



Report of: Executive Member for Housing and Development

Meeting of:	Date	Ward(s)
Executive	19 January 2017	Clerkenwell

Delete as appropriate	Exempt	Non-exempt
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SUBJECT: Procurement Strategy – Redevelopment works at Charles Simmons House

1. Synopsis

- 1.1 This report seeks pre-tender approval for the procurement strategy in respect of redevelopment works at Charles Simmons House in accordance with Rule 2.5 of the Council’s Procurement Rules.
- 1.2 The commissioning team is seeking permission to appoint a contractor with the relevant experience and expertise to undertake construction work over existing underground rail tunnels. . The New Build Framework does not have the specialist contractors to undertake this work and therefore it is necessary to appoint an experienced and qualified contractor.

2. Recommendations

- 2.1 To approve the procurement strategy for Redevelopment works at Charles Simmons House as outlined in this report.
- 2.2 To delegate authority to award the contract to the Corporate Director of Housing Adult and Social Services in consultation with the Executive Member for Housing and Development

3. Background

- 3.1.1 The purpose of the report is to procure a qualified main contractor to carry out the demolition, design and construction of Charles Simmons House. The new build homes will comprise of 1 commercial unit, 1 community centre and 25 residential flats. The tenure mix for the residential units is 14 Social Rent and 11 units for sale.
- 3.1.2 The contractor required to undertake the work must have suitable and relevant experience for this type of work. They must also be able to demonstrate experience of risk management.
- 3.1.3 The New Build Framework has 8 companies in Band 2 (£2m plus contracts) and all companies were

invited to tender for Charles Simmons House. Only one company, expressed an interest. Following several months of working up a two stage tender with the contractor, it was apparent their price for the project substantially exceeded the Councils estimated budget. It was also felt that their pricing reflected the lack of expertise to undertake the project.

- 3.1.4 Using the detailed survey information we have tested the market with a specialist contractor. The specialist company we used has expertise in Civil Engineering and their price for the complete works reflected the budgeted cost for the scheme. In light of the need to test the market and use the experience of other more qualified Civil Engineering companies it is proposed to tender this work outside Islington's New Build Framework.
- 3.1.5 Our preferred procurement route is to competitively tender the project to suitably qualified and experienced contractors. This will enable the Council to ensure value for money and will de-risk the project by procuring a contractor who has relevant experience. Through the OJEU process the Council can advertise to a wider market than their framework and obtain competitive interest from suitably qualified contractors. As part of the procurement exercise we have looked at other 'open frameworks' and there are no suitable frameworks available to use, hence the open tender process proposed.
- 3.2 **Estimated Value**
- 3.2.1 The development is being funded through the Council's approved three year (2016/17 to 2018/19) new build programme.
- 3.2.2 The value of the overall works is £7.5m. It is estimated that works on site will take twenty four (24) months. Retention of 3% will be applied of which 1.5% will be released on practical completion and 1.5% on successful completion of the defects at the end of the defects liability of 12 months
- 3.2.3 Due to the specialised nature of build over the two tunnels, a large amount of investigation works has been conducted to mitigate risks and eliminate provisional costs with associated risks. A full project team has been appointed and planning permission was approved in November 2015.
- 3.2.4 In order to achieve Value For Money, the design has been value engineered reducing the programme and costs. The quality and design has not been compromised but attention to detail is required to achieve the acceptable loading (weight) on the tunnels. Any increased loading of the tunnels is likely to have an upward impact on costs and programme. This construction type is of a specialist nature and complicated to build which means that it cannot be effectively benchmarked. However, once tenders are received the quantity surveyor will provide their value for money report using the submitted bids and benchmarking against industry standards.
- 3.3 **Timetable**
- 3.3.1 We have developed a pre-contract procurement programme and anticipate a start on site in August 2017. This is subject to successful negotiation and agreement of the works with Network Rail and London Underground.
- 3.3.2 The anticipated construction period is twenty four (24) months.
- 3.3.3 Planning consent was achieved for the development in November 2015. As such, the development must commence within 3 years of the planning consent determination.
- 3.3.4 There are a number of pre-commencement conditions. Under normal circumstances, the contractor would be responsible for discharging these under the build contract. However, to minimise risk to the programme, the current project team are preparing information to submit to the Planning department to discharge the conditions. As part of the design development, the appropriate technical departments have been consulted to ensure the proposal meets Council requirements.
- 3.3.5 In addition, wider consultation has been carried out with the Tenants and Residents Association, residents at Charles Simmons House and on the Margery Estate and the local community.

3.4 **Options appraisal**

- 3.4.1 The preferred procurement route is competitive tender via an open procedure. Formal collaboration (i.e. the use of a Partnering Contract) is not considered appropriate as the design has already been developed to a detailed stage and already significantly de-risked. The project team will not be formally novated to the successful contractor although the Design and Build contractor will have the opportunity to engage their services.
- 3.4.2 A drawback of open tender is the potential for a very large number of tenderers to submit proposals. However in order to mitigate this risk, careful selection criteria have been drawn up to ensure that those contractors who are capable of carrying out this quite complex construction project are identified.
- 3.4.3 The main disadvantage to this procurement option is the timescales and impact it will have on the programme. The desire is to commence the redevelopment of Charles Simmons House as soon as possible, and the OJEU procurement route will add time to the programme. However, we believe this ultimately offers the Council the best outcome in terms of value.

3.5 **Key Considerations**

- 3.5.1 Developing Charles Simmons House will create large homes for both private and social housing residents. The lack of good quality affordable housing is well documented and this scheme will address the sub standard current accommodation at Charles Simmons House and replace it with efficient, spacious and well designed accommodation. In addition we will provide much needed wheelchair accommodation for disabled residents in the borough.
- 3.5.2 Providing a stable home environment allows residents to improve skills and tackling worklessness. The materials of the building will be of a higher quality and the insulation standard will seek to reduce energy costs to assist in tackling fuel poverty. To help address unemployment consultants and contractors are encouraged to employ trainees and provide apprenticeships.
- 3.5.3 A requirement for the payment of LLW should only be included as a condition of this contract if there is no cross border interest in the contract following OJEU notice or if cross border bidders do not expect to use employees for this contract who are established in another EU member state.
- 3.5.4 Best value has been considered in terms of balancing the need to deliver this project and ensuring we have an experienced contractor to undertake this complicated scheme. A value engineering exercise has been undertaken to reduce the programme without compromising the quality of homes.
- 3.5.5 The development has been designed to increase the density of the site creating much needed larger permanent homes for social rent and open market sale. This mixed use development will have a controlled door entry system allowing for a secure and safe environment to residents. The community centre and a commercial unit will assist in achieving community based actions, diversity, cohesion and create an environment of social inclusion and a place that people want to live.
- 3.5.6 The new community centre will be a hub for the local community. It will allow residents at Charles Simmons House, Margery Estate and the wider community to use the facility for various social meetings and events to strengthen their community sense and support each other in the future. New childrens play equipment will also be provided for residents at Charles Simmons House and the Margery Estate to use..
- 3.5.7 The new components of the building will be reinstated to modern building regulation standards and comply with Code for Sustainable Homes Level 4. This particularly applies to the energy efficiency of communal heating system, future connection to Bunhill District Heating Network to reduce energy costs and a photovoltaic system will provide lighting to the internal communal areas of the building. Green roofs will be provided to enhance biodiversity and control the flow of rain water into the mainstream drainage.
- 3.5.8 During the construction phase the appointed contractor and the council will continue to engage with residents who live on or off the estate and with local businesses through to completion of the development.

3.5.9 There are no TUPE, pension or staffing implications.

3.6 **Evaluation**

3.6.1 The tender will be conducted in one stage, known as the Open Procedure as the tender is 'open' to all organisations who express their interest in the tender. The Open Procedure includes minimum requirements which the organisation must achieve before their evaluation Award Criteria is considered. Ideally, a single specialist contractor will be appointed to carry out all of the works under this Design and Build contract.

3.6.2 Those who submit a tender and meet the minimum requirements will have their full tender, method statements and pricing evaluated.

3.6.3 The contract will be awarded to the Most Economically Advantageous Tender (MEAT) in accordance with the Public Contracts Regulations. MEAT for this contract will be on the basis of quality 40% and cost 60%.

3.6.4 Tenderers will be requested to demonstrate relevant experience against a minimum of three other suitable projects. The basis of the evaluation will be based on the following criteria:

- Working on sites over underground tunnels, in particular rail infrastructure.
- Working knowledge and demonstrated experience dealing with Network Rail and London Underground.
- Working on tight infill sites.
- Knowledge and demonstrate experience working with local authorities.

3.6.5 Tenderers will be required to provide a written quality submission, responding to the following criteria:

- Proposed approach to working on confined sites (5%).
- Proposed approach to development of sites located over underground tunnels, in particularly rail infrastructure, and proposal for consultation with Network Rail and London underground. (10%)
- Proposed approach to programme of works (10%).
- Proposed approach to health and safety (5%).
- Proposal for managing and mitigating project risks (risk register). (10%)

3.7 **Business Risks**

3.7.1 The regulations set out rules requiring contract notices to be published in the Official Journal of the European Union. There are strict timescales to follow and the process must be transparent and well documented. If not followed the risk of a formal challenge by an unsuccessful contractor increases

3.7.2 Appointing the right contractor is paramount to the overall success of the development. The quality criteria within the tender will enable the Council to carefully vet all potential tenderers, thus reducing the risk of appointing an unsuitable contractor.

3.7.3 Business opportunities are unlikely as this is a one-off project and the expertise of the contractor is of great importance.

3.7.4 There is a high risk attached to the site due to the presence of underground rail tunnels and therefore there may be a limited number of contractors willing to undertake this work.

3.8 The Employment Relations Act 1999 (Blacklist) Regulations 2010 explicitly prohibit the compilation, use, sale or supply of blacklists containing details of trade union members and their activities. Following a motion to full Council on 26 March 2013, all tenderers will be required to sign the Council's anti-blacklisting declaration. Where an organisation is unable to declare that they have never blacklisted, they will be required to evidence that they have 'self-cleansed'. The Council will not award a contract to organisations found guilty of blacklisting unless they have demonstrated 'self-cleansing' and taken adequate measures to remedy past actions and prevent re-occurrences.

3.9 The following relevant information is required to be specifically approved by the Executive in accordance with rule 2.6 of the Procurement Rules:

Relevant information	Information/section in report
1 Nature of the service	To procure a suitable Main Contractor to carry out the demolition, design and construction of Charles Simmons House. See paragraph 3.1
2 Estimated value	The contract has an estimated value of £7,500,000 of Islington Council spend. See paragraph 3.2
3 Timetable	The timescale/programme is outlined within this report. Key target programme dates include: <ul style="list-style-type: none"> • Preparation of advert and tender documentation – December 2016 • Issue Advert – February 2017 • Evaluation – March 2017 • Award – April 2017 • Start on site – August 2017 See paragraph 3.3
4 Options appraisal for tender procedure including consideration of collaboration opportunities	The outcome of procurement options appraised are described within this report. See paragraph 3.4
5 Consideration of: Social benefit clauses; London Living Wage; Best value; TUPE, pensions and other staffing implications	The outcome of the key considerations are described within this report. See paragraph 3.5
6 Evaluation criteria	The award criteria price/quality breakdown is more particularly described within the report. See paragraph 3.6
7 Any business risks associated with entering the contract	Business risks are described within this report. See paragraph 3.7
8 Any other relevant financial, legal or other considerations.	See paragraph 4.1 – 4.4

4. Implications

4.1 Financial implications

The latest 7 yr HRA new build programme has budget provision of £7.5m (in line with the estimated contract price) allocated to the construction/enabling & public realm costs associated with this scheme.

4.2 Legal Implications

The council as a local housing authority has powers to provide housing accommodation by erecting houses on land held or acquired for that purpose under Section 9, Housing Act 1985. The Council has power to enter into works contracts for that purpose under section 1 of the Local Government (Contracts) Act 1997. The Executive may provide Corporate Directors with responsibility to award contracts with a capital value over £5,000,000 (council's Procurement Rule 16.2).

The proposed contract is a contract for works. The threshold for application of the Public Contracts Regulations 2015 (the Regulations) is currently £4,104,394.00 for works contracts. Contracts above this threshold must be procured with advertisement in the Official Journal of the European Union and with full compliance of the Regulations. The council's Procurement Rules also require contracts over the value of £164,176.00 to be subject to competitive tender. The proposed procurement strategy, to advertise a call for competition and procure the service using a competitive tender process, is in compliance with the principles underpinning the Regulations and the council's Procurement Rules.

On completion of the procurement process the contract may be awarded to the highest scoring tenderer subject to the tender providing value for money for the council.

4.3 Environmental Implications

The demolition of existing buildings and building new dwellings have several environmental impacts, both during demolition/construction (e.g. waste generation, nuisance such as dust, noise and construction traffic, and material use) and the long-term occupation of the dwellings (e.g. energy and water use and transport facilities). Mitigation measures will be put into place to reduce the impacts in both phases. The build contractor will be required to submit proposals on how they will keep their environmental impact to a minimal including their proposals for a Site Waste Management Plan, and will be required to comply with waste legislation that prioritises reuse and recycling over landfill.

Environmental sustainability has also been considered in the design, and the dwellings will meet the Code for Sustainable Homes Level 4, which requires key sustainable targets and objectives to be met including low energy, low carbon and water conscious design. This includes a communal boiler ready to connect to a district heating system and the installation of solar panels and a green roof. The design includes cycle parking which is provided internally and within the blocks of the new development. Although there will be a small loss of greenspace outside Charles Simmons House, there will be new greenspace on the Margery and Lloyd Baker Street sides of the new build.

4.4 Resident Impact Assessment:

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

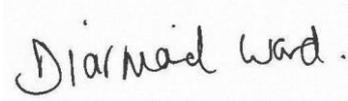
5. Reason for recommendations

5.1 The redevelopment of Charles Simmons House was identified three years ago. The Council is committed to this project and has secured planning consent for the development.

The normal procurement route of appointing a contractor from the current framework have been followed but has not proved successful. It is necessary to seek further expressions of interest from suitably qualified contractors and due to the estimated value of the project, for regulatory reasons it is necessary to advertise the works in OJEU.

Final Report clearance:

Signed by:

A handwritten signature in black ink that reads "Diarmuid Ward." The signature is written in a cursive style and is positioned above the printed name.

Executive Member for Housing and Development

Date: 20 December 2016

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