

**Report of:** Polly Cook, Executive Programme Manager

**Report to:** The Director of Resources and Housing

**Date:** 14 August 2017

**Subject:** Authority to Procure: District Heating Project – Technical Advisor

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Burmantofts and Richmond Hill	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" 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:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

### Summary of main issues

1. The Recycling and Energy Recovery Facility (RERF), is already designed to generate enough electricity to power over 22,000 homes. There is a further opportunity to harness the heat that is also produced whilst processing the waste and develop a district heating network.
2. The development of a District Heating Network (DHN) will provide the city with an infrastructure that will support the sustainable growth of Leeds, supporting the city's ambitions to significantly reduce carbon emissions whilst also helping those in fuel poverty.
3. In order to deliver the DHN, the Council has conducted two procurement exercises that resulted in the appointment of Vital Energi Utilities Ltd for the Housing and Spine elements of the project. The Council now requires the expertise of a specialist technical consultant to provide technical advice for the implementation stage.
4. It is proposed by the Projects, Programmes and Procurement Unit (PPPU) to use the YORconsult framework for the procurement of a consultant with the relevant and necessary knowledge, skills and experience.

5. Decisions to grant authority to award a contract and authority to spend will be sought separately following this procurement by the Director of Resources and Housing.

## **6. Recommendations**

That the Director of Resources and Housing gives permission to procure a consultant to supply technical advisor services to oversee the construction of the District Heating Network and the associated housing works under the NEC3 contract (both schemes valued at c£40 million).

### **1 Purpose of this report**

- 1.1 To seek Authority to Procure from the Director of Resources and Housing for a technical consultant to provide technical advice for the construction phase of the DHN project.
- 1.2 To inform the Director of Resources and Housing of the estimated costs of £350,000 for appointing a specialist consultant for the scheme.

### **2 Background information**

- 2.1 The Council has eight breakthrough programmes aimed at reducing inequalities in the city. In support of the above, the Council launched the 'Cutting Carbon and improving Air Quality' breakthrough programme at the end of 2014. The Leeds DHN project is one of a number of initiatives being delivered under the programme.
- 2.2 The primary aims of the DHN project are:
  - To reduce vulnerable residents' fuel bills by c10% to tackle fuel poverty;
  - To maximise CO2 emission reduction opportunities associated with the RERF to contribute to our citywide target of 40% CO2 reductions between 2005 and 2020;
  - To establish the first phase of a city-wide district heating network to stimulate additional investment in DHNs as a way to provide low carbon heat from the perimeter to the city centre.
- 2.3 The development of a district heating network will also:
  - Act as a catalyst for regional DH, through opportunities for other partners to learn lessons from Leeds' processes, including planning, highways, procurement, marketing, operation etc.;
  - Create construction, operation and maintenance jobs;
  - Retain greater wealth within the local economy;

- Demonstrate the benefits of district heating with a view to persuading public and private sector partners to connect;
- Initiate a strategic network to allow us to implement policy EN4, requiring new developments to connect and providing an outlet for heat from proposed waste/energy activities in the Aire Valley;
- Allow for the removal of outdated storage heaters in council owned multi-storey flats, leading to improved comfort levels and more controllable heating;
- Further enhance the environmental performance of the RERF, and provide clear benefits of using the heat locally.
- Improve air quality.

2.4 The council has been working to secure the benefits of district heating for several years and already operates small networks serving clusters of council owned multi-storey flats.

2.5 In order to be able to articulate the potential for district heating in Leeds, the council has undertaken detailed heat mapping and an energy masterplan for the city. This work identifies a realistic strategic network that could be developed over the long-term to supply c150MW of connected load with c46MW of heat capacity from low carbon generation sources, helping the city to deliver our carbon reduction ambitions.

2.6 The council also promotes district heating to private sector developers and new networks have been approved for both housing and commercial properties recently.

2.7 The council has included a specific district heating enabling policy (EN4) within the Core Strategy, which has now been adopted following planning inspector's approval. The council has adopted a Local Development Order which removes the requirement for planning permission for district heating pipework in a large part of the district.

2.8 PPPU have conducted two procurement exercises for the construction of the Spine and Housing parts of the scheme which have been carried out using the negotiated procedure and contracts have been awarded with conditions for the Spine contract.

2.9 The commission of consultants (Arup) for the procurement stage of the project was achieved through the YORconsult framework through a direct call-off on a rotation basis from Lot 16 – Renewable Energy Services. Arup were called off the framework on a rotation basis due to time constraints and because they were familiar with the project.

2.10 In parallel with the procurement exercises, applications for funding have been successfully made to WYCA and ESIF for both aspects of the scheme. Negotiations have also taken place with Veolia regarding the variation to the PFI for the RERF and the construction of the pulp paper facility. Surveys have also

been carried out of council and partner buildings in the city centre to determine their suitability to connect with the DHN.

- 2.11 Following the completion of the tender exercise, the Housing and Spine DHN schemes were approved by the Executive Board in July 2017. The Spine element is subject to conditions relating to securing customers for the heat supplied from the RERF.

### **3 Main issues**

#### *Consultant requirements*

- 3.1 The council now requires technical assistance for the construction and commissioning phases of the project from September 2017 to early 2020. The construction contract is being let under the NEC3 Engineering and Construction Contract with the roles of Supervisor and Project Manager being required of the council as Employer. There will also be a need to respond to contractor technical enquiries and unforeseen issues. The council do not have the resources or specific expertise to satisfy this requirement nor can they be provided by NPS and therefore seek the assistance of a suitable consultant.
- 3.2 The Project Manager role under the NEC contract includes the management of the construction contract in terms of: Time, Testing and Defects, Payment, Compensation Events, Title, Risks and Insurance and Termination. They will be the council's representative for the contract. There will also be an element of design advice included responding to clarifications from the contractor.
- 3.3 The Supervisor role under the contract is the same as a clerk of works and involves the testing of materials and inspection of the works to ensure that they comply with the specification.
- 3.4 On the Housing element of the project the consultant will provide oversight for the construction and commissioning of the Energy Centres, pipes to the multi storey flats and up each building as far as the entry to each individual flat. Oversight of the installation of the heating systems and meters within each flat will be carried out by Housing Leeds.
- 3.5 For the Spine contract the consultant will provide oversight of the construction and commissioning of the Spine from the RERF to the energy centres and to the city centre. They will also oversee the connection of the Spine into selected buildings in the city centre.
- 3.6 It is anticipated that there will be further technical support required on an ad hoc basis as the construction works progress.

#### *Phasing*

- 3.7 The funding for the Housing element of the project is secured and the Executive Board in July 2017 has given authority to spend. The Spine element has Executive Board approval subject to conditions including approval from the Investment Board and the West Yorkshire Combined Authority. Therefore, as the Housing project is supported by time limited ESIF funding, this procurement has

been designed to allow for the appointment of technical assistance for the Housing only or for both projects.

### *Internal Service Providers*

- 3.8 NPS were considered as a potential partner for the district heat network. However, due to the requirements of the ERDF funding to carry out procurement, it is not possible to do a direct award. In order to maintain the current programme the quickest route to market that is ERDF compliant is via the YORconsult framework that is already in place. This therefore restricts NPS from being able to participate as they are not a registered contractor. If the technical advisor procurement was to be delayed it would put the council at risk as it would not have the necessary support required to undertake due diligence in what is a highly technical and complex scheme. Any delays to the delivery of the scheme financially impact the viability of the scheme as the payment of ROCS is time limited

### *Procurement*

- 3.9 It is proposed by PPPU to use a mini competition for the construction stage within Lot 16 (Renewable Energy) of the YORconsult framework. This will ensure that the consultant has the relevant and necessary knowledge, skills, and experience and demonstrate value for money. It also saves time and resources in comparison to an open tender process.
- 3.10 The decision to proceed with the Housing DHN was made at Executive Board in July 2017. The decision to proceed with the Spine was made at the same time but subject to conditions and therefore there is a measure of uncertainty. The tender documents for the consultancy appointment reflect this level of uncertainty on the project by being designed to allow for two options; namely Housing only and Housing and Spine.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 The Executive Member for Sustainability has been kept informed of progress on the project and the need for this procurement.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 An Equality, Diversity, Cohesion and Integration Screening assessment has been completed with no impacts identified that require further consideration.

### **4.3 Council policies and the Best Council Plan**

- 4.3.1 This scheme supports the aspirations set out in the Best Council Plan 2015-20; in particular, the first two objectives of the council's overall list of 6, which were declared for 2015/16:

- Supporting communities and tackling poverty.

- Promoting sustainable and inclusive economic growth.

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 CO<sub>2</sub> 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 consultants' commission supports the delivery of both the Spine and Housing DHNs. Therefore award of the consultant contract will only occur when the funding is all in place and Executive Board has given approval to one or both elements of the scheme.

4.4.2 The intention is to appoint using the YORconsult framework (Lot 16). In the interest of competition and value for money it has been decided to organise a mini competition rather than proceed with the direct award through rotation.

4.4.3 The YORconsult framework offers improved certainty of quality, cost and time. All consultants on the framework have been subject to price and quality testing, thus significantly reducing the risk of inexperienced firms acquiring high value projects that require high level, specialist expertise.

4.4.4 The total cost of the consultancy is not anticipated to exceed £350,000 and will be resourced by funding from ESIF and HRA and PWLB funding.

4.4.5 Due to the high value of the procurement PPPU intend to set a 60/40 price/quality split in the consultancy evaluation exercise in line with Contract Procedure Rules and the YORconsult framework call-off process.

4.4.6 If the Spine contract does not proceed the fees for consultancy on the Housing will be capped at £200,000.

#### **4.5 Legal Implications, Access to Information and Call In**

4.5.1 A Key Decision was made to progress with procurement of contractors to deliver the DHN in 10 February 2016. The Executive Board report of July 2017 provided for the delegation of authority to the Director of Resources and Housing to enter into all other documentation and take all other decisions required for the delivery of the project and approves operational decisions relating to the district heating scheme.

- 4.5.2 The decisions to be taken as detailed in this report are not subject to call-in.
- 4.5.3 The contract between the Council and the Consultant will be the YORconsult Framework, NEC3 Professional Services Contract. The clauses within the contract have been scrutinised and amended by PPPU Commercial Team lawyers to comply with council requirements.
- 4.5.4 PPPU has also been assisted by an officer from YORconsult during the drafting of the specification and amendments to the terms and conditions.

## **4.6 Risk Management**

- 4.6.1 The DHN programme reports to the Environment Programme Board which requires a highlight report that identifies risk and issues. The support provided to the project by the appointed consultant shall be subject to monitoring as per all other work-streams forming part of the overall delivery of the scheme.
- 4.6.2 As the business case for the spine is still being finalised there is a risk that the spine is delayed or does not progress, so to mitigate this risk, the procurement has been designed to allow the council to appoint a technical consultant for the housing only.
- 4.6.3 The Risk Register is currently maintained by the project team.

## **5 Conclusion**

- 5.1 The Council requires the support of a Technical Advisor under the NEC3 contract for the construction phase of the District Heating Network.
- 5.2 The consultants will be procured through the YORconsult framework via a mini competition.

## **6 Recommendations**

- 6.1 That the Director of Resources and Housing gives permission to procure a consultant to supply technical advisor services to oversee the construction of the District Heating Network and the associated housing works under the NEC3 contract (both schemes valued at c£40 million).

## **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.