

CABINET	DATE 22 July 2020	ITEM NO 10
TITLE Appointment of Morgan Sindall as the preferred contractor to be the Main Contractor for the leisure centre building, and to their carrying-out pre-construction services under the first stage of a two-stage design and build contract.	WARD (S) All	
CHIEF OFFICER Director of Regeneration, Enterprise & Skills	CABINET MEMBERS Regeneration and Growth; Culture and Communities	
DECISION CLASSIFICATION - Key	FINAL DECISION To be made on the recommendation in this report	

I. Decisions required

The Cabinet is required to:

- 1.1 In accordance with Contract Standing Order ("CSO") 13.1 and 23.2, agree to the appointment of Morgan Sindall as the preferred contractor to be the Main Contractor (as defined in paragraph 3 below) for the leisure centre building, and to their carrying-out pre-construction services under the first stage of a two-stage design and build contract.
- 1.2 Agree that the contents of the Appendix to this report be exempt from publication on the grounds that it contains information relating to the financial or business affairs of a particular person (including the authority holding that information) under Paragraph 3, Part I of Schedule 12A of the Local Government Act 1972 (as amended) and to agree that this exempt information contained in the confidential Appendix shall not be released to the press or public.

2. Links to the Royal Greenwich Strategy

- 2.1 This report relates to the Council's high-level corporate and service objectives agreed by the 2018 Cabinet:

A Healthier Greenwich

To provide more opportunities for the residents of the borough to be more active, reducing the number of children and adults who are currently inactive.

Greenwich: A Great Place to Grow Up

Provide facilities that encourage families, young people, and adults to enjoy new opportunities and experiences.

Greenwich – a Strong Vibrant and Well-Run Borough

Support the commitment to invest in Woolwich, as part of the Town Centre Transformation Programme. Maximise the impact of our investments, to deliver expansion of the local economy.

Economic Prosperity for All

A flagship leisure centre delivered in the heart of Woolwich to attract visitors from across the local area. Using sport and physical activity to provide employment and training in Woolwich, in turn improving town centre footfall and increasing social mobility.

A Cleaner, Greener Greenwich

The new leisure centre will aim to achieve a BREEAM rating of Excellent. It will mainly be served by active / public transport.

Delivering Homes through Economic Growth

Second Phase: residential development scheme.

Greenwich: A Great Place to Be

To provide state of the art modern facilities with swimming, sports halls, fixed gym equipment and a range of other physical activity experiences. The Leisure Centre will improve the frontage onto General Gordon Square and improve the night-time and leisure offer in Woolwich town centre.

3. Purpose of Report and Executive Summary

- 3.1 In January 2020, Cabinet agreed *inter alia* to commence the procurement of a contractor for the construction of the leisure centre building (the 'Main Contractor') by way of a two-stage design and build contract. This procurement commenced, and the purpose of this report is to recommend the actions described in Section 1 above as the next step to this approved course of action.
- 3.2 In summary, it is proposed that, following a competitive tendering exercise carried out in accordance with the Southern Construction Framework ("SCF") and overseen by RBG Procurement, Morgan Sindall, a leading construction company, be appointed preferred contractor for the role of Main Contractor for the leisure centre building, and to carry-out pre-construction services for a fee of £426,381.

3.3 Morgan Sindall scored the highest and returned the most economically advantageous tender. However, as the cost differential between Morgan Sindall's price and the lowest tender received was more than 10%, the contract may only be awarded by Cabinet under CSO 23.2.

4. **Introduction and Background**

4.1 The existing waterfront leisure centre in Woolwich is reaching the end of its design life and will require substantial investment if it is to remain operational for future generations.

4.2 The Council has previously decided that it is preferable to replace the leisure centre to ensure fit for purpose and up to date facilities are provided to residents across the borough and in so doing ensure that the new facility is in Woolwich Town Centre to support its regeneration. The Council bought Viscount House for this purpose.

4.3 A new leisure centre and improved theatre and community space within the town centre will support footfall and activity that will also benefit local businesses with linked shopping trips. The location of the new leisure centre is also better served by public transport than the exiting leisure centre, reducing the need to use the private car and in so doing support the Council's initiatives to reduce traffic congestion and air pollution.

4.4 Following the agreement by the January 2019 Cabinet of the two-phased approach to the delivery of the overall scheme and the results of the community consultation reported to the April 2019 Cabinet, a multi-disciplinary design team was procured and appointed, and has progressed the design work agreed through RIBA Stages 1 and 2, taking into account the results of the March 2019 consultation exercise.

NB: for the purposes of this report, the following definitions apply:

- (i) the **Woolwich Leisure Centre Scheme** is the overall scheme, i.e. the leisure centre building itself, the Tramshed building, and the residential element;
- (ii) the **leisure centre building** is the building housing the leisure centre and its operational environs;
- (iii) the **Tramshed building**, home to the Tramshed Theatre, is the existing building fronting General Gordon Square and Wilmount Street.
- (iv) the **residential element** is the balance of the site aside from the leisure centre building and the Tramshed building where it is intended

that development is carried-out to provide residential units and ancillary commercial and other space.

The appointment which is the subject of this report is in respect of works for the leisure centre building only and not for the Tramshed building nor the residential element.

5. Detail for consideration

- 5.1 As reported to the January Cabinet, the intention has been to procure a Main Contractor for the leisure centre building (and, it is expected, the demolition and enabling works) under a two-stage design and build contract (also known as a develop and construct contract).
- 5.2 The procurement strategy will see the contractor procured at the end of RIBA Stage 2 by way of the SCF. Engaging a contractor at this early stage will enable a better understanding of the construction costs, programme and 'buildability', and will help to reduce risk in this complex project.
- 5.3 A procurement review was undertaken by the Council in September 2019 and the Business Case proposing the use of the SCF approved in November 2019. In summary, the benefits of using this framework include the following: it is OJEU compliant; avoids a full OJEU process with the associated impact on programme; employs a mini-competition to select a contractor; and the framework members comprise national contractors with relevant leisure centre experience.
- 5.4 Under a two-stage design and build contract, a contractor is appointed from the framework on the basis of fixed preliminary costs, profit and overheads, together with an indicative price for the construction works; it enters into a pre-construction services agreement with the Council during which it works up the design, and competitively tenders the project and obtains prices from sub-contractors. This forms the basis of the eventual building contract sum that will be reviewed and verified independently for compliance and value for money. On completion of this work, and subject to affordability, the Council will then enter into the building contract proper for the build of the new leisure centre.
- 5.5 The key designers, including the architect, mechanical/electrical engineer and civil/structural engineer will be appointed by RBG (through the Gleeds appointment) to complete RIBA Stage 3 and 4 designs; this means that the Council will retain control of the design until an advanced stage, thus ensuring

the high quality of design for the leisure centre building and coordination with the wider residential masterplan.

- 5.6 On completion of the Stage 4 design work, these consultants will then be novated to the contractor for the construction phase to complete the construction drawings. The novation of key designers to the contractor will ensure design continuity and allow design risk to be passed to the contractor. At novation, 'client-side' advisers will be appointed by RBG to monitor and act on its behalf to protect its interests during the construction phase.
- 5.7 Since the January 2020 Cabinet, the project team has been advancing in tandem the design of the leisure centre to the end of RIBA Stage 2, and the procurement of the Main Contractor for the pre-construction services. Subject to the approval sought here, this will see the contractor joining with the design team to progress the detailed design of the leisure centre building in design Stage 3, which is due to commence by the end of July.
- 5.8 A 'Two Stage Develop and Construct' procurement route was chosen for this project, using the SCF (Lot 3: London, Construction Projects, £5m plus), which is an OJEU-compliant procurement route. The competition was run by RBG Procurement through the Council's procurement portal. This aim was to select a preferred contractor for the scheme who will work with the project team during the pre-construction phase under a Pre-Construction Services Agreement (PCSA), and will confirm the Contractor's management costs, overheads and profits (Stage 1).
- 5.9 The building contract itself will be entered into with the preferred contractor on completion of the pre-construction period, during which sub-contractor packages will be tendered and a fixed contract sum for the works agreed (Stage 2).
- 5.10 There is no obligation to enter into the building contract if an agreement cannot be reached with the preferred contractor during the pre-construction period. The decision on entering the building contract with the Main Contractor will be brought back to Cabinet in any event.
- 5.11 The eight companies on the framework panel were first shortlisted to five through an initial 'mini competition'. This shortlist then submitted tenders to be scored on their technical and commercial responses, including their capability and capacity to undertake the works.
- 5.12 MC2 tenders were received from all five contractors by the tender return date and post-tender presentation meetings held with all five. The technical

responses covered financial control; supply chain; project delivery; social responsibility; programmes of work; and design management.

- 5.13 The tenders were then scored by the tender evaluation panel chaired by Daniel Stanesby, Assistant Director (Capital Projects & Property Maintenance). The Council's external solicitors, DWF Law and the project's cost consultants, Gleeds Advisory, also reviewed the tenders.
- 5.14 Morgan Sindall scored highest and are recommended as the Preferred Contractor for the leisure centre and the appointee to the Pre-construction Services Agreement (PCSA).
- 5.15 Morgan Sindall's fee of £426,381 plus VAT includes their pre-construction fee and management costs. The scope for the PCSA is contained in the tender report in the Appendix hereto, along with full details of the tender process and the scoring of the five bidders.
- 5.16 In summary, the scope of the PCSA covers the following areas: general matters (including providing construction advice in relation to the wider masterplan, including the proposed residential element prior to the appointment of the residential element development partner); programmes; construction advice; cost and contract matters; the design process; procurement; liaison; health and safety management; variations; relevant consents; matters in relation to the planning consent and local and statutory authorities; risk management; governance; sustainability; enabling works (including demolition); and framework requirements.
- 5.17 It is important to note that this appointment is for the pre-construction phase. Although, if approved by this Cabinet, Morgan Sindall will be appointed as preferred contractor for the project, their final appointment for the construction phase will be dependent on the satisfactory conclusion of the Stage 2 procurement exercise, including agreement of the components of the building contract (for example, the design and scope), and the contract sum. At this point, the Stage 2 Tender Report will be issued setting out the recommendations for the appointment of the building contractor for the construction phase. It is envisaged that this Stage 2 Tender Report will be issued Q4 2021. This will be brought to Cabinet for a decision on whether to enter into the building contract.

6. Available Options, preferred Option and Reasons for recommendations

In respect of each of the decisions requested (presented below in summary form), the options available to the decision maker, the preferred option and reasons for the recommendation are as follows:

6.1 Agree to the appointment of Morgan Sindall as the preferred contractor to be the Main Contractor for the leisure centre building, and to their carrying-out pre-contract services under the first stage of a two-stage design and build contract.

Section 1.1

Options: agree to the appointment as recommended; make an alternative appointment; make no appointment.

Preferred: agree to make the recommended appointment

Reasons: a compliant and in-depth tender process has been carried out to test the market and to identify the party best suited to deliver the services required. To make an alternative or, worse, no appointment would likely mean the scheme stalling and, at the least, its programme, including the end delivery date, being seriously impacted, since this appointment at this time is vital to maintaining the programme and delivering to quality and cost parameters. There would also be a serious credibility issue for the Council; for example, in relation to the on-going procurement of the residential development partner.

6.2 Agree that the contents of the Appendix to this report be exempt from publication or remain confidential

Section 1.2

Options: to approve or not approve these requests.

Preferred: to approve the recommended requests.

Reasons: on the grounds set out at section 1.2 above.

7. Consultation Results

No consultation is required for this decision.

8. Next Steps: communication and implementation of the decision

If the recommended decisions are made, then the next steps are to appoint Morgan Sindall and to communicate the decision as appropriate.

9. Cross-Cutting Issues and Implications

Issue	Implications	Sign-off
Legal including Human Rights Act	<p>The Council has instructed DWF LLP, external solicitors, to advise on the legal implications of this report. The following paragraphs have been provided by DWF LLP and the Council is entitled to rely upon this advice.</p> <p>This report seeks Cabinet approval, in accordance with Contract Standing Order ("CSO") 13.1 and 23.2, to the appointment of Morgan Sindall as the preferred contractor to be the Main Contractor for the leisure centre building, and to their carrying-out pre-construction services of £426,381 under the first stage of a two-stage design and build contract.</p> <p>CSO 13.1 provides that, where the estimated value of a contract is £100,000 or more, Chief Officers will invite tenders in accordance with CSOs 13, 15, 16 or 17.</p> <p>Following a tender process conducted in accordance with the SCF procedure, Morgan Sindall scored highest against the evaluation criteria for the competition.</p> <p>The Council has complied with the requirements of the SCF procedure when selecting Morgan Sindall as the highest scoring bidder in the competition.</p>	<p><i>Sangita Arya Assistant Head of Legal Services, (Property and Regeneration) 29 June 2020</i></p>

	<p>By using the SCF procedure to appoint Morgan Sindall, the Council complies with the requirements of its CSO and the Public Contract Regulations 2015 (relating to an above threshold services procurement).</p> <p>As Morgan Sindall submitted a tender which was greater by more than 10% from the lowest tender, in order to comply with CSO 23, the contract must be awarded by the Cabinet.</p> <p>Under the Human Rights Act 1998 local authorities have a duty to promote and protect human rights. The award of this contract does not have legal implications under the Human Rights Act 1998.</p> <p>The report author should consult with the Legal Department regarding the drafting and execution of the contract with Morgan Sindall. All contracts must be in writing and in this instance for the reasons outlined above, signed on behalf of the Cabinet. All contracts for a sum exceeding £50,000 must be executed as a Deed.</p> <p>Paragraph 1.2 of this report recommends that the contents of the Appendices to this report not be published. Where this recommendation is agreed, the most relevant exemption on which to rely is paragraph 3 of Schedule 12A to the Local Government Act 1972 (Information relating to the financial or business affairs of any particular person) (as amended).</p> <p>The information in the Appendix to this report satisfies these criteria and, accordingly, must be exempt from publication.</p>	
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<p>Finance and other resources including procurement implications</p>	<p>Cabinet are requested to approve the appointment of Morgan Sindall as the preferred contractor to be the Main Contractor for the leisure centre building, and to carry-out pre-construction services for the new Woolwich leisure centre.</p> <p>The Morgan Sindall PCSA fee tender submission of £426,381 represents the most economically advantageous bid and has been sourced via the OJEU compliant SCF.</p> <p>Funding for the £426,381 cost of services under this proposed contract is contained within the Woolwich Leisure Centre project budget envelope, approved by Cabinet on 29 January 2020.</p>	<p>Michael Horbatchewskyj, Accountancy and Business Change Manager, 29 June 2020</p>
<p>Equalities</p>	<p>The decisions recommended through this paper are considered to have a remote or low relevance to the substance of the Equality Act with no apparent equality impact on end users.</p>	<p><i>Chris Read Regeneration & Development Manager 29.06.2020</i></p>
<p>Risk management</p>	<p>A Project Risk Register has been prepared and will be maintained throughout the project.</p>	<p><i>Chris Read Regeneration & Development Manager 29.06.2020</i></p>
<p>Environment and sustainability</p>	<p>The design of the leisure centre building will be targeting a BREEAM Excellent rating; in doing so, it will be striving to meet a very high standard of design and construction with respect to environment and sustainability in terms both of the delivery of the building and its future use.</p>	<p><i>Chris Read Regeneration & Development Manager 29.06.2020</i></p>

Social Value	<p>The tender process required the contractors to set out how they would address the Council’s social value targets and how their involvement would contribute to social value improvement through specific and ongoing initiatives. This will continue to be a feature of the appointment process through the next stage and through the life of the project.</p>	<p><i>Chris Read Regeneration & Development Manager 29.06.2020</i></p>
Health and Safety	<p>The new leisure centre project will be notifiable under CDM 2015 regulations. As such, a Principal Designer will be appointed to ensure a suitable design solution is achieved having regard to the requirements of the regulations. When appointed, the Main Contractor will act as the Principal Contractor, developing a construction phase health and safety plan for the approval of the Principal Designer.</p>	<p><i>Chris Read Regeneration & Development Manager 29.06.2020</i></p>
Health and wellbeing	<p>The new Woolwich Leisure Centre Scheme will impact on all the people who live, work and learn within the borough.</p> <p>‘Active people, Active lives’ from Sport England data (2018/19) for Greenwich reports that 62.1% (138,700 people) are active in sport and physical activity; 15.9% (35,500) are slightly active; and 22% (49,000) are inactive and do no physical activity or sport. People who take part in physical activity/sport on a regular basis have a 35% reduced risk of coronary heart disease and a 30% probability of longer life expectancy.</p> <p>The new Woolwich leisure centre is intended to target those inactive residents of the borough, but also to support all the residents of Greenwich to be happier, healthier and more active. The public consultation of February/</p>	<p><i>Chris Read Regeneration & Development Manager 29.06.2020</i></p>

	March 2019 drew-out themes in terms of health and wellbeing; the design of the leisure centre with have regard to these to attract users and to maximise the potential of the new facility to benefit health and wellbeing.	
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10 Report Appendix

The following documents are to be published with and form part of the report:

- Appendix: Building Contractor 'Stage 1' Tender Report by Hadron Consulting

11. Background Papers

None

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