

| | | | |
|-----------------------------------|--------------------------------|-----------------------------|---|
| Item No: | Classification: Open | Date: 8 June 2020 | Decision Taker: Strategic Director of Housing and Modernisation |
| Report title | GW2: Canada Estate QHIP 17/18 | | |
| Ward(s) or groups affected | Rotherhithe | | |
| From | Head of Investment | | |

RECOMMENDATIONS

1. That the Strategic Director of Housing and Modernisation approves the award of the **Canada Estate Phase 2 (2017/18) QHIP Works** call-off contract via a mini-competition from the major works constructor framework to Durkan Ltd for a period of 60 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: fabric repairs (concrete, brickwork, asphalt, roof), rainwater goods, window replacement and repairs, front entrance doors replacements, external decorations, kitchen and bathroom replacements, asbestos removals, conversion (hidden homes) and electrical upgrades and repairs to serve the properties (tenanted and leasehold) to the above properties.

6. Lot 2 is applicable to these works.
7. The duration of the works is 60 working weeks.
8. These works were initially programmed to commence in December 2018, however, following the tragic events at Grenfell tower, all major works projects were subject to fresh review and scrutiny with the need for review of fire risk assessments on all high risk blocks which officers assisted with the resolution of issues as they arose.
9. In addition, there were a number of scheme design issues that needed to be resolved prior to tendering, in regards to the initial window survey for the high rise blocks at Columbia Point and Regina Point but more significantly for the low rise blocks where they were initially tendered to be renewed and then later reviewed to be repaired instead as further investigation showed window parts could now be sourced and therefore a decision was taken by the Director of Asset Management to repair rather than renew.
10. The events which contributed to the delays are outlined below:

| | | |
|---|--|---|
| Tender Issued (original) | 21/11/2018 | For complete window renewals to the low-rise blocks |
| Tender Return Date - (original) | 09/01/2019 | The tender return was put back to 9 January 2019, due to the Christmas shutdown. |
| Tender Addendum Issued | 22/01/2019 | Review of the windows for the low rise blocks for repairs rather than renewal as originally tendered. |
| Revised Tender Return Date | 14/02/2019 | Only 3 out of the 4 tenderers provided revised rates. |
| Tender Evaluation - issue of Tender report(original) | 23/05/2019 | Potter Raper Ltd issued tender evaluation report |
| Notice of Proposal sent out to leaseholders | 06/6/2019 | |
| Notice of Proposal expiration | 28/10/2019 | The original expiry date for observation was 17 July 2019; this was extended and expired on 28 October 2019 due to queries received from leasehold and T&RA/ residents |
| Further consultations | 02/05/2019 12/06/2019 17/07/2019 23/07/2019 08/10/2019 07/11/2019 | Leaseholders objections against renewal / T&RA objections against repairing the windows , plus additional residents consultations, T&RA meetings and queries from leaseholders and T&RA |
| Revised Notice of Proposal sent out to leaseholders | 31/01/2020 | Revised notification was sent to leaseholders following change to specification for repairs to windows which resulted in reduction to the contributions. |

11. It is recognised that Covid-19 has had an impact on the construction industry and as a result of recent restrictions applied under the Business Continuity Plan and

directives given, a provisional three months delay affecting the start date is anticipated. This will be reviewed in accordance with the Government guidance issued in relation to the Covid-19 pandemic.

12. Works are therefore expected to start on 1 September 2020 and complete on 26 October 2021.

Procurement project plan (Key Decision)

| Activity | Completed by/Complete by: |
|---|---------------------------|
| Forward Plan for this Gateway 2 decision | 01/05/2020 |
| Approval of Gateway 2: Establishment of major works framework agreement | 20/10/2015 |
| Notice of Intention (Applies to Housing Section 20 Leaseholder Consultation) | 18/09/2018 |
| Mini competition invitation | 22/01/2019 |
| Revised closing date for return of tenders | 14/02/2019 |
| Completion of evaluation of tenders | 23/05/2019 |
| First Notice of Proposal (Applies to Housing Section 20 Leaseholder Consultation) | 28/10/2019 |
| Second Notice of Proposal | 31/01/2020 |
| Notification of forthcoming decision – Five clear working days | 08/06/2020 |
| Approval of Gateway 2: Mini competition award report | 17/06/2020 |
| Scrutiny Call-in period and notification of implementation of Gateway 2 decision | 26/06/2020 |
| Contract award | 20/07/2020 |
| Add to Contract Register | 20/07/2020 |
| Contract start | 01/09/2020 |
| Publication of award notice on Contracts Finder | 01/09/2020 |
| Contract completion date | 26/10/2021 |

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

13. This scheme consists of works to properties on the Canada Estate in the Bermondsey and Rotherhithe area and conversion to 2 Hidden Homes. This includes 58 leasehold properties and 2 Right to Buy (RTB) applicants, as well as 193 tenanted properties. The address details are as follows:

| Block Address |
|----------------------|
| 1-80 Regina Point |
| 1-80 Columbia Point |
| 1-18 Calgary Court |
| 1-18 Manitoba Court |
| 1-18 Niagara Court |
| 1-18 Scotia Court |
| 1-21 Edmonton Court |

14. The key work elements and indicative costs are as follows:

| Works schedule |
|---------------------------|
| Access /Scaffold |
| External Works |
| Concrete Works |
| Mechanical & Electrical |
| FRA Works |
| Fire Ducting |
| External Decorations |
| Window Repairs |
| Sundries |
| Communal Finishes |
| Roof Works |
| Metal Works |
| Asphalt |
| Kitchens |
| Bathrooms |
| Doors |
| Brickwork Repairs |
| Asbestos Removal |
| Conversion (HIDDEN HOMES) |
| Provisional Sums |
| Design Fees |
| Preliminaries |

Policy Implications

15. This scheme is designed to deal with work to meet the Quality homes Investment Programme (QHIP) which includes works to maintain decency and deliver the councils commitment to improve the residents' quality of life.
16. Planning consent not yet given, but is required for the works being undertaken to replace the windows to the high rise blocks within this scheme.
17. As part of the overall procurement process for this framework, Durkan Ltd was 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.
18. 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

19. Once all works are completed under this scheme, all properties including the newly built hidden homes properties, will achieve the Government's Decent Homes standard.

Mini competition Process

20. The call-off arrangements set out in the 'operation of the framework' document was followed and a mini-competition procedure was carried out.
21. 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.
22. All contractors listed on Lot 2 were invited to participate in the mini-competition process with instructions to return the tender by 1pm on 14 February 2019. The list of contractors invited is as follows:
 - Durkan Ltd
 - Mears Ltd
 - Mulalley & Co Ltd
 - Engie Regeneration Ltd
 - Axis Europe Plc
 - Lakehouse Contracts Ltd
23. Only 4 contractors returned a tender.

Mini-competition Evaluation

24. The tenders were evaluated in line with the rules set out in the framework.
25. Representatives from Potter Raper Ltd (formerly Potter Raper Partnership) (PRL) 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.
26. 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.
27. The quality element of the submissions was assessed on a pass/fail basis.
28. 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.

29. 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.
30. The results of the quality criteria assessments were as follows:

| Contractor | Pass/Fail |
|-------------------------|------------------|
| Durkan Ltd | Pass |
| Mulalley & Co Ltd | Pass |
| Mears Ltd | Pass |
| Lakehouse Contracts Ltd | Pass |

31. 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.
32. Prices were sought from 4 contractors within this Lot 2, and the results for the 4 tenders received were as follows:

| Contractor |
|-------------------------|
| Durkan Ltd |
| Mulalley & Co Ltd |
| Mears Ltd |
| Lakehouse Contracts Ltd |

33. All priced documents submitted were checked for arithmetical errors and general compliance with the tender requirements by PRL.
34. On 22 January 2019 PRL issued a tender addendum to the 4 tenderers requesting them to submit prices for window repairs as opposed to window renewal, for the low rise blocks in the scheme as noted in the table in paragraph 11 resulting in a revised tender return date of 14 February 2019.
35. Only three of the tenderers submitted prices.

36. As Lakehouse Contracts Ltd went into liquidation in August 2019, notice was given in December 2019 to terminate their framework agreement under Lot 2 and therefore they could no longer be considered for this project.
37. The council's appointed quantity surveyor has confirmed that the pricing has been checked in line with the framework's schedule of rates and confirmed that they are a combination of equal to and or lower than the rates set out on the framework.
38. Therefore, on the basis of the mini-tender submitted, the contractor recommended for this scheme is Durkan Ltd.

Plans for monitoring and management of the contract

39. 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.
40. 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.
41. 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 2.
42. 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, Calfordseaden LLP or PRL. It is confirmed for this scheme that the lead design services will be provided by PRL and cost management by PRL.
43. 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

44. 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 PRL 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. The plan applies to the council's residential refurbishment programme works to Canada Estate (incorporating works internally and externally to 1-80 Regina Point, 1-80 Columbia Point, 1-18 Calgary Court, 1-18 Manitoba Court, 1-18 Niagara Court,

1-18 Scotia Court and 1-21 Edmonton Court). Given Covid-19 and required social distancing, Durkan Ltd will be required to provide the council with a method statement confirming how they will manage the required social distancing on site during Covid -19 in line with CLC's Site Operating Procedures (SOP) and what assurances they will make as to standards of health and safety on site.

Leasehold Implications

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

Financial Implications

46. In addition to the works cost, it is considered prudent to add a 5% risk contingency fund, to the contract sum to allow for any unforeseen issues. Any additional works will be agreed with the lead designer and project manager and any costs arising due to any unforeseen works will be agreed by the quantity surveyor.
47. The works identified in this report form part of the Housing Investment Capital programme and the scheme budget will be vired from the QHIP 2017/18 and the respective LD2 budgets, and funded from HRA resources identified for the QHIP programme.
48. The 2 Hidden Homes allocated at Regina Point and Columbia Point project and will be funded by the GLA Grant secured, S106 and borrowing if necessary. The budget will come from the following capital budget allocations:
 - QHIP 2017/18 budget
 - Installation of smoke detectors tenanted properties
 - Installation of smoke detectors leasehold properties
 - Hidden Homes at Regina and Columbia from the Hidden Homes Budget in the Capital programme.

Legal Implications

49. It is confirmed that this scheme falls under Lot 2 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

50. Consultation meetings were held with residents, resident's project board and the residents and tenants association between 2 March 2017, 5 March 2018, 9 April 2018, 12 & 27 September 2018, 5 December 2018, 23 January 2019, 2 May 2019, 6 March 2019, 12 June 2019, 17 & 23 July 2019 and 8 October 2019 & 7 November 2019 to discuss the scope of works. In addition, a leaseholders meeting was held on 17 July 2019 to discuss their contributions. All residents, the T&TRA and local councillors will be written to advise the commencement date of the works and a further meeting will be held to introduce the appointed contractor.
51. Regular meetings will be held with resident representatives during the course of the works to provide regular updates, and address any concerns that may arise.

Regular newsletters will be issued as the works progresses, and residents will be invited to regular coffee mornings. In addition, a resident's project board will be established to discuss the works once the project comes on site. The resident project board will meet on a monthly basis for the duration of the works package.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (H&M20/027)

52. The report is requesting delegated approval from the Strategic Director of Housing and Modernisation to award the Canada Estate Phase 2 QHIP (2017/18) and the Columbia and Regina House, Hidden Homes call-off contract via a mini-competition from the major works constructor framework to Durkan Limited.
53. The financial implications section provides details on how these costs are to be funded. Any other costs connected with this contract are to be contained within existing departmental revenue budgets.
54. There is an estimated resource shortfall for the Housing Investment Programme over the life of the 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 and the programme may be disrupted by the ongoing COVID 19 pandemic. It is, therefore, important that the cost of these works is carefully monitored and that accurate forecasting is in place.
55. Any variation or extension of the contract beyond the scope of this report will require further approval in line with the council's procurement protocols.

Head of Procurement

56. This report is seeking Strategic Director of Housing and Modernisation approval for a works contract to Durkan Ltd following a mini competition from the Major Works Construction Framework (lot 2)
57. The report describes how the submissions were evaluated and the results of that process.
58. Paragraphs 9 to 13 explains that for a number of reasons these works have been delayed, namely additional fire safety measures, scheme design amendments and impact of Covid 19 since March 2020.
59. Paragraphs 26 to 44 confirm that in accordance with the framework guidance quality was initially assessed against a minimum threshold and then price. The report confirms that rates submitted by the winning contractor were equal to and or lower than the rates set out on the framework.
60. The monitoring and managing arrangements for this contract going forward are described in paragraphs 45 to 49 and should go some way towards ensuring delivery is on time and to the required standards.

Director of Law and Democracy

61. This report seeks the approval of the Strategic Director of Housing and Modernisation to the award of the Canada Estate Phase 2 (2017/18) QHIP Works 'call-off' contract to Durkan Ltd as further detailed in paragraph 1. It is 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.

62. 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.
63. Paragraphs 10, 11, 23 and 24 confirm that a mini-competition procedure was carried out for these works under Lot 2 to the 5 framework contractors including reasons for the 15-month delay to this project together with why only 2 bids were received. Officers are satisfied that the mini-competition was carried out in accordance with the major works constructor framework mini-competition process and that Durkan Ltd's bid was priced in line with the framework rates.
64. The Strategic Director's attention is drawn to the fact that 15 months have elapsed since this project was initially tendered and that written confirmation has been received from Durkan Ltd that they will stand by their revised tender price as confirmed in paragraph 43. Given the Covid-19 pandemic, officers will request Durkan Ltd to provide the council with a method statement response around their social distancing measures and health and safety measures to protect staff whilst on site and this method statement response will be incorporated into the contract and referenced in the letter of award.
65. CSO 2.3 requires that no steps should be taken to award a contract unless the expenditure has been approved. Paragraphs 51-55 confirm the financial implications of this award.

Director of Exchequer (for housing contracts only)

66. These are works of repair and are therefore chargeable to leaseholders under the terms of their leases.
67. There are 58 leasehold and 2 Right to Buy properties included in the contract that will be affected by the works. In accordance with the Landlord and Tenant Act 1985 (as amended) Notices of Intention were served on 19 April 2018 and the observation period ended on 18 September 2018.
68. Section 20 notices of proposal were served on 6 June 2019 and expired on 28 October 2019. There were 10 observations received from leaseholders included in this package and they were responded to in writing. The observations were not of a nature that would impact on the commencement of these works. Following queries received during this process it was decided that the windows in the low rise buildings on the Canada Estate are in a condition that allows for repairs to be undertaken in place of complete renewal. This was communicated to homeowners via a letter on the 31 January 2020.

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.



23 June 2020

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 |
| <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

| Title: | Held at | Contact |
|--------------------------|-------------------------------|-------------------------------------|
| Major works project file | 160 Tooley Street, SE1 2QH | Courtland Fletcher 020 7525 1145 |

APPENDICES

| Appendix number | Title of appendix |
|------------------------|--------------------------|
| NONE | |

AUDIT TRAIL

| | | | |
|---|--------------------------------------|--|--------------|
| Lead Officer | Ferenc Morath, Head of Investment | | |
| Report Author | Courtland Fletcher, Contract Manager | | |
| Version | Final | | |
| Dated | 8 June 2020 | | |
| Key Decision | Yes | If yes, decision date on forward plan | N/A |
| 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 | Yes | Yes | |
| Cabinet Member | n/a | n/a | |
| Date final report sent to Constitutional Officer | | | 23 June 2020 |

BACKGROUND DOCUMENT – CONTRACT REGISTER UPDATE - GATEWAY 2

| | |
|--|--|
| Contract Name | Canada Phase 2 -2017/18 QHIP Works |
| Contract Description | QHIP |
| Contract Type | JCT Intermediate Building Contract with Contractor's Design 2011 |
| Lead Contract Officer (name) | Courtland Fletcher |
| Lead Contract Officer (phone number) | 020 7525 1145 |
| Department | Housing and Modernisation |
| Division | Asset Management |
| Procurement Route | 'Call-off' Major Works Constructor Framework |
| EU CPV Code (if appropriate) | N/A |
| Departmental/Corporate | Departmental |
| Fixed Price or Call Off | |
| Supplier(s) Name(s) | Durkan Ltd |
| Contract Total Value | |
| Contract Annual Value | |
| Contract Start Date | |
| Initial Term End Date | |
| No. of Remaining Contract extensions | 0 |
| 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) | 00997195 |
| 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.