

Item No.	Classification: Open	Date: 16 October 2019	Decision Taker: Strategic Director of Housing and Modernisation
Report title:		Gateway 2 - Contract Award Approval Works Contract for the New Homes Delivery programme – Rye Hill Park Garages, SE15	
Ward(s) or groups affected:		Peckham Rye Ward	
From:		Director of New Homes	

RECOMMENDATION(S)

The Strategic Director of Housing and Modernisation:

1. Approves the award of a works contract for Rye Hill Park Garages, to Engie Regeneration Ltd for the contract sum of £6,039,681 commencing from 17 February 2020 for a period of 70 weeks.
2. Notes the total scheme cost as detailed in paragraph 59..

BACKGROUND INFORMATION

3. Planning permission was granted on 7 February 2018 for the redevelopment of the existing garage site to create 23 new homes (5 x 1-bed, 14 x 2-bed and 4 x 3-bed flats) in two linked buildings of 4/6 storeys with associated landscaping and children's play space.
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 a JCT Design & Build Contract 2016 based on Southwark's Employer's Requirements and the Stage 4 scheme design.
8. The works contract will be for a fixed period of 70 weeks from the 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

Activity	Completed by/Complete by
Briefed relevant cabinet member (over £100k)	18/04/2019
Approval of Gateway 1: Procurement Strategy Report	6/06/2016
Invitation to tender	30/04/2019
Closing date for return of tenders	12/07/2019
Completion of evaluation of tenders	25/07/2019
DCRB Review Gateway 2:	30/09/2019
Notification of forthcoming decision – Five clear working days	14/10/2019
Approval of Gateway 2: Contract Award Report	21/10/2019
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	31/10/2019
Debrief Notice and Standstill Period (if applicable)	7/11/2019
Contract award	15/11/2019
Add to Contract Register	15/11/2019
Contract start	17/02/2020
Publication of award notice in Official Journal of European (OJEU)	15/11/2019
Publication of award notice on Contracts Finder	15/11/2019
Contract completion date	21/06/2021

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.

Key/Non Key decisions

12. This report deals with a key decision.

Policy implications

13. These 23 new homes at Rye Hill Park Estate 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 New Homes Delivery Team procured the works contract in accordance with an EU restricted procedure that follows two stages, pre-qualification questionnaire (PQQ) followed by invitation to tender (ITT).
15. Following advertisement through the OJEU and the London Tenders Portal, 12 contractors responded to the pre-qualification questionnaire and five contractors were invited to tender in accordance with the Applicant's Selection Guidance (PAS91 PQQ).
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 5 April 2019. The closing date for the tenders was 12 July 2019. The tenders were reviewed on 25 July 2019. All firms invited to tender submitted a tender.
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 Employer's Agent and Quantity Surveyor for the project). A consensus scoring method was used during this evaluation.
19. The price and contract sum analysis were examined by Calfordseaden. A credit check and a financial review were completed on each tenderer by the council's Finance department. All tenderers invited to tender as noted in the table at paragraph 21 passed the financial assessment.

Tender evaluation

Pre-Qualification Questionnaire

20. 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%
21. The following table shows 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
Engle Regeneration Ltd	88	1
Company B	72	2
Company C	70	3

Company D	60	4
Company E	60	4
Company F	56	6
Company G	52	7
Company H	52	7
Company I	48	9
Company J	42	10
Company K	42	10
Company L	36	12

Invitation to Tender

22. 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.
23. 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%
24. The questions within the quality assessment were weighted and are detailed in the tender evaluation assessment criteria included within the tender documents.
25. All five contractors invited to tender submitted tenders.
26. All tenderers met the quality threshold scores (minimum of 2 out of 5 marks) in accordance with the evaluation assessment criteria and no tenders were excluded.
27. A summary of the outcome of the quality scores is provided in the table below:

Tenderer	Quality score
Engie Regeneration Ltd	31.00%
Company C	26.00%
Company B	25.00%
Company E	23.60%
Company D	19.60%

28. Tenderers were required to provide a contract sum and a contract sum analysis, which was scrutinised by the Employer's Agent. Post tender clarifications were sought which is outlined in the closed report.

29. The contract sum submitted by the successful tender was of £6,039,680.66.

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

30. A summary of the outcome of the scores relating to the quality/price elements and subsequent rank of the tenderers is provided in the table below:

Overall Summary				
Tenderer	Quality (40%)	Price (60%)	Total (100%)	Rank
Engie Regeneration Ltd	31.00	58.99	89.99	1
Company B	25.00	60.00	85.00	2
Company E	23.60	54.05	77.65	3
Company C	26.00	50.68	76.68	4
Company D	19.60	48.93	68.53	5

Plans for the transition from the old to the new contract

31. Not applicable

Plans for monitoring and management of the contract

32. 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

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

34. 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

35.

	RISK	RISK LEVEL	MITIGATION ACTION
1	Contractor has inadequate resources and management arrangements to mobilise and deliver the contract	Low	A review of the financial standing undertaken by the Finance department indicates that Engie Regeneration Ltd have the necessary financial capacity to undertake a contract of this size. The New Homes Delivery Team will closely monitor the contract and regularly review their general performance as well as performance in relation to their subcontractors.
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 85 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 Engie Regeneration 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 which the council anticipates will be necessary have been carried out which should help mitigate against there being any unforeseen site conditions or abnormalities. 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.

36. A performance bond/parent company guarantee will be provided for this contract.

Other considerations (Design Specification Compliance)

37. 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

38. 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.

39. 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.

40. 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.

41. 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.

42. 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

43. 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.
44. 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.
45. 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 the project achieves Code of Sustainable Homes criteria or any successor requirement.
46. Engie Régénération Ltd will be participating in a local employment and training initiative in line with the Southwark Economic Wellbeing Strategy 2012-20. Engie Régénération Ltd pledged to employ local subcontractors where possible, use labour and shall offer six apprenticeships, and work placement opportunities to the community.

Economic considerations

47. 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.
48. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, contractors and subcontractors engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. The Gateway 1 report dated 6th June 2016 confirmed for the reasons stated in that report, payment of LLW was an appropriate and best value requirement for this contract. Engie Régénération Ltd has confirmed that they will meet the LLW requirements. Following award, quality improvements and cost implications linked to the payment of LLW will be monitored as part of the contract review process.

Social considerations

49. 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.

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

51. Engie Regeneration Ltd will provide six apprenticeships and training and work placement opportunities as part of the contract.

Environmental considerations

52. 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.

53. 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

54. The market for construction related services is good. Of the 12 firms that expressed an interest in the project at SQ stage, five were invited to tender and all five subsequently provided a bid. This level of response is considered to be excellent.

Staffing implications

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

Financial implications

56. The value of the contract arising from the procurement described in this report is £6,039,681 which forms part of a wider programme. The project (H-8888-9496) will also have associated on-costs of £619,340.

57. The cost of delivery of the new council rented homes will be funded from £2,300,000 grant funding from the GLA Building Homes for Londoners Programme, S106 contributions, the HRA, and other council resources including borrowing.

58. The council will lose revenue of approximately £16,640 per year from the rental of the garages in undertaking this project.

59. The following table shows the scheme costs with further details given in the closed report:

Total Scheme Cost Breakdown	
New build works	£6,004,681
Play area works	£35,000
Consultancy fees	£338,901
Surveys	£30,352

Planning payments	£8,500
Internal fee (4%)	£241,587

Investment implications

60. 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)

61. A MINT credit check has been undertaken, which gives a credit scoring of 85 meaning Engie Regeneration Ltd is very financially secure.

62. 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.

Legal implications

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

Consultation

64. 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

65. Not applicable.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

66. The report details the procurement process that was followed namely the OJEU (two stage) restricted procedure that follows the approach agreed in the Gateway 1 procurement strategy 6th June 2016.

67. Paragraphs 14-30 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 70/30 price quality split. This followed the prequalification stage where five contractors were shortlisted to tender. The report confirms that in line with the methodology detailed in the Gateway1, Engie Regeneration Ltd submitted the second lowest price bid but with the best quality resulting in the highest combined score.

68. Paragraphs 32 to 34 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

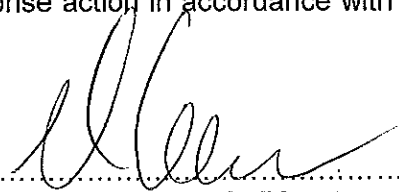
- 69. This report seeks the approval of the Strategic Director of Housing and Modernisation to the award of a works contract for Rye Hill Park Garages (SE15) to Engie Regeneration Ltd, as further detailed in paragraphs 1 and 2.
- 70. The value of the works is such that they are subject to complying with the Public Contracts Regulations 2015 in accordance with contract standing order ("CSO") 4.4.1. Paragraphs 14 and 15 confirm this requirement was complied with, and that five organisations were invited to tender (from the 12 that had submitted responses to the pre qualification questionnaire).
- 71. The decision on the award of the contract is reserved to the relevant chief officer (or under their delegated authority) after consideration by the relevant DCRB in accordance with CSO 6.5.2(f).
- 72. CSO 2.3 requires that no steps should be taken to award a contract unless the expenditure has been approved. Paragraphs 63-67 confirm the financial implications.

Strategic Director of Finance and Governance (H&M16/020)

- 73. The report seeks approval from the Strategic Director of Housing and Modernisation to award the contract for Rye Hill Park Garages constructing 23 new homes and a play area to Engie Regeneration Ltd for the contract sum of £6,039,681. It is noted that whilst the contractor is not the lowest bidder, Calfordseaden report confirms the quality and cost elements of their tender places them in 1st place overall.
- 74. The report identifies the total costs of works and fees. The financial implications section of the report details how this will be funded. Any other costs associated with these works will be contained within existing departmental revenue budgets.
- 75. 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.
- 76. 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.

Signature  Date *17 October 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.

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
<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>

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
n/a	

AUDIT TRAIL

Lead Officer	Stuart Davis, Director of New Homes	
Report Author	Phyllis Mensah-Twumasi, Project Manager	
Version	Final	
Dated	16 October 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
Cabinet	N/a	N/a
Date final report sent to Constitutional Team		