



To: Finance, Resources and Customer Services Policy Board

On: 30 January 2018

Report by: Joint Report by Chief Executive and Director of Communities, Housing and Planning Services

Heading: Contract Award: Operation and Maintenance of Biomass Boilers at Calside.

1. Summary

- 1.1. The purpose of this report is to seek the approval of the Finance, Resources and Customer Services Policy Board to award a Negotiated Contract for the Operation and Maintenance of the Biomass Boilers at the Calside Estate (RC-CPU-18-333) to Highland Wood Energy Limited.
- 1.2. The recommendation to award a Contract follows a procurement process conducted via Negotiated Procedure without call for competition under a procedure agreed with the Head of Policy and Commissioning aligned to the requirements of the Council's Standing Orders relating to Contracts.
- 1.3. A Request to Negotiate was approved by the Strategic and Commercial Procurement Manager on delegated authority of the Head of Policy and Commissioning on 20th December 2018.

2. **Recommendations**

2.1 It is recommended that the Finance, Resources and Customer Services Policy Board authorise:

- (a) the Head of Corporate Governance to award a Negotiated Contract for the Operation and Maintenance of the Council's Biomass Boilers at Calside Estate, Paisley to Highland Wood Energy Limited;
- (b) the award of the Contract for the sum of £200,000.00 excluding VAT;
- (c) For a contract period of one (1) year and it anticipated the Contract will commence on 15th February 2019 to 14th February 2020. The actual commencement date will be confirmed in the Council's Letter of Acceptance.

3. **Background**

3.1 The Council wish to appoint a suitably experienced Contractor to carry out the operation and maintenance to the Council's biomass heating system at the Calside Estate, Paisley. The system provides heating to all Council house properties and former Council house properties at the Calside Estate, in Paisley with owners of former Council house properties having the option to arrange alternative heating provision to their individual property. Tenants and home owners using the Calside Heating system pay for the heating to their properties. In providing this form of heating system the Council is acting as a utility provider and any contract for provision of fuel, support and maintenance to such boilers for the operation of a fixed network would be subject to the Utilities Contracts (Scotland) Regulations 2016, where the EU threshold for such requirements is reached (currently £363,424 per supply or service and £4, 551, 413 for Works).

3.2 The Council also has to meet its statutory and regulatory obligations as a landlord, meeting the needs of its tenants and ensuring that rental income is collected which includes an element towards the heating system. In its role as a social landlord it also requires to maximise the use of the Council housing available and ensure that available houses are let quickly and efficiently. Part of this contract will involve ensuring empty Council house properties are prepared for return to available housing stock, meter read and the charges due by the previous tenant identified and billed.

3.3 The Council had a two-year contract with British Gas Trading Limited ("British Gas") which commenced on 21st November 2015. On 16th October 2017 British Gas provided the Council with a termination notice indicating that they did not wish to extend the current contract due to realignment of their business areas.

As a result of this withdrawal and to maintain and continue to provide heating to tenants in the Calside Estate, as well as to private householders in former Council house properties still heating their properties via this heating system, the Council put in place a series of short term negotiated contracts with British Gas's sub-contractor; Highland Wood Energy Limited, who, while the contract was held by British Gas were physically responsible for the maintenance and the energy billing within the Calside Estate. The current contract with Highland Wood Energy Limited will expire on 14th February 2019.

3.4 The Corporate Procurement Unit, Legal and Democratic Services and Communities, Housing and Planning Services are currently developing a longer-term contract (approximately for a duration of 10 years). The Council will need to review suitable solutions to put in place a long-term contract, however due to the complexity of the contract where there are elements of maintenance and replacement to existing infrastructure, potential changes to the meter and meter reading arrangements and supplies of biomass fuel and with it being a mixed tenure arrangement of both Council owned and now privately owned properties it is

envisaged that the long term contract would not be in place until February 2020.

- 3.5 As part of ongoing maintenance to the heating system, work to replace underground pipework was recently instructed by the Council. This work was also undertaken by Highland Wood Energy Limited. It is anticipated that future heating costs would significantly decrease once this work has been completed and tested as the new pipework installed should help to reduce the loss of water and heat from the system. It therefore makes commercial sense for the longer-term contract to be put in place once the Council has collected the data for the envisaged reduced heat loss.

- 3.6 A Request to Negotiate was approved by the Strategic and Commercial Procurement Manager on delegated authority of the Head of Policy and Commissioning on 20th December 2018. The Council issued Highland Wood Energy Limited with a proposed Service Agreement Document outlining the requirements for a one year negotiated contract on 21st December 2018. Highland Wood Energy Limited confirmed their intention and submitted relevant paperwork to the Council that they had relevant capacity to provide such a contract on 24th December 2018. Highland Wood Energy Limited are the incumbent Contractor and have a working knowledge on the particular estate having provided the service initially under contract with British Gas Trading Limited and subsequently under short term contracts. Highland Wood Energy also have access to the energy meters previously installed by British Gas and the Council will not incur any costs for replacement of the meters.

- 3.7 This contract would be subject to the requirements of the Utilities Contracts (Scotland) Regulations 2016 were it to reach the threshold, however as the proposed value is below that level it was carried out under a procedure agreed by Strategic and Commercial Procurement Manager on delegated authority of the Head of Policy and Commissioning aligned to the requirements of the Council's Standing Orders relating to Contracts specifically order 11.3, as a Negotiated

procedure without call for competition where consideration was given to the Utilities Contracts (Scotland) Regulations 2016 Negotiation without call for competition in line with the following clause (Regulation 48 (4)(a)(ii)):

(4) A utility may award a contract following a negotiated procedure without prior publication of a call for competition –

(i) in the case of supply contracts, where the products involved are for additional deliveries by the original supplier which are intended as –

(ii) the extension of existing supplies or installations.

where a change of supplier would require the utility to acquire supplies having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance;

- 3.8 Community Benefits were sought as part of this contract, Highland Wood Energy Limited have committed to deliver the following Community Benefits under this contract:

| Community Benefit Description | No of People / Activity |
|-------------------------------|-------------------------|
| Non-Financial Support | 1 |

Implications of the Report

1. **Financial** – The cost for this Contract will be met through the Housing Capital budget.
2. **HR & Organisational Development** - No TUPE implications have arisen or are anticipated as the proposed awardee is the current contractor.
3. **Community/Council Planning** –

- Building strong, safe and resilient communities – Improving housing conditions benefiting tenants and private owners
- Tackling inequality, ensuring opportunities for all – improving housing conditions for both tenants and owners
- Creating a sustainable Renfrewshire for all to enjoy – Highland Wood Energy Limited Ltd has committed to deliver numerous Community Benefits as detailed within section 3.8 of this report.

4. **Legal** - The procurement of this contract has been conducted as a Negotiation without Call for Competition in compliance with the procedure agreed with the Head of Policy and Commissioning aligned to the requirements within the Standing Orders relating to Contracts. There is a risk that other Contractors could deliver this short term contract, but it is viewed that they are unlikely to be able to mobilise it and provide it within the timescales required, the Council would then be in breach of its obligations as a landlord to the Council house tenants and contractually to those private owners reliant upon the heating system. The Council does not have suitable internal resources to run and operate the heating system.
5. **Property/Assets** - By awarding this contract, the Council will have the ability to provide heating to 171 private owners and 286 Council Tenanted properties.
6. **Information Technology** - No Information Technology implications have arisen or are anticipated.
7. **Equality & Human Rights** - The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report because for

example it is for noting only. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.

8. **Health & Safety** – Highland Wood Energy Limited health and safety credentials were evaluated by Corporate Health and Safety and met the Council's minimum requirements regarding health and safety.
9. **Procurement** – The procurement procedures outlined within this report shall ensure that the Council meets its statutory requirements in respect of procurement procedures, efficiency and modern Government.
10. **Risk** – Highland Wood Energy Limited insurances have been assessed and evaluated to confirm that they have met the minimum requirements regarding insurable risk.
11. **Privacy Impact** - No Data Protection Impact Assessment (DPIA) is required for this contract, as this does not involve new technologies or other ways of processing personal data. However, the contract will be GDPR compliant as due to the fact that there may be a requirement for Highland Wood Energy Limited to handle residents details such as names and addresses.
12. **Cosla Policy Position** – No Cosla Policy Position implications have arisen or are anticipated

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