

District Heating Network – Contract award for building connection at Leonardo & Thoresby buildings and new build in old car park

Date: 04/04/2023

Report of: Senior Project Manager, Sustainable Energy and Air Quality

Report to: Chief Officer Sustainable Energy and Air Quality

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

In February 2022, the council's Executive Board, approved the recommendations of a report by the Director of Resources and Director of City Development, which detailed plans for the phase 3 extension of the Leeds PIPES District Heating Network following the success of phases 1 and 2. The phase 3 extension, split into five zones of work, will see several additional customers connect into the network and be provided heat over the coming years.

One such customer, at the Leonardo and Thoresby site, will be signing Connection and Supply Agreements setting the terms under which the connection works will be carried out, and heat will be supplied over a term of 20 years. Following on from this, a contract needs to be awarded for the connection works to take place and facilitate the supply of heat.

This report seeks authority to award an NEC3 contract to Vital Energi Ltd to undertake the works to connect the site to the DHN, subject to the signing of the Connection and Supply Agreements. The works primarily consist of the installation of primary pipework throughout the site area and the installation of the plate heat exchangers for hot water together with a connection to the existing secondary system. The site is split into two separate connections: one into the existing Leonardo and Thoresby buildings, and one into the new build site being constructed on the car park parallel to the existing buildings.

Recommendations

The Chief Officer for Sustainable Energy and Air Quality is recommended to:

- a) Approve the authority to spend and award NEC3 contract to Vital Energi Ltd to undertake the DHN connections at the Leonardo and Thoresby development with a maximum value of £297k, subject to the freeholder entering into Connection and Supply Agreements with the council.
- b) Approve the payment structure for the connection outlined in Confidential Appendix 1, noting the reasons for exclusion from this report detailed at paragraph 25, in line with the Local Government Act 1972.

What is this report about?

- 1 The council's Leeds Pipes District Heating Network (DHN) is delivering low carbon heat to tenants in council owned Multi-Storey Flats, and ten commercial customers, including four of its own buildings.
- 2 The council is at any one time in discussions with several potential customers across the city who express an interest in connecting. For each new potential connection onto the network, the same process is followed:
 - a) the council's Principal Contractor, Vital Energi, carry out a budget estimate for the works.
 - b) Heads of Terms are then signed between the council and prospective customer.
 - c) Vital undertake detailed design for the connection works.
 - d) Connection Agreement and/or Commercial Supply Agreement are signed between the two parties.
 - e) NEC3 Contract is awarded to Vital to undertake the connection works.
- 3 Detailed design has completed at one site and the customer has now signed Connection and Supply agreements and as such the next stage in the process needs to commence: contract award.
- 4 Throughout the lifetime of the DHN project, the principal contractor, Vital Energi Ltd, has undertaken the design and build for each phase of the network as well as individual customer connections, and as such it is logical that Vital have responsibility for these next connections. This is in line with the existing O&M contract with Vital Energi, which allows for connection works to be carried out as Additional Works.
- 5 The design for the connection has been confirmed and agreed with the customers to install plate heat exchangers and connect the buildings to the main spine network.
- 6 Decisions in relation to the connection fee structure are commercially confidential for reasons outlined at paragraph 25 and are detailed in confidential appendix 1.
- 7 It is proposed that Vital Energi Ltd are now awarded an NEC3 contract for the works at Leonardo and Thoresby, with the contract having a maximum value of £297k. The anticipated term of the contract is 6 April 2023 to 30 September 2023.
- 8 On completion of the work the new connection will increase the demand on the DHN, which will see an increase in the volume of heat supplied to customers. This increased demand on the network will provide a positive contribution to the council's climate emergency ambition of becoming net zero by 2030 by supplying low carbon heat and removing the reliance on traditional gas boilers, whilst also generating additional revenue for the council through heat sales.

What impact will this proposal have?

- 9 In June 2022 the Chief Officer Sustainable Energy and Air Quality took a decision to enter into Connection and Supply Agreements with Arrow Leonardo Limited , governing the DHN connection and supply of heat at the Leonardo and Thoresby development.
- 10 Following further design discussions with Arrow Leonardo Ltd, their Principal Contractor's M&E team, and Vital Energi Ltd, the design proposal for the connection has been agreed.
- 11 The proposal consists of two connections: One into the existing Leonardo and Thoresby buildings previously under council ownership, and one into the new build site being constructed on the car park parallel to the existing buildings.
- 12 In parallel to this, negotiations on the above referenced Connection and Supply Agreements are now nearing a conclusion, with the documents to be signed imminently. As such there is a requirement to enter into a contract with Vital Energi Ltd to undertake the work once these have been signed.
- 13 In awarding the contract to Vital Energi Ltd there are a number of issues to note:
 - i. The connection to Leonardo and Thoresby buildings was not part of the initial requirements or included within the original value of the DHN works contracts for phases 1, 2 or 3 of the network. However, the original tendered D&B contract clearly set out that the DHN was to be designed with expansion in mind and included a number of potential connections over and above the initial key connections. Subsequent D&B contracts awarded to Vital Energi are written to the same effect.
 - ii. In addition, the O&M contract that was tendered and awarded to Vital Energi Ltd set out that new heat customers shall be regarded as Additional Works, and that these will be undertaken by the D&B contractor as though these customers had been identified during the period of the D&B contract.
 - iii. The O&M contract also sets out that these Additional Works shall be carried out under the relevant provision, standards and requirements of the D&B contract.
- 14 The NEC3 contract will be based on the NEC3 contracts awarded to Vital Energi Ltd previously. Input is being sought by Procurement Legal to update the NEC3 in line with the project-specific requirements for this new connection, however, the contract will follow the same format used previously to ensure consistency. A similar exercise has been undertaken previously for DHN connection works at Leeds Beckett University, and Leeds Combined and Magistrates' Courts, as such both the project team and Procurement Legal are familiar and comfortable with the process involved.
- 15 Vital Energi Ltd will fulfil the roles of Principal Contractor and Principal Designer under the Construction Design and Management Regulations (2015) for the connection works.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing Inclusive Growth Zero Carbon

- 16 The network will provide lower cost heating for the courts, helping to reduce fuel bills.
- 17 The network removes gas boilers from these buildings, helping to improve air quality and improving health.
- 18 The network directly reduces CO₂ emissions from heating, which is otherwise difficult and expensive to improve, helping the city to achieve net zero ambitions.

What consultation and engagement has taken place?

Wards affected:

Have ward members been consulted?

Yes

No

- 19 Consultation has taken place with the developer at Leonardo and Thoresby and their principal contractor over the past two years, covering the design and commercial terms of the connection. Through this process Vital Energi has also been consulted continuously and are comfortable with the approach set out here for contracting the works, as well as the works themselves and associated timescales to deliver them.
- 20 Vital Energi has consulted Highways Services within the Council on the works to ensure appropriate notice is given regarding any potential disruption to traffic, and consultation will take place on an ongoing basis with Highways throughout the duration of the contract, as well as with any residents or businesses in the area who may be impacted by this potential disruption.
- 21 The S151 Officer (the Chief Officer for Financial Services) has been consulted on the proposed connection fee structure detailed in confidential appendix 1 and approves of the approach being taken.
- 22 The Chief Officer for Sustainable Energy and Air Quality and the Director for Resources have been consulted on the proposals.

What are the resource implications?

- 23 The structure of the connection fee and recommendations in line with this structure is outlined in detail in Confidential Appendix 1.
- 24 As previously set out in the report to the Chief Officer Sustainable Energy and Air Quality "Leeds Pipes DHN Connection Agreements", the Leonardo and Thoresby connection will generate revenue for the council based on the commercial terms that have been reached with the parties developing the site and operating the buildings upon completion of the works.
- 25 Vital Energi Ltd are being appointed to undertake the works using NEC3 contracts based upon NEC3 contracts used to appoint Vital Energi Ltd to design and build the Phase 1 Spine DHN network and the Phase 2 extension, so is a familiar contract structure for these works.
- 26 The works will be overseen by officers working within SEAQ.
- 27 Further detail on the connection cost is confidential and referenced in Confidential Appendix 1

What are the key risks and how are they being managed?

- 28 Not appointing Vital Energi Ltd and subjecting the work to tender would mean there is a risk associated with having another contracting party involved with the works, which may result in delay, contractual disputes, and technical issues on the network or connection at this development. Vital Energi has already completed detailed design for this connection and as such is best placed to deliver the works. It potentially may also invalidate guarantees provided by Vital Energi Ltd on the whole DHN network if another contractor were to carry out the works.
- 29 Any of the above impacts of not appointing Vital Energi Ltd, would have the additional impact on the reputation of the network. This will be the first private sector development to connect to the network through which the profile of the network will be raised with this sector, a key benefit as we look to secure additional private customers in the coming years.
- 30 The very low risk of failing to receive payment from the customer is mitigated by signing the Connection and Supply Agreements prior to entering into contract with Vital Energi for the works. Entering into the agreements gives the council legal protection against non-payment.

31 It is in the council's interest to increase the number of customers on the network, as this improves the financial position of the project through heat sales. As such it is critical that the above risks are mitigated through timely award of the contract discussed in this report.

What are the legal implications?

32 The decision recommended by this report is a Significant Operational Decision and is not open for call-in. It follows on from the decision taken in June 2022 by the Chief Officer for Sustainable Energy and Air Quality to enter into Connection and Supply Agreements with Arrow Leonardo Limited.

33 The information contained within confidential Appendix 1 to this report is designated as exempt from publication in accordance with paragraph 10.4(3) of the Access to Information Rules and Schedule 12A(3) of the Local Government Act 1972 on the grounds that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information). The appendix contains pricing information underpinning the Council's commercial offer to customers, which if disclosed could damage the commercial interests of the Council. Disclosure of this information would seriously harm the Council's negotiating position when discussing heat sales with potential customers. Therefore it is considered that the public interest in maintaining the content of confidential appendix 1 as exempt outweighs the public interest in disclosing the information.

Options, timescales and measuring success

What other options were considered?

34 An alternative option is to carry out a competitive tender to appoint an organisation to undertake the works. This would add significant time to the completion programme which in turn would mean the customer does not proceed with the connection, as they require heat on to the building in summer 2023. This could also result in disputes between Vital Energi and the appointed contractor over the technical design, and risks outlined at paragraph 26 materialising.

35 The proposal is therefore the most viable option available to ensure that the work is undertaken to programme and cost. Work being awarded is considered within the scope of the contracts previously advertised and subsequently awarded to Vital Energi Ltd, so the proposed option is the most deliverable.

How will success be measured?

36 Success will be measured by the delivery of the works to programme and to budget. This will enable the council to generate revenue through sale of heat.

37 These works will also increase the volume of heat supplied to customers on the DHN and this metric will be monitored upon completion and commissioning of the DHN supply into the building to ensure the project has been successfully delivered. The estimated annual heat demand of the site is 1GWh.

What is the timetable and who will be responsible for implementation?

38 The works will be completed by Vital Energi Ltd prior to the end of August 2023 in line with the requirements of the site. The Connection and Supply Agreements will run for a term of twenty years, setting the conditions of the continued connection of the site to the network and the terms on which it will receive and pay for heat.

Appendices

- Confidential Appendix 1

Background papers

- N/A