

Item No.	Classification: Open	Date: 5/08/2019	Decision Taker: Strategic Director of Housing and Modernisation
Report title:		Gateway 2 - Contract Award Approval Works Contract for the New Homes Delivery programme – Rutley Close	
Ward(s) or groups affected:		Newington Ward	
From:		Director of New Homes	

RECOMMENDATION(S)

The Strategic Director of Housing and Modernisation:

1. Approves the award of a works contract for 39-44 Rutley Close, to Guildmore Ltd for the contract sum of £5,698,915 commencing from 9 December 2019 for a period of 84 weeks.
2. Notes the total scheme costs as detailed in paragraph 59.

BACKGROUND INFORMATION

3. Planning permission was granted on 20 February 2018 for the redevelopment of the existing bungalow block at 39-44 Rutley Close and part of a disused car park podium structure to create 25 new homes (4 x 1-bed, 16 x 2-bed and 5 x 3-bed flats) for council rent including a new landscaped courtyard.
4. The planned procurement strategy was the subject of a Gateway 1 report which was approved by the Strategic Director of Housing and Modernisation on 6th June 2016.
5. The Gateway 1 recommended procuring these works following the OJEU restricted procedure.
6. The procurement strategy relates to the council's 11,000 new homes programme.
7. The tenders sought for a JCT Design & Build Contract 2016 based on Southwark's Employers Requirements and the Stage 4 scheme design.
8. The works contract will be for a fixed period of 84 weeks from date of the transfer of site possession from the council to the contractor.

Procurement project plan (Key Decision)

9. See table below:

Activity	Completed by/Complete by:
Forward Plan for Gateway 2 decision	18/04/2019
Briefed relevant cabinet member (over £100k)	18/04/2019

Activity	Completed by/Complete by:
Approval of Gateway 1: Procurement Strategy Report	6/06/2016
Invitation to tender	2/04/2019
Closing date for return of tenders	24/5/2019
Completion of evaluation of tenders	6/06/2019
DCRB Review Gateway 2:	5/08/2019
Notification of forthcoming decision – Five clear working days	19/08/2019
Approval of Gateway 2: Contract Award Report	27/08/2019
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	05/09/2019
Debrief Notice and Standstill Period (if applicable)	12/09/2019
Contract award	13/09/2019
Add to Contract Register	13/09/2019
Contract start	9/12/2019
Publication of award notice in Official Journal of European (OJEU)	10/09/2019
Publication of award notice on Contracts Finder	10/09/2019
Contract completion date	2/08/2021

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

10. The procurement has enabled one contractor to be selected who will deliver construction works in line with the planning approval.
11. The contract value is considered to represent value for money. The build cost per square metre equates to approximately £2,614.18 m² which is considered value for money and compares favourably with other projects within the 11,000 new homes programme. The sum is below the pre-tender cost estimate for the works (estimated by Quantity Surveyor Calfordseaden) of £6,184,933.

Key/Non Key decisions

12. This report deals with a key decision

Policy implications

13. These 25 new homes at Rutley Close are in line with the council's principles and visions for a new housing strategy which is aimed at increasing the availability, affordability and quality of homes in the borough. The new homes will play a key

role in assisting the council to achieve its target of building 11,000 new homes by 2043.

Tender process

14. The works contract in accordance with an EU restricted procedure that follows two stages, Pre-Qualification (PQQ) followed by Invitation to Tender (ITT).
15. Following advertisement through the OJEU and the London tenders portal 11 contractors responded to the pre qualification questionnaire and five contractors were invited to tender in accordance with the guidance in the invitation to tender.
16. The tendering exercise was undertaken using the council's E Procurement portal, Pro Contract 3.
17. The closing date for the standard suppliers' questionnaire was 4 March 2019. The closing date for the tenders was 24 May 2019. The tenders were reviewed on 6 June 2019. All firms invited to tender submitted a tender, with the exception of Company D who advised that they were unable to tender for this scheme due to commitments on other tenders and insufficient resources within their estimating department.
18. The pre-qualification questionnaire and the quality section of the subsequent tenders were evaluated by two LBS officers and a representative from Calfordseaden (appointed as Employer's Agent for the project). A consensus scoring method was used during this evaluation.
19. The price and contract sum analysis were examined by Calfordseaden (appointed as Quantity Surveyor for the project). Financial checks on each tenderer were completed by the council's Finance department.
20. Tender clarifications were sought on a number of points as detailed in the Tender Report in Appendix 1 of the closed report.

Tender evaluation

Pre-Qualification Questionnaire

21. The standard suppliers' questionnaire included a quality assessment that focused on the following:
 - a. Experience – 20%
 - b. Health and safety – 20%
 - c. Subcontractors – 10%
 - d. Quality and Value for Money – 20%
 - e. Community Engagement – 10%
 - f. Fire safety – 20%
22. The following tables show the quality scores for the tenderers. The top five scoring tenderers highlighted in green were shortlisted and invited to ITT stage. The lowest scoring contractors highlighted in red were not invited to ITT stage:

Overall Summary		
Tenderer	Quality (100%)	Rank
Company A	78	1
Company B	74	2
Company C	72	3
Company D	66	4
Company E	60	5
Company F	58	6
Company G	56	7
Company H	56	7
Company I	50	9
Company J	46	10
Company K	32	11

Invitation to Tender

23. As stated in the Gateway 1 report a most economic advantageous tender (MEAT) was adopted but with a 60/40 price/quality split instead of 70/30 price/quality split as stated in the report. The change was to reflect the higher quality required.
24. Tenderers were required to provide information to support their quality submission that demonstrated their ability to fulfil the requirements of the contract, the questions asked were focused around the following:
- a. Delivery, quality and compliance – 8%
 - b. Design management – 5%
 - c. Subcontractors – 5%
 - d. Health and safety – 7%
 - e. Constraints and delivery – 5%
 - f. Fire safety – 8%
 - g. Living wage, apprenticeships and local labour – 2%
25. The questions within the quality assessment were weighted equally and detailed in the tender evaluation assessment criteria included within the tender documents.
26. Tenderers were required to provide a contract sum and a contract sum analysis, which was scrutinised by the Employer’s Agent.
27. Four out of the five contractors at ITT stage submitted tenders. The fifth contractor advised that they were unable to tender for this scheme due to commitments on other tenders and insufficient resources within their estimating department.
28. All tenderers met the quality threshold scores (minimum of 2 out of 5 marks) in accordance with the evaluation assessment criteria and no tenders excluded.
29. A summary of the outcome of the quality scores is provided in the table below:

Tenderer	Quality score
Engie Regeneration Ltd	31%
Guildmore Ltd	25%
Bugler Developments Ltd	22%
Thomas Sinden Ltd	22%

30. The formula used for the price score is below:

$$\text{Price score} = 60\% \left(\frac{\text{form of tender price of the lowest bidder}}{\text{form of tender price of bidder}} \right)$$

31. The lowest form of tender price was from Guildmore Ltd. The scores achieved by the tenderers were as follows:

Overall Summary				
Tenderer	Quality (40%)	Price (60%)	Total (100%)	Rank
Guildmore Ltd	25	60.00	85.00	1
Company B	31	49.22	80.22	2
Company C	22	51.60	73.60	3
Company D	22	44.62	66.62	4

32. The successful tender submitted a contract sum of £5,698,915.

33. A full breakdown of the quality and cost scores for all tenderers on each package is provided at Appendix 1 of the closed report.

Plans for the transition from the old to the new contract

34. Not applicable

Plans for monitoring and management of the contract

35. The project management, including the management and administration of the contractor appointment will be run and resourced through the New Homes Delivery Team in the New Homes Division of the Housing & Modernisation Department. Performance of the construction 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:

- Strategic cost plan, which will be regularly reviewed and updated
- Monthly site meetings and monthly progress reports
- Monthly financial statements by the contractor and verification by the Employers Agent
- Monthly appraisals of progress against programme
- Tracking and chasing actions on critical issues
- Periodic project team 'look ahead' workshops covering key phases of work and risks
- Risk and issues log
- Biannual monitoring reports to DCRB

36. Payment will be made on a monthly on the basis of a valuation that has been verified and agreed by the Employer's Agent.

37. Internal governance arrangements for the programme were reported to cabinet in December 2014. These confirmed that ultimate responsibility for the overall programme resides with the Delivery Programme Board, chaired by the Strategic Director of Housing & Modernisation

Identified risks for the new contract

38.

	RISK	RISK LEVEL	MITIGATION ACTION
1	Contractor has inadequate resources and management arrangements to mobilise and deliver the contract	Low	The New Homes Delivery Team will monitor the contract and regularly review performance.
2.	Contractor becomes insolvent, ceases trading and goes into administration	Low	The New Homes Delivery Team has undertaken a credit check and is satisfied that the credit scoring 88 is good. The Finance department has also undertaken financial checks and are satisfied with the financial standing of the company. LABC insolvency cover will be obtained by the contractor, and in addition Guildmore Ltd will provide a performance bond for this project.
3.	Project cost overruns	Low	The form of contract used for this project is a JCT Design and Build contract which means that the contract sum is inclusive subject to any provisional sums and future variations. All surveys have been carried out which should help mitigate there being any unforeseen site conditions or abnormal. Any future variations will be fully scrutinised, justified and costed by the Employer's Agent prior to instruction. Value engineering will take place where necessary to ensure that the budget is achieved,
4.	Project delivery delays resulting from discharge of planning conditions and liaison with third party organisations.	Medium	The new homes delivery team will assist where possible with liaison with third parties to help mitigate delays, particularly any which may result from the discharge of planning conditions or necessary approvals from within the council. The tender process also tested the contractor's experience in delivering construction projects, relying on successful liaison with third party organisations.
5.	Project delivery delays (general)	Medium	Liquidated Ascertained Damages sums have been included as part of the contract and will be claimable should the project overrun without any justification. Any extensions of time will be fully scrutinised, justified and costed by the Employer's Agent

			prior to agreement. Project progress will be monitored and slow progress will be addressed in the monthly project meetings.
6.	Contractor seeking further negotiations on contractual terms prior to entering into contract.	Low	A standard JCT works contract is being utilised with the council's amendments to the terms clearly set out from the start of the tender process. The tender documents and clarifications during the tender process have been robust and clearly define the terms of the contract.

39. A performance bond/guarantee will be provided for this contract.

Other considerations (Design Specification Compliance)

40. Southwark council has standard specifications in a number of areas of work and these will be used as appropriate. This will include using Southwark Housing Design Standards and the council's Employer's Requirements.

Community impact statement

41. Southwark is a borough with high levels of deprivation, low income levels and high levels of housing need. Southwark's Housing Strategy 2009-16 identified that there is a shortage of affordable housing in the borough, particularly of larger homes. Households from black and ethnic minority communities tend to be over-represented among those living in overcrowded, poor quality housing.

42. Cabinet agreed a new vision for Southwark through its 2013 to 2043 housing strategy which included a principle to use every tool at our disposal to increase the supply of all kinds of homes across Southwark.

43. The proposals to increase the supply of affordable, good quality homes will benefits households in need from all Southwark communities, and will increase the housing options available to older people and people with disabilities.

44. 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.

45. Local residents will continue to be consulted at each stage of the development proposals as outlined in the Charter of Principles agreed by cabinet in November 2014.

Social Value considerations

46. 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.

47. The council's approach to procurement of design, development and construction process will ensure a requirement to maintain and improve the sustainability of the project.
48. A low energy, efficient and cost effective building engineering services design that keeps running costs to a minimum is an essential component of the project brief. Key considerations 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.
49. Guildmore Ltd will be participating in a local employment and training initiative in line with the Southwark Economic Wellbeing Strategy 2012-20. Guildmore Ltd pledge to employ local subcontractors where possible, use labour and shall offer apprenticeships and work placement opportunities to the community.

Economic considerations

50. 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.
51. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, contractors engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. The 11,000 new homes programme is a strategically important undertaking for the council and its benefits are expected to be realised in a number of ways, including the recruitment of qualified staff, retention of staff and an improved service delivery to the council. Due to the nature of the professional service being sought those employed will be paid in excess of the LLW. Guildmore Ltd has agreed to this in section 2.2 of the contract amendments issued with the tender.

Social considerations

52. The new housing will provide high quality affordable housing for local people in need of accommodation. At least 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.
53. The new rented homes will be let at social rent levels.

54. Guildmore Ltd will provide six apprenticeships and training and work placement opportunities as part of the contract.

Environmental considerations

55. By investing in high quality and well designed buildings and estates the council aims to achieve positive impacts which will benefit the environment and increase the stock of environmentally friendly buildings within the borough.

56. As part of the design development process, there will be a requirement for environmental assessments to be completed, with a view to identifying the impact of any proposed development.

Market considerations

57. The market for construction related services is good. Of the 11 firms that expressed an interest in the project at SQ stage, five were invited to tender and four subsequently provided a bid. This level of response is considered to be good.

Staffing implications

58. There are no specific staffing implications to this report.

Financial implications

59. The value of the contract arising from the procurement described in this report is £5,698,915, which forms part of a wider programme. The project (H-8888-9490) will also have associated on-costs of £865,117.

60. The cost of delivery of the new council rented homes will be funded from £2,500,000 grant funding from the GLA Building Homes for Londoners Programme, S106 contributions, and other Housing Investment Programme resources including borrowing.

Investment implications

61. The costs of this contract will be charged to the respective project cost programmed in the capital allocation for new homes delivery budgeted within the council's Housing Investment Programme.

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

62. A MINT credit check has been undertaken, which gives a credit scoring of 88, which indicates that Guildmore Ltd is financially secure, with a relatively low risk of failure.

63. In line with the requirements of the Contract Standing Orders, this report confirms that a restricted OJEU tender process was undertaken and that adequate financial provisions to fund the expenditure associated with the delivery of this project are set out in the paragraphs 59 to 60 of this report.

Legal implications

64. Please see concurrent from the Director of Law and Democracy.

Consultation

65. Local residents will be consulted at each stage of the development of each project as outlined in the Charter of Principles agreed by Cabinet in November 2014.

Other implications or issues

66. Not applicable.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

67. This report is requesting approval from the Strategic Director of Housing and Modernisation to award a works contract for Rutley Close to Guildmore Ltd in the sum of £5,698,915.

68. The report details the procurement process that was followed, the OJEU (two stage) restricted procedure.

69. Paragraphs 14 – 32 describe the tender process and how submissions were evaluated, which was on the basis of award to the most economically advantageous tender (MEAT) using a 60/40 price quality split. This followed the pre-qualification stage where the top five scoring contractors were shortlisted to tender. The report confirms that in line with the methodology detailed in the Gateway1, Guildmore Ltd submitted the most economically advantageous tender.

70. Paragraphs 35 to 37 detail the monitoring and management arrangements that will be in place during the life of the contract including payment terms that will be based on the monthly valuation.

Director of Law & Democracy

71. This report seeks the approval of the Strategic Director of Housing and Modernisation to the award of a works contract in relation to Rutley Close to Guildmore Limited, as further detailed in paragraphs 1 and 2. At the contract value falls within the circumstances noted in Contract Standing Order (CSO) 6.5.2(f) then the contract award can be approved by the relevant chief officer after consideration of the report by his DCRB.

72. As the value of the contract exceeds the EU works threshold, the procurement is subject to the full tendering requirements of the Public Contract Regulations 2015 (PCR15). As noted in paragraphs 15-16, an EU process was undertaken with advertisement through OJEU. Using the evaluation methodology set out in the Invitation to tender, the council has identified the most economically advantageous tender, which has been submitted by Guildmore, and they are therefore recommended for award.

73. CSO 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 59-60 confirm the financial implications of this award.

Strategic Director of Finance and Governance (H&M19/058)

- 74. This report requests approval from the Strategic Director of Housing and Modernisation to award a works contract to Guildmore Limited to build 25 new council homes at Rutley Close for a contract sum of £5,698,915.
- 75. The total cost of the works including fees and contingency is estimated at £6,564,032 and the financial implications section of the report sets out a profile of the spend and how it is to be funded. Any other costs associated with these works will be contained within existing departmental revenue budgets.
- 76. There is an estimated resource shortfall for the Housing Investment Programme. There is also likely to be further demand on the capital programme and it is therefore important that the costs of these works are carefully monitored and that accurate forecasting is in place to enable efficient financing of capital expenditure over the life of the programme.
- 77. Any other variation or extension of the contract beyond the scope of this report will require further approval in line with the council's procurement protocols.

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.



4 September 2019

Signature Date.....
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.

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.*

or

~~I declare that I was informed of the conflicts of interests set out in Part B4.*~~

(* - Please delete as appropriate)

BACKGROUND DOCUMENTS

Background documents	Held At	Contact
GW1 Contractor Procurement – Over OJEU	160 Tooley Street, SE1	Tim Bostridge

APPENDICES

No	Title

AUDIT TRAIL

Lead Officer	Stuart Davis, Director of New Homes	
Report Author	Phyllis Mensah-Twumasi, Project Manager	
Version	Final	
Dated	18/08/2019	
Key Decision?	Yes	
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
Director of Exchequer (for housing contracts only)	No	No
Cabinet	N/a	N/a
Date final report sent to Constitutional Team		4 September 2019