

**Report of Public Private Partnerships Unit**

**Report to Director of Resources and Housing**

**Date: 2<sup>nd</sup> May 2017**

**Subject: Spine DHN – Contract Award Report**

Are specific electoral wards affected? If relevant, name(s) of ward(s): Burmantofts and Richmond Hill; City and Hunslet; Gipton and Harehills	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: <b>10.4.(3)</b> Appendix number: <b>Appendix 1</b> Appendix 1 to this report has been marked as exempt under Access to Information Procedure Rules 10.4 (3) on the basis that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) which, if disclosed to the public, would, or would be likely to prejudice the commercial interests of that person or of the Council. The information is exempt if and for so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. In this case the report author considers that it is in the public interest to maintain the exemption.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

**Summary of main issues**

1. A competitive procurement to appoint an organisation to design, build and construct a Spine district heating network in Leeds has now been concluded.
2. The evaluation of the Final Tender submissions has been completed, and the evaluation panel recommend that Vital Energi Utilities Ltd be the organisation that are awarded the contract, based on delivering the best overall option for the Council as determined by the evaluation criteria.

**Recommendations**

3. The Director of Resources and Housing is asked to:
  - note the content of this report,

- approve the award of a conditional contract to Vital Energi Utilities Ltd for the Spine District Heating contract, and
- take a further report to Executive Board for authority to spend.

## **1 Purpose of this report**

- 1.1 This report advises the Director of Resources and Housing of the organisation recommended for the award of the Spine District Heating contract and sets out the process to be undertaken for awarding the contract.

## **2 Background information**

- 2.1 On the 10<sup>th</sup> May 2016 the council published an OJEU notice advertising the Spine District Heating Network opportunity to the market. This formally marked the commencement of the council's procurement for the design, build, and operation of a Spine District Heating Network (DHN).
- 2.2 A competitive procurement has been undertaken following the Competitive Dialogue with Negotiation Procedure with a 3 stage tender process having been carried out. The council issued its Call for Final Tender documents on the 8<sup>th</sup> February 2017, with Final Tender bids being submitted a week later on the 15<sup>th</sup> February.
- 2.3 Having undertaken the evaluation of the final tender bids it was concluded by the evaluation team that Vital Energi had been successful in the procurement, having submitted a high quality and compliant bid and should be awarded the contract. This decision was approved by the Director of Resources and Housing on the 19<sup>th</sup> April 2017.
- 2.4 This report sets out the basis on which the contract is to be awarded.

## **3 Main issues**

- 3.1 The spine DHN will deliver heat generated at the RERF to connections along its route for use as heat and hot water. The spine DHN will connect to a separate housing DHN, which will serve a number of council owned multi-storey flats. The procurement of the housing DHN that will convert these flats to be able to accept heat from the spine DHN has also been conducted. This procurement has also been concluded with the evaluation identifying an organisation to be appointed as the contractor that is capable of delivering the works and services.
- 3.2 Whilst two separate procurements were being undertaken for two standalone district heating schemes, it was stated within Appendix 8A of the tender documents that, there would be a requirement for the two successful organisations to work together following contract award given the interface between the two projects. Entering into an interface agreement means both contractors are required to work together to ensure a successful interface and to seek to achieve efficiencies for the benefit of all parties.

- 3.3 It was recognised by the project team that the two separate district heating networks could each have a level of surplus capacity built into them to ensure that they could operate as a standalone network. Bringing the two successful organisations together provides an opportunity to identify where efficiencies between the two networks could be made, which will assist with the deliverability of the overall DHN.
- 3.4 It should be noted that in agreeing the interface arrangements, the contractors for both the spine and housing contracts are not able to put forward any amendments to the individual contracts that do not comply with the council's minimum requirements set out within the council's tender documents, nor are they permitted to move the contractual position to one that favours them, or increase their price.
- 3.5 The decision for the authority to spend and inject capital in the form of borrowing and grant funding will be undertaken by the Executive Board in July 2017. As such there is a requirement to conclude the discussions between the Spine and Housing contractors prior to July's Executive Board.
- 3.6 If Executive Board decides not to proceed with the project, the conditional contract will be terminated without payment being made to Vital Energi. If Executive Board approve the project and grant authority to spend, the conditions within the contract will be removed and the project will proceed.

## **4 Corporate considerations**

### **4.1 Consultation and engagement**

- 4.1.1 The Executive Member for Sustainability has been fully briefed on the process that has been followed throughout this procurement process.
- 4.1.2 Regular progress has been reported to the Environment Programme Board in relation to this project.

### **4.2 Equality and diversity / cohesion and integration**

- 4.2.1 An equality impact assessment was completed when the Executive board report was submitted in February 2016 and the authority to procure was secured.
- 4.2.2 The Spine DHN will have a positive impact on equality as it will support the associated Housing DHN procurement, which supports the compassionate city equality objective by reducing fuel poverty, helping to increase life expectancy, improving mental health and wellbeing and reducing health inequalities.

### **4.3 Council policies and best council plan**

- 4.3.1 This scheme supports the aspirations set out in the Best Council Plan 2015-20; in particular the Council's Low Carbon priorities, which were declared for 2017/18:
- reducing emissions,
  - tackling fuel poverty, and

- delivering efficient and secure energy.

4.3.2 The Council has made public commitments to address fuel poverty concerns. As part of the city's Affordable Warmth Partnership, there is a stated aim to improve the health and wellbeing of vulnerable people through action on increasing affordable warmth and this project supports that aspiration.

4.3.3 In addition, the Council is committed to reducing citywide carbon emissions by 40% between 2005 and 2020 and has already made significant progress towards this target. Indeed, the council considers CO2 emissions to be a crucial challenge facing the city and this has culminated in the creation of a 'breakthrough project' – under the Best Council Plan 2015-20 – titled 'Cutting carbon and Improving air quality in Leeds', 1 of 8 priority council projects.

4.3.4 This scheme will also allow the Council to demonstrate its ability to be enterprising and to act as an enabler for growth.

4.3.5 The affected policies include the Council's Executive and Decision Making Procedure Rules, and the Council's Contract Procedure Rules.

#### **4.4 Resources and value for money**

4.4.1 The procurement process was carried out in accordance with an overarching project plan that was updated throughout the process, and has been resourced sufficiently.

4.4.2 VfM was tested at each previous stage of the procurement, and at the Final Tender stage the evaluation process re-evaluated the VfM of the project.

4.4.3 The discussions between the spine and housing contractors will reassess the VfM by identifying where efficiencies can be made, which will contribute to the deliverability of the project.

#### **4.5 Legal Implications, access to information and call In**

4.5.1 Legal officers from PPPU have been consulted throughout the procurement exercise and as such all legislative requirements surrounding EU Public Procurements have been adhered to. The contract was advertised in the official Journal of the European Union (OJEU) as is required of a contract of this value so we can evidence that an open and transparent process has been followed.

4.5.2 The decision is a Significant Operation Decision and as such is not subject to call-in.

**Note that by virtue of Access to Information Rules 10.4.(3) Appendix 1 attached to this report is restricted as confidential. This is on the basis that it contain information relating to the financial or business affairs of any particular person (including the authority holding that information) which, if disclosed to the public, would, or would be likely to prejudice the commercial interests of that person or of the Council.**

**It is considered that the public interest in maintaining this information as exempt outweighs the public interest in disclosing the information, as disclosure may prejudice the outcome of the procurement process, whilst the details of the tender proposals within the appendices also contain the financial details/business affairs of individual companies.**

#### **4.6 Risk management**

4.6.1 This Final Tender stage of the procurement has been undertaken in line with the regulations set out in the 'Competitive with Negotiation' procedure, Public Procurement Regulations 2015.

4.6.2 The procurement was carried out in line with the instructions that were published in the Invitation to Participate.

#### **5 Conclusions**

5.1 The evaluation at the Final Tender stage of the Spine DHN procurement concluded that the bid from Vital Energi Utilities Ltd was successful within the process. As such a contract should be awarded to Vital Energi.

#### **6 Recommendations**

6.1 The Director of Resources and Housing is asked to:

- note the content of this report,
- approve the award of a conditional contract to Vital Energi Utilities Ltd for the Spine District Heating contract, and
- take a further report to Executive Board for authority to spend.

#### **7 Background documents<sup>1</sup>**

7.1 None

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.