, MPS Housing Ltd 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.

13. 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**

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

### **Mini competition Process**

15. The call-off arrangements set out in the 'operation of the framework' document was followed and a mini-competition procedure was carried out.
16. 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 1987, leaseholder consultation was carried out. The council did not receive leaseholder nominations.
17. All contractors listed on Lot 3 were invited to participate in the mini-competition process with instructions to return the tender by 4pm on 22 November 2018. The list of contractors invited is as follows:
  - **Vital Energi Utilities Ltd**
  - **BSW Heating Ltd**
  - **Staple-Tech Ltd**
  - **K & T Heating Services Ltd**
  - **MPS Housing Ltd**
18. Only 4 contractors returned a tender. K & T Heating Services Ltd declined to tender for this project because of a internal resource challenge.

### **Mini-competition Evaluation**

19. The tenders were evaluated in line with the rules set out in the framework.
20. Representatives from Potter Raper Partnership (PRP) and the Investment Team 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.
21. 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.
22. The quality element of the submissions was assessed on a pass/fail basis.
23. 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.

24. The quality submissions were scored using a 1 – 3 scoring systems 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.
25. The results of the quality criteria assessments were as follows:

<b>Contractor</b>	<b>Pass/Fail</b>
Vital Energi Utilities Ltd	Pass
BSW Heating Ltd	Pass
Staple-Tech Ltd	Pass
MPS Housing Ltd	Pass

26. 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.

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

27. 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 calling from the framework 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.
28. 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.
29. 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.
30. 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, Potter Raper Partnership. It is confirmed for this scheme that the lead design services will be provided by PRP and cost management by PRP.
31. 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**

32. 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 PRP who were appointed on 15 April 2016. 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**

33. Formal legal consultation with leaseholders has been undertaken by the council's specialist housing services team.

### **Legal Implications**

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

### **Consultation**

35. Consultation meetings were held with residents and their representatives (Boiler Working Group and their consultant Evora) on 15 February 2017, 28 November 2017, 22 February 2018, 15 March 2018, 31 October 2018 and 30 November 2018.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Finance and Governance (Ref H&M/105)**

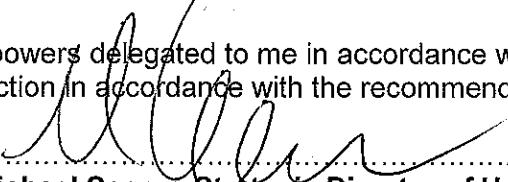
36. The report is requesting delegated approval from the Strategic Director of Housing and Modernisation to award the works contract entitled District Heating Network Replacement at Salisbury Estate 2016/17 via a mini-competition from the major works constructor framework to MPS Housing Ltd.
37. There is an estimated resource shortfall for the Housing Investment programme. There is also likely to be further demand on the capital programme as a consequence of local or national demands for resources following the tragic Grenfell fire. It is, therefore, important that the cost of these works is carefully monitored and that accurate forecasting is in place.
38. Any variation or extension to the contract beyond the scope of this report will require further approval in line with council's procurement protocols.

### **Director of Law and Democracy**

39. This report seeks the approval of the strategic director of housing and modernisation to the award of the District Heating Network Replacement at Salisbury Estate QHIP 2016/17 'call-off' contract to MPS Housing Ltd as further detailed in paragraph 1.
40. 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.
41. It is confirmed at paragraph 18 that a mini-competition procedure was carried out for these works under Lot 3. Paragraph 38 confirms that on the basis of the mini-tender submitted and the evaluation process carried out, MPS Housing Ltd is proposed as contractor for these works.
42. It is further 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.
43. CSO 2.3 requires that no steps should be taken to award a contract unless the expenditure has been approved. Paragraphs 46-49 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.

Signature.....  ..... Date 26 March 2019  
**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.

<b>1. DECISION(S)</b>
As set out in the recommendations of the report.

<b>2. REASONS FOR DECISION</b>
As set out in the report.

<b>3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION</b>
Not applicable.

<b>4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION</b>

<b>5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST</b>
<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>

<b>6. DECLARATION ON CONFLICTS OF INTERESTS</b>
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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

<b>Lead Officer</b>	Ferenc Morath, Head of Investment		
<b>Report Author</b>	Bola Odusanya, Project Manager		
<b>Version</b>	Final		
<b>Dated</b>	18 March 2019		
<b>Key Decision</b>	Yes	<b>If yes, decision date on forward plan</b>	

#### 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
<b>Date final report sent to Constitutional Officer</b>	27/03/2019	

**BACKGROUND DOCUMENT – CONTRACT REGISTER UPDATE - GATEWAY 2**

Contract Name	District Heating Network Replacement at Salisbury Estate 16/17
Contract Description	DHN replacement – boilers and underground mains
Contract Type	JCT Design and Build Contract 2011
Lead Contract Officer (name)	Bola Odusanya
Lead Contract Officer (phone number)	0207 525 7184
Department	Housing & Modernisation
Division	Major Works
Procurement Route	Framework call off
EU CPV Code (if appropriate)	N/A
Departmental/Corporate	Dept
Fixed Price or Call Off	Fixed Price
Supplier(s) Name(s)	MPS Housing Ltd
Contract Total Value	£2,897,073
Contract Annual Value	19/20 2,824,646 20/21 £72,427
Contract Start Date	22 April 2019
Initial Term End Date	17 April 2020
No. of Remaining Contract extensions	Nil
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)	N/A
Comments	None
London Living Wage	Yes

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