

**Report of** Head of Strategy & Investment, Housing Leeds

**Report to** Director of Resources and Housing

**Date:** 14th February 2018

**Subject:** Variation to DN199098: District Heating in Multi-Storey Flats and Maisonettes

**Capital scheme number:** [32463/000/000 and 32022/FA/1/000]

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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: 10.4.3	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

### Summary of main issues

1. On the 8<sup>th</sup> February 2017, Executive Board approved the construction of a spine district heating network (DHN) and ancillary infrastructure from the Recycling and Energy Recovery Facility (RERF) to the city centre/Lincoln Green and the connection of up to 1,983 Housing Leeds apartments to the new DHN. The scheme has subsequently been awarded to Vital Energi Utilities Ltd on 9<sup>th</sup> June 2017 with a contract start date of 12<sup>th</sup> June 2017.
2. The situation in the aftermath of Grenfell Towers has highlighted fire safety within high rise dwellings. The award of this contract has offered an opportunity to undertake the retro-fitting of a sprinkler system to each flat.
3. This report will seek to vary the current contract to include the fitting of sprinklers in addition to the current scope of works
4. This contract variation is permitted under public contract regulations 2015 (72) as it does not affect the overall nature of the contract and does not exceed 50% of the original contract. The original contract was awarded in two parts; Design and Build £15,848,157.75 and Operations and Maintenance £2,674,581.00.

## **Recommendations**

- 1.1 The Director of Resources and Housing is asked to note the contents of this report, and
- 1.2 Approve the incorporation of the works detailed in this report to Vital Energi through a contract variation without competition to instruct the retro fitting of sprinkler works.
- 1.3 Note to grant the Authority to Spend approximately £3,785,739 for sprinkler systems to individual flats and communal areas. Provision has been made to absorb this within the current Housing Revenue Accounts Capital Programme
- 1.4 To waive any contributions to leaseholders should they choose to opt into the scheme

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

- 1.5 This report is seeking the Director of Resources and Housing to approve the incorporation of the works detailed in this report to Vital Energi through a contract variation without competition.

## **2. Background information**

- 2.1 A contract was awarded to Vital Energi Utilities on 9<sup>th</sup> June 2017 underground DHNs and associated energy centres in Lincoln Green and Ebor Gardens, and to refurbish and/or upgrade the existing plant within two existing energy centres at Saxton Gardens and Stoney Rock. The contract is due to expire on 1<sup>st</sup> February 2023 with the option to extend for a further 24 months.

## **3. Main issues**

- 3.1 Before the tragic events at Grenfell Towers in London, Housing Leeds started a programme of retro fitting sprinkler systems to our high rise blocks. Housing Leeds initially focused on blocks reserved for older people, who may be more vulnerable in the event of a fire.
- 3.1 The fire at Grenfell Towers has highlighted the fire safety risks to high rise dwellings throughout the country. The subsequent governmental review is likely to recommend that landlords of social housing to manage the risk of a fire within a multi-storey flat by the usage of a sprinkler system. Particularly within blocks that are deemed to have a higher risk of an isolated fire and where vulnerable occupants are present.
- 3.2 The Council has previously identified that none of its tower blocks are at risk from the same form of cladding as used at Grenfell Tower and that all cladding systems used on blocks owned and managed by the Leeds City Council have been tested and approved. However, as a result of the events at Grenfell Towers it was decided to prioritise the remaining retro-fitting of sprinkler systems to Leeds City Council's high rise blocks.
- 3.3 The Council now needs to procure a future supply arrangement to help it deliver a longer term investment requirement of around £22 million in additional sprinkler works resources to the remainder of the blocks.
- 3.4 Studies have shown that no multiple deaths following a structural fire have occurred when fire suppressing sprinklers have been fitted in individual flats. It is expected that this initiative will add a further layer of protection to tenants and is recommended by fire chiefs.
- 3.5 There appears to be an appetite, following extensive consultation events from the event at Grenfell Towers, from residents to have sprinklers fitted for reassurance. There is a risk of potential criticism if we were to return from this large scale contract to carry out retro fitting of sprinklers at a later date.
- 3.6 There are currently 48 leaseholders within the 21 blocks identified as part of this contract variation. The recommendation is not to seek to recover any costs should they opt into the scheme. The approximate cost of this will be £132,000.
- 3.7 Vital Energi have offered to undertake this work as part of the contract (DHN).

- 3.7.1 The contract involves 21 high rise blocks over five storeys high in the Burmantofts Ward. This represents 1380 individual flats.
- 3.8 Vital Energi have offered to undertake this work within a £3,785,739.00 budget. The Commercial Team at Property & Contracts have carried out a Value for Money exercise and shown that the costs are advantageous when benchmarked against current contracts that are underway.
- 3.9 There is a risk that varying the contract could have negative implications on the contract programme. However, Vital Energi have aligned the installation of the sprinklers to match the general activities within the programme. All of the dwellings will have/are scheduled to have the full heating replaced from an electric Economy 7 system to a 'wet' central heating type installation.
- 3.10 The works within the contract can work in clear tandem if programmed at an early stage. The contractor can programme the necessary drilling and pipework installation to ensure a logical and natural flow of works. This approach also reduces the risk of fire stopping and compartmentation between floors if carried out twice rather than in a programmed way.
- 3.11 The procurement risks of varying the contract are explained in greater detail within the Legal implications of this report which is a confidential appendix.

#### **4. Corporate considerations**

##### **4.1 Consultation and engagement**

- 4.1.1 The Executive Member for Environment and Sustainability has been consulted throughout the initial procurement process.
- 4.1.2 The Executive Member for Communities and ward members for Burmantofts and Richmond Hill where the housing work will take place have also been consulted regularly.
- 4.1.3 Consultation with Housing Leeds tenants and leaseholders has commenced for all affected blocks. Plans have been drawn up by Vital Energi for wider engagement with all stakeholders who will be affected by the construction phase.
- 4.1.4 The Director of Resources and Housing has briefed the Leader of the Council and the Leaders of the Conservative and Liberal Democrats groups, as required by Executive Board. Cross party agreement was reached following these briefings.

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

- 4.2.1 An equality impact assessment has been completed and is attached as Appendix 1.
- 4.2.2 The fire safety strategy will have a positive impact on equality as it will support 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 The unique opportunity to retrofit sprinklers alongside the DHN supports the aspirations set out in the Best Council Plan 2015-20 and the overall vision of

becoming the best city in the UK. In particular, the project helps deliver the Council's Low Carbon priorities, which were declared for 2017/18 as:

- 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 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', one of eight priority Council projects.

4.3.4 The Council is working towards meeting air quality targets to ensure that it complies with national requirements. The DHN will provide a contribution towards reducing the emissions generated by heating systems in the city.

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

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

4.4.1 The funding for these works has been identified from the Council's housing capital programme. The costs of works will be absorbed over the next two or three years as part of the Council's continuing investment programme already approved as part of the long term business plan for housing.

4.4.2 Officers from The Commercial Team have analysed the costs from Vital Energi and have concluded that they are value for money in that they match current market costs when benchmarked with existing contracts.

4.4.3 Savings through undertaking this work will be gained through programming the infrastructure and pipework when aligned with the installation of the district heating system. Certainly through reducing overheads, drilling, pipework installation, planning and having to fire-stop (compartmentalise) only once. Savings have been identified of £1.1m if the work is undertaken as part of the scope of works rather than a separate contract after the event.

#### 4.5 **Legal implications, access to information, and call-in**

4.5.1 This report is a key decision due to the contract value and the potential impact on the ward. It was put on the forward plan on 15/12/17 which means that the decision can be taken from 15/01/18.

4.5.2 A variation to a contract that was originally tendered through the Public Contracts Regulations 2015 is only permitted in limited circumstances. Officers have analysed

the variation and the decision is that this variation is permitted, however, there remains some risk of challenge. The Director has been provided with a separate legal advice note that is subject to legal professional privilege.

4.5.3 This contract variation has also been conducted in accordance with Contract Procedure Rule 21 which covers contract variations. A contract award notice will be published which will reduce the risk of challenge.

#### **4.6 Risk management**

4.6.1 A risk register has been produced for the District Heating in Multi-Storey Flats and Maisonettes (DHN) project and managed throughout the initial procurement process. The project team will continue to monitor the identified risks and consider any new risks moving forward. This will include the risks identified as part of this variation.

4.6.2 There is a risk that this may extend the contractual programme, but the contractor will offer a programme that demonstrates that this variation will be incorporated within current time scales.

4.6.3 Implementation of this proposal will enable the reduction of risk to tenants by the opportunity to accelerate the retro fitting of a sprinkler system.

4.6.4 The risk of challenge does remain and this has been detailed in the separate legal advice note that is subject to legal professional privilege. However, such risk is mitigated by Vital Energi being the only compliant tender in the initial procurement process and a contract award notice being published at the point of the contract variation being issued. The project team are also satisfied that the contract variation does fall within the remit of regulation 72 of the Public Contracts Regulations 2015.

#### **4.6.5 External Funding**

The DHN project for housing is externally funded by the European Regional Development Fund (ERDF). Any variation to an externally funded project can lead to the risk of funding withdrawal or clawback. The Director has been provided with a separate legal advice note that is subject to legal professional privilege.

### **5. Conclusions**

5.1 The contract variation process has been undertaken has been in accordance with the Regulations and the Council's Contracts Procedure Rules, with full guidance and support from the PPU Commercial Team. All risks have been noted and mitigated where feasible.

5.2 This recommendation can be further justified because a commercial review of the rates has shown that they are viable and cost effective.

### **6. Recommendations**

6.1 The Director of Resources and Housing is asked to note the contents of this report, and

6.2 Approve the incorporation of the works detailed in this report to Vital Energi through a contract variation without competition to instruct the retro fitting of sprinkler works.

- 6.3 Note to grant the Authority to Spend approximately £3,785,739 for sprinkler systems to individual flats and communal areas. Provision has been made to absorb this within the current Housing Revenue Accounts Capital Programme
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## **7. Background documents<sup>1</sup>**

- 7.1 None

## **Appendices**

Appendix 1 – Equality Impact Assessment

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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.