

MUNICIPAL YEAR 2014/2015 REPORT NO.

ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

OPERATIONAL DECISION OF: REPORT OF:

Director – Regeneration &
Environment

Agenda – Part: 1

KD Num: KD4073

**Award of Construction of Vaulted Graves
and Mausoleum Chambers and
Associated Services Framework Contract**

Wards: All

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1. EXECUTIVE SUMMARY

- 1.1 This report sets out the background to the award of Construction of Vaulted Graves and Mausoleum Chambers and Associated Services Framework Contract. The LBE corporate procurement process has been followed in line with requirements and the recommendation is to award the contract to the contractor who submitted a tender return as part of the procurement process. This contract will provide Construction of Vaulted Graves and Mausoleum Chambers and Associated Services in the Council's Cemeteries.
- 1.2 Tender evaluation and pricing details are contained within the enclosed Part 2 report.

2. RECOMMENDATIONS

To award the Construction of Vaulted Graves and Mausoleum Chambers and Associated Services Contract to the tenderer identified in the Part 2 report.

3. BACKGROUND

- 3.1 The Council has five cemeteries within the Borough. Of these new burial space in earth graves is available at Strayfield Road and earth grave burial space is also available at Edmonton Cemetery through reuse of selected burial areas over 75 years old.
- 3.2 In June 2012 a report (ENV 12/5) was brought forward and approved to undertake a trial in Edmonton Cemetery to provide 24 vaulted graves, 18 mausoleum spaces and 10 keepsake niches. The intention was to ascertain the demand for and viability of these interment options. The trial was successful and to date all the mausoleum and vaulted units have been sold and 1 keepsake niche and 8 interments undertaken.
- 3.3 In November 2013 a further report (ENV 13/60) considered and approved an extension to the trial in Edmonton and provided an additional 82 units (48 Mausolea, 24 vaults and 10 keepsake niches). Construction of this second phase was completed in September 2014 and is intended to ensure availability of vaulted grave and mausoleum space while a longer term contract for these services was procured. So far 18 units from this second phase have been sold.
- 3.4 Following the pilots at Edmonton Cemetery, it is intended to formalise the Construction of Vaulted Graves and Mausoleum through the tender process. This will help free up space in underused areas in Southgate, Lavender Hill and Hertford Road Cemeteries as part of the Council's wider re-use programme.
- 3.5 In November 2014 officers commenced a Public Contracts Regulations compliant procurement process to let a Framework Contract for Construction of Vaulted Graves and Mausoleum Chambers and Associated Services (Interments, exhumations and memorials) for a period of four years plus a 10 year warranty period.
- 3.6 The tender documents were made available on the London Tenders Portal using the open tender procedure. An e-mail was also sent to 7 suppliers known to the Council advising them of this opportunity to tender and an open day was held in December 2014 which was attended by 3 companies. However, only one supplier subsequently submitted a tender.
- 3.7 Further information regarding the price and quality evaluation of the single bid that was received, along with feedback from the companies that did not submit a bid, is provided in part 2 of the report.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Continue with the current interim arrangements with Welters Organisation which have taken place under a waiver. Extending this

would increase the value of work given to Welters to a level which would be contrary to Public Contracts Regulations and so could not be waived. It could also result in the Council being challenged by other service providers.

- 4.2 Cease provision of Vaulted and Mausoleum burial space. This would reduce the availability of this service within the area and reduce income opportunities to the Council to support the maintenance and provision of cemeteries in the borough.
- 4.3 Cease the current procurement and recommence following further market engagement to identify options for making the tender more attractive to bidders. This could result in challenge or seeking of damages from the bidder that submitted a compliant bid in line with the required process
- 4.4 Additional information is contained in the part 2 report

5. REASONS FOR RECOMMENDATIONS

To ensure compliance with the Public Contracts Regulations, maintain and improve service levels and maximise value for money.

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES, AND OTHER DEPARTMENTS

6.1 Financial Implications

Contained in Part 2 of the Report

6.2 Legal Implications

- 6.2.1 The Council is a burial authority by virtue of section 214 of the Local Government Act 1972, and has the power to provide and maintain cemeteries inside or outside its area.
- 6.2.2 Under section 74 of the London Local Authorities Act 2007 (the LLAA 2007), the Council has the power to disturb or authorise the disturbance of human remains interred in a grave older than 75 years for the purpose of increasing the space for interments in the grave provided appropriate notice is served/displayed/published in accordance with the LLAA 2007. Following publication of the notice pursuant to the LLAA 2007, there is a period of six months within which either the owner of a relevant tombstone or a relative of any person whose remains are proposed to be disturbed may make an objection. If no such objections are received, the Council may then proceed with its proposals. In respect of consecrated land, the Council must first obtain permission (known as a faculty) from the Diocese of London formally confirming that they have no objection to the re-use of the graves. The client must ensure that the

appropriate public notices have been given, and that faculty permission has been obtained where required.

- 6.2.3 The Council has the power under section 1(1) of the Localism Act 2011 to do anything that individuals generally may do provided it is not prohibited by legislation and subject to Public Law principles. There is no express prohibition, restriction or limitation contained in a statute against use of the power in this way. In addition, section 111 of the Local Government Act 1972 provides the Council with a general power to enter into contracts for the discharge of any of its functions.
- 6.2.4 The estimated value of the contract being procured is below the Public Contract Regulations 2006 (as amended) threshold for works. The Council has however carried out an open tender process in accordance with the Council's Constitution, in particular the Contract Procedure Rules ("CPRs"), and the EU general principles of equality, transparency, proportionality and non-discrimination.
- 6.2.5 The framework contract must be in a form approved by the Assistant Director of Legal Services, and future call-off orders with the successful tenderer must be placed in accordance with the framework terms.

6.3 Property Implications

- 6.3.1 When the selected contractor is awarded the contract, as they will be carrying out building operations on behalf of the Council, on Council land, it will be necessary to formalise a licence for the works, for the duration of the construction period.
- 6.3.2 The licence will need to cover such matters as contractor's access arrangements, site protection, Health & Safety issues and making good adjoining land as necessary, after the completion of the works.
- 6.3.3 When the specific extent and location of the building operations have been established, the question of whether or not planning permission will be needed should be investigated with the Planning Department.

7. KEY RISKS

All Construction of Vaulted Graves and Mausoleum Chambers are currently undertaken via a waiver. The Council therefore does not have access to strong contractual mechanisms to manage performance and quality. Although it should be stressed that no problems or complaints have arisen to date. Additionally the Council cannot demonstrate works have been obtained via a competitive process and that best value is being obtained. Undertaking these

works through a contract will improve efficiencies, value for money and minimise contractual risk to the Council.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

The objective of the proposals is to ensure continuity of service for the benefit of all residents

8.2 Growth and Sustainability

The proposed arrangements are designed to increase future efficiencies in service delivery.

8.3 Strong Communities

None

9. EQUALITY IMPACT IMPLICATIONS

Corporate advice has been sought in regard to equalities and an agreement has been reached that an equalities impact assessment/analysis is not relevant or proportionate for the proposal

10. PERFORMANCE MANAGEMENT IMPLICATIONS

The proposals are designed to improve both service performance and value for money in both the short and long term.

11. HEALTH AND SAFETY IMPLICATIONS

The procurement process included arrangements to assess bidders' arrangements in respect of Health and Safety for their operations. Risk assessments, method statements and Safe Systems of Work have been submitted for approval by the authority prior to contract award and the contract will be subject to periodic formal Health and Safety audits

12. PUBLIC HEALTH IMPLICATIONS

No major Public Health implications.

Background Papers

None.

