



**Report of: Head of Leeds Building Services**

**Report to: Director of Resources & Housing**

**Date: 15<sup>th</sup> May 2020**

**Subject: DN477803: Authority to Procure – Responsive Repairs and Maintenance for Housing & Non-Housing Drainage to be managed by Leeds Building Services**

Are specific electoral wards affected?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes, name(s) of ward(s):	
Alwoodley, Harewood West, Wetherby, Moortown, Roundhay, Chapel Allerton, Gipton, Harehills, Killingbeck, Seacroft, Crossgates, Whinmoor, Burmantofts, Richmond Hill, Temple Newsam, Beeston, Holbeck, Hunslet, Riverside, Morley North, Morley South, Middleton Park, Ardsley, Robin Hood, Rothwell, Garforth, Swillington, Kippax and Methley	
Has consultation been carried out?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If relevant, access to information procedure rule number:	
Appendix number:	

**Summary**

**1. Main issues**

- 1.1. Leeds Building Services (LBS) currently manage drainage works to non-housing assets citywide, utilising a framework of subcontractors, initially procured in 2014. This framework expires 30<sup>th</sup> June 2020 with no further option to extend. Interim contracting measures are being considered outside of this report.
- 1.2. LBS will be taking over the management of the drainage contract for housing drainage requirements in the east and south of the city as part of their growth strategy starting with the East area on 1st April 2021 and the South on the 1<sup>st</sup> July 2021, to deliver as part of the responsive repair, voids & cyclical maintenance responsibilities
- 1.3. Leeds City Council (LCC) has a duty of care that all homes are of a minimum statutory standard under the Landlord & Tenant Act 1985 section 11. In addition, LCC has a responsibility to ensure that drains are maintained and repaired in any non-housing buildings which they are either responsible for or own. Entering into this contract will allow LBS to oversee the totality of these works, which are to be carried out by the new contractors.

- 1.4. LBS are planning to split the works into two lots both covering housing and non-housing as follows:
  - Lot 1 – Housing – East only and Non-Housing – East & West
  - Lot 2 – Housing – South only and Non-Housing – South only
- 1.5. The drainage repairs for housing in the west will be delivered as part of the responsive repair, voids & cyclical maintenance contract currently out to tender, to be managed by Housing Leeds until 2026.

## **2. Best Council Plan Implications** (click [here](#) for the latest version of the Best Council Plan)

- 2.1. This will help with the Best Council Plans in that it will help with the sustainable infrastructure of the drains and pipes by dealing with such repairs as water leaks and blockages which cause waste to overflow into the roads and waterways, thereby ensuring that we use water as resourceful as possible.

## **3. Resource Implications**

- 3.1 Due to the specialist nature of the works, LBS are unable to deliver the works in house, therefore if we do not undertake this procurement activity, significant spend in excess of the OJEU threshold (£4,551,413.00) will be undertaken as non-contract spend, putting the authority at risk if inefficient costs, lack of contract management and challenge from the market.
- 3.2 As part of LBS strategy review it was agreed that, as they are responsible for delivering responsive repairs, voids & cyclical maintenance in areas of the city, they should also take on the management of this element, alongside their non-housing drainage responsibilities
- 3.3 Existing resources are currently in place and will work jointly with LBS and the Housing Leeds Procurement Team to ensure a smooth mobilisation and de-mobilisation.

## **Recommendations**

- a) The Director of Resources & Housing is recommended to grant authority to procure a contractor for each of the following Lots:
  - 1.5.1. Lot 1 – Housing – East only and Non-Housing – East & West
  - 1.5.2. Lot 2 – Housing – South only and Non-Housing – South only (commencing 1<sup>st</sup> July 2021)
- b) Lot 1 of the contract to start 1<sup>st</sup> April 2021 and Lot 2 to start 1<sup>st</sup> July 2020 for a 4 year period ending initially on the 31<sup>st</sup> March 2025 with the option to extend for a further 4 x 12 months. The value of the contract will be £1.6million pounds per year, totalling £12.8 million including any extensions.

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

- 1.1 The purpose of this report is to seek authority to procure on behalf of LBS a contractor for each of the following Lots:

Lot 1 – Housing – East only and Non-Housing – East & West

Lot 2 – Housing – South only and Non-Housing – South only (commencing 1<sup>st</sup> July 2021)

As outlined in CPR 3.1.6. The new contracts will cover both housing and non-housing properties and will last for 4 years with the option to extend for a further 4 x 12 months starting 1<sup>st</sup> April 2021.

## **2. Background information**

- 2.1 LBS have historically sub-contracted out the drainage works for all non-housing properties city wide.
- 2.2 For housing works the south and west areas of the city have to date been included with the existing contract arrangements with Mears. The East area has been delivered via a contract direct with Housing Leeds.
- 2.3 The interim contract with Housing Leeds in the East of the city is due to expire at the end of March 2021.
- 2.4 The responsive repair and void works in the South of the city are being insourced in July 2021 and LBS will deliver the full range of services from that date.
- 2.5 The works in the West will be subject to a competitive tender process which is ongoing and will commence late 2021.

## **3. Main issues**

- 3.1 A new interim contract has been put in place for Easaway Draincare UK Ltd T/A Easaway Environmental to continue with providing the service for the east of the city until 31<sup>st</sup> March 2021, with Mears Ltd via the use of sub-contractors continuing with the rest of the city.
- 3.2 After a review of LBS operations it has been decided from 1<sup>st</sup> April 2021 that they can now manage the contract for both housing and non-housing. This will be split into two lots. Lot 1 will cover housing in the east of the city, and non-housing for the east & west of the city. Lot 2 will cover the south of the city for both housing and non-housing. This approach will provide a more consistent approach and the increased scale of the contract should drive competition which will hopefully provide best value.
- 3.3 Housing responsive drainage repairs for the west of the city will continue with our current supplier.
- 3.4 LCC, through the internal service provider LBS, are responsible for the maintenance and repair of non-housing drainage properties within the city. They have a duty of care to respond to any drainage issues which are on LCC properties.
- 3.5 The non-housing contractors are also responsible for making any major changes to the drainage system within the boundary both inside and outside of the premises.

- 3.6 In order to deliver a consistent service to Housing Leeds and maintaining the civic estate stock across the city, LBS need to establish a compliant contract arrangement to support this service
- 3.7 To be consistent across the responsive repair contracts it has been decided that LBS will use the National Housing Federation schedule of Rates which is being used as part of the future strategy for housing repairs, voids and Cyclical Maintenance LBS are adopting the approach as soon as possible starting with the drainage contract in the East on the 1<sup>st</sup> April 2021 and the South July 2021
- 3.8 The new contract will start on the 1<sup>st</sup> April 2021 for a four year period with the option to extend for a further 4 x 12 months.
- 3.9 It is proposed that the tender is evaluated on a 70\30 price\ quality basis, with some proportionate minimum threshold used to ensure quality submissions are encouraged. Approval of the evaluation criteria will be sought from the Chief Officer Civic Enterprise Leeds (CEL) in accordance with CPR 15.1 in due course.
- 3.10 It is proposed that one contractor per lot is appointed subject to 10% variation in price, reserving the right to appoint the first ranked contractor to both lots. This approach ensures best value whilst allowing flexibility in relation to capacity.

### **3.11 Procurement Options**

- 3.11.1 **Do nothing** – The contract would expire at the end of March 2021 leaving LCC vulnerable to not having any contractors to repair and maintain the drainage system. This will lead to leaks and blockage on council owned properties and make them unfit for use. The council has a statutory duty to maintain and repair damaged drainage systems so that all their properties are maintained to a lettable standard which is also a statutory requirement.
- 3.11.2 **Call off From an Existing Framework** – A number of existing externally managed frameworks were considered however it was felt these were not appropriate for our needs on this occasion as we are moving our rates over to the National Housing Federation Rates
- 3.11.3 **Use of Constructionline** – As this procurement is above the OJEU procurement threshold it is not appropriate to use this portal.
- 3.11.4 **Procure Leeds Own Contract (Recommended)** – This would be an OJEU procurement due to the value of this contract and gives LCC the best option to tailor the contract such that it meets the Council's requirement

## **4. Corporate considerations**

### **4.1 Consultation and engagement**

- 4.1.1 CEL WAM/WBR, LBS Improvement Board, Head of Leeds Building Service, LBS stakeholders, Procurement and Legal Team, and Leaseholder Team have been consulted as part of this process.
- 4.1.2 The structure of this contract is in line with the LBS Procurement Strategy approach which has been developed through consultation between Senior Procurement colleagues, and the Head of Leeds Building Services. This strategy provides an overarching framework which is to be applied to all future contracts in order to align the way that contracts are managed and monitored effectively to ensure the best possible output to support LBS' Growth Strategy, and enable them to provide an

efficient and value for money responsive repairs service across the City to both domestic, unoccupied, and corporate maintained properties

4.1.3 The strategy has been developed to focus on achieving fit for purpose contracts which will be established with a strong focus on:

- Achieving value for money through effective market engagement to encourage greater levels of competition
- Identifying and enabling cost savings
- Consistent approach to terms of service and contract across housing, and non-housing, to enable improved contract management
- Adoption of a mixed economy of contractors to support the LBS Works programme (including repairs, maintenance and planned works) which will in turn support the local economy and SMEs in line with Core Council Values

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

4.2.1 An Equality and Diversity/Cohesion and Integration assessment has been completed as part of the project and highlighted that there are no equality, diversity, cohesion & integration issues going forward with this project.

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

4.3.1 This will help with the Best Council Plans in that it will help with the sustainable infrastructure of the drains and pipes by dealing with such repairs as water leaks and blockages which cause waste to overflow into the roads and waterways, thereby ensuring that we use water as resourceful as possible.

### Climate Emergency

4.3.2 This will help in regard to reducing unwanted waste which overflows and can cause unsightly mess which in turn often requires unnecessary visits to homes and therefore unnecessary CO2 emissions. The drainage contract also drives blockages to be rectified on the first visit, without the need for an initial visit by a plumber, and therefore this removes the need for unnecessary visits and travel.

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

4.4.1 LBS will be responsible for the management of this contract.

4.4.2 This will give Leeds City Council best value as we are able to consolidate the works to 2 contractors to do the works across the city who are able to give more competitive prices against a national recognised set of schedule of rates rather than in LBS case at the moment using a number of sub-contractors for non-housing all with different schedule of rates.

4.4.3 Schedule of timescales below

Stage	Date
1 <sup>st</sup> Leaseholder Consultation	17 <sup>th</sup> April – 16 <sup>th</sup> May 2020
Authority to Procure Report	26 <sup>th</sup> May 2020
OJEU Advert	15 <sup>th</sup> June 2020
PAS 91 Published with draft tender Docs	15 <sup>th</sup> June – 29 <sup>th</sup> July 2020
Notify Shortlisted/Unsuccessful Tenderers	24 <sup>th</sup> August – 28 <sup>th</sup> August 2020
Tender Period	24 <sup>th</sup> August – 7 <sup>th</sup> October 2020
Assessment of Tender	7 <sup>th</sup> October – 13 <sup>th</sup> November 2020
2 <sup>nd</sup> Leaseholder Consultation	23 <sup>rd</sup> November – 1 <sup>st</sup> January 2021
Contract Award	8 <sup>th</sup> January 2021
Mobilisation	11 <sup>th</sup> January 2021 – 31 <sup>st</sup> March 2021
Contract Start	1 <sup>st</sup> April 2021

4.4.4 It is proposed that a four year contract with an option to extend for a further 4 x 12 month under an NEC4 measured Term contract with 'built-in' annual percentage adjustments for efficiency savings is put in place to ensure continued service delivery.

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

4.5.1 This is a key decision which is subject to a call-in as the maximum cost of the whole contract exceeds £500K. There is no grounds for treating the contents of this report as confidential within the Council's Access to Information Rules.

4.5.2 A letter has been returned by our current supplier(s) providing all relevant TUPE information and this will be made available to all tenderers who sign a confidentiality non-disclosure agreement.

4.5.3 A notice was published on the list of forthcoming decisions on the 9<sup>th</sup> March 2020. In making their final decision, the Director of Resources and Housing should note the above comments and be satisfied that the course of action chosen represents best value for money for the Council

#### **4.6 Risk management**

4.6.1 LBS contracts are due to expire, with no provision for extension remaining, non-contract spend will increase significantly in contradiction to Contracts Procedure Rules, and in some cases EU regulations. The contracts that are the subject of this report fall within this category of contracts.

4.6.2 LCC has a duty of care to make sure that the stock of housing are in a fit state. LCC has a legal duty to make sure homes are of a good standard under the Landlord & Tenant Act 1985, section 11 to make sure that the dwellings are in good order. It must also ensure that all tenants' homes are fit for purpose under the Homes (Fit for Habitation) Act 2018.

4.6.3 LCC has a duty of care to make sure that non-housing drains are maintained and repaired. If they are not kept up to a decent standard then this will affect the building and grounds of the commercial property with unwanted odours and waste. This in turn could affect people using the commercial property. They are also responsible for making alterations to drains within buildings which LCC is responsible including the grounds of the building.

## **5. Conclusions**

5.1 LCC have a need for a new contract to be put in place starting 1<sup>st</sup> April 2021.

5.2 The value of the drainage spend is anticipated to be in excess of the Works OJEU threshold, and as such a compliant procurement exercise should be undertaken as a priority.

## **6. Recommendations**

6.1 The Director of Resources & Housing is recommended to seek authority to procure 1 contractor for each of the following lots :

- Lot 1 – Housing – East only and Non Housing East & West
- Lot 2 – Housing – South only and Non Housing South only (commencing 1<sup>st</sup> July 2021)

Lot 1 of the contract to start 1<sup>st</sup> April 2021 and Lot 2 to start 1<sup>st</sup> July 2020 for a 4 year period ending initially on the 31<sup>st</sup> March 2025 with the option to extend for a further 4 x 12 months. The value of the contract will be £1.6million pounds per year, totalling £12.8 million including any extensions.

## **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.