



CABINET PROCUREMENT COMMITTEE

Monday, 6th July, 2020

at 5.00 pm

Until further notice, all Council meetings will be held remotely - this meeting will be live streamed and can be observed using the following link : <https://youtu.be/VnKrjO5q3Lo>

Members: **Chair** - Councillor Rebecca Rennison Deputy Mayor and Cabinet Member for Finance, Housing Needs and Supply
Deputy Mayor Anntoinette Bramble Deputy Mayor and Cabinet Member for Education, Young People and Children's Social Care
Cllr Jon Burke Cabinet Member for Energy, Waste, Transport and Public Realm
Cllr Caroline Selman Cabinet Member for Community Safety, Policy and the Voluntary Sector

Substitute Member **Mayor Philip Glanville**

TIM SHIELDS
Chief Executive

Contact: Clifford Hart
Senior Governance Services Officer
Tel: 020 8356 3597
clifford.hart@hackney.gov.uk

26 June 2020

AGENDA

Monday, 6th July, 2020

ORDER OF BUSINESS

1	APOLOGIES FOR ABSENCE	
	Urgent Business	
2	The Chair will consider the admission of any late items of Urgent Business. Late items of Urgent Business will be considered under the agenda item where they appear. New items of unrestricted urgent business will be dealt with under Item 9 below. New items of exempt urgent business will be dealt with at Item 14 below.	
	DECLARATIONS OF INTEREST - Members to declare as appropriate	
3	<p>A Member with a disclosable pecuniary interest or a prejudicial interest in a matter who attends a meeting of the authority at which the matter is considered:</p> <p>(i) must disclose the interest at the start of the meeting or when the interest becomes apparent, and</p> <p>(ii) may not participate in any discussion or vote on the matter and must withdraw from the meeting room.</p> <p>A Member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Register of Members' Interests or the subject of a pending notification must notify the Monitoring Officer of the interest within 28 days of the disclosure.</p> <p>Disclosable pecuniary interests, personal interests and prejudicial interests are defined at Paragraphs 8.1-15.2 of Section Two of Part 5 of the Constitution and Appendix A of the Members' Code of Conduct.</p> <p>A Member with a disclosable pecuniary interest or a prejudicial interest in a matter who attends a meeting of the authority at which the matter is considered:</p> <p>(i) must disclose the interest at the start of the meeting or when the interest becomes apparent, and</p> <p>(ii) may not participate in any discussion or vote on the matter and must withdraw from the meeting room.</p> <p>A Member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Register of Members' Interests or the subject of a pending notification must notify the Monitoring Officer of the interest within 28 days of the disclosure.</p> <p>Disclosable pecuniary interests, personal interests and prejudicial interests are defined at Paragraphs 8.1-15.2 of Section Two of Part 5 of the Constitution and Appendix A of the Members' Code of Conduct.</p>	

	NOTICE OF INTENTION TO CONDUCT BUSINESS IN PRIVATE, ANY REPRESENTATION RECEIVED AND THE RESPONSE TO ANY SUCH REPRESENTATIONS	
4	<p>On occasions part of the Cabinet Procurement Committee meeting will be held in private and will not be open to the public if an item is being considered that is likely to lead to the disclosure of exempt or confidential information as defined in Part 1 of Schedule 12A of the Local Government Act 1972 as amended . In accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (the “Regulations”), members of the public can make representations about why that part of the meeting should be open to the public.</p> <p>This agenda contains exempt items as set out at Item 12 :</p> <p>No representations with regard to these have been received.</p>	
5	DEPUTATIONS/PETITIONS/QUESTIONS	
	UNRESTRICTED MINUTES OF THE PREVIOUS MEETING OF CABINET PROCUREMENT COMMITTEE HELD ON 8 JUNE 2020	
6	To confirm the unrestricted minutes of the meeting of Cabinet Procurement Committee held on 8 June 2020.	(Pages 1 - 8)
	Capital works to Hackney Council Housing - Key Decision No.NH Q86	
7	This report seeks Cabinet Procurement Committee’s approval to the procurement of a group of planned capital works to Hackney Council housing which are non-rechargeable to leaseholders, via a pre-existing external framework.	(Pages 9 - 34)
	Information Item - RENEWAL OF GAS & ELECTRICITY SUPPLY CONTRACTS - UPDATE ON CONTRACT APPROVAL Non key decision	
8	This report provides the outcome of the procurement strategy agreed in the March 2016 by Cabinet Procurement Committee.	(Pages 35 - 46)
9	ANY OTHER UNRESTRICTED BUSINESS THE CHAIR CONSIDERS TO BE URGENT	
	DATE OF FUTURE MEETINGS	

10	<p>Meetings will be held at 5.00pm on:</p> <p>7 September 2020 5 October 2020 9 November 2020 7 December 2020 18 January 2021 8 March 2021 12 April 2021 10 May 2021</p>	
EXCLUSION OF THE PUBLIC AND PRESS		
11	<p>Note from the Governance Services Manager</p> <p>Item(s) 12 & 13 allows for the consideration of exempt information in relation to items 6, and 8 respectively.</p> <p>Proposed resolution:</p> <p>THAT the press and public be excluded from the proceedings of the Cabinet Procurement Committee during consideration of Exempt items 12-13 on the agenda on the grounds that it is likely, in the view of the nature of the business to be transacted, that were members of the public to be present, there would be disclosure of exempt information as defined in paragraph 3 of Schedule 12A to the Local Government Act 1972 as amended.</p>	
EXEMPT MINUTES OF THE PREVIOUS MEETING OF CABINET PROCUREMENT COMMITTEE HELD ON 8 JUNE 2020		
12	To confirm the exempt minutes of the meeting of Cabinet Procurement Committee held on 8 June 2020.	(Pages 47 - 48)
Information Item - RENEWAL OF GAS & ELECTRICITY SUPPLY CONTRACTS - UPDATE ON CONTRACT APPROVAL Non key decision		
13	<p>Item 8 refers</p> <p>Appendix 1 is exempt from publication under para 3 of Part 1, Schedule 12a of the Local Government Act 1972 (as amended).</p>	(Pages 49 - 52)
14	ANY OTHER EXEMPT BUSINESS THE CHAIR CONSIDERS TO BE URGENT	

Access and Information

Copies of the Agenda

The Hackney website contains a full database of meeting agendas, reports and

minutes. Log on at: www.hackney.gov.uk

Paper copies are also available from Governance Services whose contact details are shown on the front of the agenda.

Council & Democracy- www.hackney.gov.uk

The Council & Democracy section of the Hackney Council website contains details about the democratic process at Hackney, including:

- Mayor of Hackney
- Your Councillors
- Cabinet
- Speaker
- MPs, MEPs and GLA
- Committee Reports
- Council Meetings
- Executive Meetings & Key Decisions Notice
- Register to Vote
- Introduction to the Council
- Council Departments

DEMOCRATIC PROCESS

Rights of Press and Public to Report on Meetings

Where a remote meeting of the Council and its committees are open to the public, the press and public are welcome to report on meetings of the Council and its committees, through any audio, visual or written methods and may use digital and social media providing they do not disturb the conduct of the meeting and providing that the person reporting or providing the commentary is present at the meeting.

Those wishing to film, photograph or audio record a meeting are asked to notify the Council's Monitoring Officer by noon on the day of the meeting, if possible, or any time prior to the start of the meeting or notify the Chair at the start of the meeting.

The Monitoring Officer, or the Chair of the meeting, will advise that this meeting is being held remotely.

The Chair shall have discretion to regulate the behaviour of all those present recording a meeting in the interests of the efficient conduct of the meeting. Anyone acting in a disruptive manner may be required by the Chair to cease recording or may be excluded from the remote meeting. Disruptive behaviour may include: causing excessive noise; intrusive lighting; interrupting the meeting; or filming members of the public who have asked not to be filmed.

Those visually recording a meeting are asked to respect the wishes of those who do not wish to be filmed or photographed. Failure by someone recording a meeting to respect the wishes of those who do not wish to be filmed and photographed may result in the Chair instructing them to cease recording or in their exclusion from the meeting.

If a meeting passes a motion to exclude the press and public then in order to consider confidential or exempt information, all recording must cease.. The press and public are not permitted to use any means which might enable them to see or hear the proceedings whilst they are excluded from a meeting and confidential or exempt information is under consideration.

Providing oral commentary during a meeting is not permitted.

Representation

Contact details for all Councillors are available on the website or by calling 020 8356 3207.

Ward Councillors may be contacted at their surgeries or at the Town Hall (020 8356 3207).

You may also write to any Councillor or a member of the Cabinet c/o Hackney Town Hall, Mare Street, London E8 1EA.

Scrutiny Procedures

Details are listed in Part 4 of the Council's constitution, see the website for more details or contact Overview and Scrutiny on 020 8356 3029

Executive Meetings and Key Decisions Notice

The procedure for taking Key Decisions is listed in Part 4 of the Council's Constitution, available on the website (www.hackney.gov.uk).

The Executive Meetings and Key Decisions Notice showing Key Decisions to be taken is available on the Council's website. If you would like to receive a paper copy please contact Governance Services (email: Clifford.hart@hackney.gov.uk)

Emergency Procedures

In case of fire or any other emergency the Head of Governance Services or his/her nominated officer will ensure orderly evacuation of all those present in the meeting room. All Members Officers and members of the public should proceed without delay to the assembly meeting point near the car park at the back of the Town Hall where the nominated officer will conduct a count of all who have been evacuated to ensure that all are safe.

Advice To Members And Officers On Handling Exempt Papers

- Do not photocopy
- Store securely for as long as you hold it
- All papers can be given to Governance Services Officers who will dispose of them appropriately and arrange for them to be recycled
- Note that copies of all exempt papers are held by Governance Services staff.

Public Involvement

The public have the right to ask questions or submit petitions or deputations to Cabinet Procurement Committee meetings.

Contact Governance Services (Tel: 020 8356 3597) for further information on how this can be arranged. Or email: Clifford.hart@hackney.gov.uk

Further information can also be found within Part 4 of the Council's Constitution (which can be seen on the website www.hackney.gov.uk at this link) –

<http://mginternet.hackney.gov.uk/documents/s36746/4.4%20-%20Executive%20Procedure%20Rules.pdf>

ADVICE TO MEMBERS ON DECLARING INTERESTS

Hackney Council's Code of Conduct applies to **all** Members of the Council, the Mayor and co-opted Members.

This note is intended to provide general guidance for Members on declaring interests. However, you may need to obtain specific advice on whether you have an interest in a particular matter. If you need advice, you can contact:

- The Interim Director of Legal & Governance ;
- The Legal Adviser to the committee; or
- Governance Services.

If at all possible, you should try to identify any potential interest you may have before the meeting so that you and the person you ask for advice can fully consider all the circumstances before reaching a conclusion on what action you should take.

1. Do you have a disclosable pecuniary interest in any matter on the agenda or which is being considered at the meeting?

You will have a disclosable pecuniary interest in a matter if it:

- relates to an interest that you have already registered in Parts A and C of the Register of Pecuniary Interests of you or your spouse/civil partner, or anyone living with you as if they were your spouse/civil partner;
- relates to an interest that should be registered in Parts A and C of the Register of Pecuniary Interests of your spouse/civil partner, or anyone living with you as if they were your spouse/civil partner, but you have not yet done so; or
- affects your well-being or financial position or that of your spouse/civil partner, or anyone living with you as if they were your spouse/civil partner.

2. If you have a disclosable pecuniary interest in an item on the agenda you must:

- Declare the existence and nature of the interest (in relation to the relevant agenda item) as soon as it becomes apparent to you (subject to the rules regarding sensitive interests).
- You must leave the room when the item in which you have an interest is being discussed. You cannot stay in the meeting room or public gallery whilst discussion of the item takes place and you cannot vote on the matter. In addition, you must not seek to improperly influence the decision.
- If you have, however, obtained dispensation from the Monitoring Officer or Standards Committee you may remain in the room and participate in the meeting. If dispensation has been granted it will stipulate the extent of your involvement, such as whether you can only be present to make representations, provide evidence or whether you are able to fully participate and vote on the matter in which you have a pecuniary interest.

3. Do you have any other non-pecuniary interest on any matter on the agenda which is being considered at the meeting?

You will have 'other non-pecuniary interest' in a matter if:

- i. It relates to an external body that you have been appointed to as a Member or in another capacity; or
- ii. It relates to an organisation or individual which you have actively engaged in supporting.

4. If you have other non-pecuniary interest in an item on the agenda you must:

- i. Declare the existence and nature of the interest (in relation to the relevant agenda item) as soon as it becomes apparent to you.
- ii. You may remain in the room, participate in any discussion or vote provided that contractual, financial, consent, permission or licence matters are not under consideration relating to the item in which you have an interest.
- iii. If you have an interest in a contractual, financial, consent, permission or licence matter under consideration, you must leave the room unless you have obtained a dispensation from the Monitoring Officer or Standards Committee. You cannot stay in the room or public gallery whilst discussion of the item takes place and you cannot vote on the matter. In addition, you must not seek to improperly influence the decision. Where members of the public are allowed to make representations, or to give evidence or answer questions about the matter you may, with the permission of the meeting, speak on a matter then leave the room. Once you have finished making your representation, you must leave the room whilst the matter is being discussed.
- iv. If you have been granted dispensation, in accordance with the Council's dispensation procedure you may remain in the room. If dispensation has been granted it will stipulate the extent of your involvement, such as whether you can only be present to make representations, provide evidence or whether you are able to fully participate and vote on the matter in which you have a non pecuniary interest.

Further Information

Advice can be obtained from Dawn Carter-McDonald, Interim Director of Legal & Governance on 020 8356 6234 or email: dawn.carter-mcdonald@hackney.gov.uk



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UNRESTRICTED MINUTES OF A MEETING OF THE CABINET PROCUREMENT COMMITTEE

MONDAY, 8TH JUNE, 2020

Chair Councillor Deputy Mayor Rebecca Rennison in the Chair

Councillors Present: Councillors Deputy Mayor Anntoinette Bramble, Cllr Jon Burke and Cllr Caroline Selman

Apologies: Nil.

Officers in Attendance

Mr Rotimi Ajilore – Head of Procurement
Mr Chris Pritchard - Director of Strategic Property Services, Finance & Corporate Resources
Ms Karon West Clarke - Head of Corporate Property & Asset Management, Finance & Corporate Resources
Mr Nick Grimwade - Interim Maintenance Contracts Manager
Ms Dawn Cafferty – Category Lead Social Care
Ms Karen Tait-Lane - Category Lead – Construction & Environment
Ms Judith Hughes – Category Lead - Corporate
Mr Patrick Rodger - Senior Lawyer - Procurement - Legal & Governance
Mr Clive Sheldon - Lawyer – Procurement - Legal & Governance
Mr Clifford Hart – Senior Governance Services Officer – Legal & Governance

External Consultants for agenda item 7:

Graham Forrester – Arcadis Ltd
Rob Watson – Arcadis Ltd

1 APOLOGIES FOR ABSENCE

There were no apologies for absence.

NOTED

2 Urgent Business

There were no items of urgent business.

NOTED

3 DECLARATIONS OF INTEREST - Members to declare as appropriate

There were no declarations of interests.

NOTED

4 NOTICE OF INTENTION TO CONDUCT BUSINESS IN PRIVATE, ANY REPRESENTATION RECEIVED AND THE RESPONSE TO ANY SUCH REPRESENTATIONS

There were no representations received.

NOTED

5 DEPUTATIONS/PETITIONS/QUESTIONS

There were none.

NOTED

6 To consider the unrestricted minutes of the Cabinet Procurement Committee held on 11 March, and 11 May (Special)

RESOLVED

That the unrestricted minutes of the Cabinet Procurement Committee held on 11 March 2020, and 11 May 2020 (Special) be confirmed as an accurate record of the proceedings.

7 Procurement of interim 18 month contract for provision of statutory, testing, inspection, repair and maintenance services - Key Decision No. FCR Q65 - TO FOLLOW

The Chair advised the Committee that the reasons for lateness in considering the report were due to final negotiations with the proposed contractor being undertaken in the context of competing demands on officer time in responding to the operational demands of the COVID 19 pandemic.

The Chair asked for an introduction of the report before the Committee.

The Director of Strategic Property Services, Finance & Corporate Resources – Mr Chris Pritchard thanked the Committee for accepting the report late in the day. He advised that the programme was quite challenging, but the COVID 19 virus interrupted the flow of negotiation meetings with the contractor to some extent as client team members were personally affected, and senior offices indirectly affected as they had to make time in the working day to take part in the Council's responses. As a result officers had been unable to prevent that from delaying the report, even with analysis, some negotiation, drafting, editing and revisions being carried on late in to evenings.

Mr Pritchard went to to advise that the report before the Committee was indeed written in the context of the long term. The Council was preparing to move towards a new mixed economy of in-house service provision and external private sector provision, where in the past there had been a reliance almost exclusively on private sector providers to maintain the Council's corporate estate. It was the case that an interim arrangement would enable officers to undertake some informed planning of how to take the first steps towards this, with a new scope for the next phase of the delivery.

Monday, 8th June, 2020

Mr Pritchard commented that these ambitions were being dovetailed into the long term strategy for corporate maintenance that commenced in 2014. It recognised at that time that the Council had limited asset data and needed to improve this while strengthening internal and external accountabilities for statutory compliance. The report noted how the Measured Term Contract had delivered those objectives and how the proposal to adopt a new approach via the NEC3 form would help it take advantage of the efficiencies and benefits available to mature organisations, with strong data and experienced internal staff.

Mr Pritchard concluded that in summary this interim phase was the prelude to a full procurement for a partially insourced arrangement, coupled with much more efficient contractual and client management arrangements, set up in a way to appeal to a broad spread of high quality providers in the market.

The Chair thanked Mr Pritchard for his introduction. In asking if there were any comments from Members or points of clarification the Chair commented on the fact that though the existing contract was being extended for a further eighteen months she stressed that there could not be any further extensions and that whilst it was accepted by members that the extension was necessary it was with some reluctance. The Chair added that it was expected that officer would be working to be able to present the new proposed contract ready for approval before the conclusion of the eighteen month extension addressing both elements of the new contract for an in-house and external provision of services. The Chair asked that there be regular six monthly update reports to the Committee detailing progress with the proposed new contracts and any issues that may be arising in order that these may be addressed and solutions found. The Chair commented further that there had been reports given with similar contracts and she asked that officers liaise closely with the Head of Procurement – Mr Ajilore to ensure the updates were furnished in a similar style. In response Mr Pritchard advised that the updates would be built in to the programme of project work for the new contracts /scheduled work. Mr Ajilore confirmed that officers would be able to report on progress using previously reported updates, and guidance would be available to that end.

In response to a further point of clarification by the Chair with regard to the hybrid nature of the proposed new contracts and the challenges of addressing the split of both an external contract and insourced provision, Mr Pritchard advised that during the next eighteen months officers would be working on the issues of a hybrid contract, and using both external expertise, and the work done by other internal services who had drawn up contract work of a similar nature encompassing both internal and external provision. In order to ensure that a robust assessment was carried out of what was deliverable in the proposed contracts, Mr Pritchard further commented that officers would in the next six months be carrying out assessments of insourcing examples/models to ensure that all avenues were explored.

There being no further points of clarification from the Committee, on a **MOTION** by the Chair, and having sought verbal agreement to the proposed **MOTION** from the Committee - Deputy Mayor Bramble, Councillor Burke, and Councillor Selman, it was :

RESOLVED

- i. That approval be given to the awarding of the contract for the Interim Provision of Statutory Testing, Inspection, Repair & Maintenance Services to Contractor A, being the incumbent, under new terms and conditions as the appointed Contractor, for a period of eighteen months commencing 22nd June 2020; and
- ii. That the Council's planning activity to inform the scope of a new mixed economy of insourced and externally sourced services, and progress the changes to internal arrangements as set out above be noted.

RELATED DECISIONS

Report to Cabinet Procurement Committee 18th July 2017, for the procurement of an additional contractor to provide statutory testing, repair and maintenance services to the Council.

Report to Hackney Procurement Board Meeting 11 February 2014 – RP2, Business Case. Permission to go to tender, noting the move away from delivery of the service by 2 smaller specialist firms to one main contractor and 20 January 2015 CPC – Award Report.

REASONS FOR DECISION/ OPTIONS APPRAISAL.

The purpose of this report is to provide CPC with the reasons behind the need to undertake an eighteen month interim contract, by direct award, prior to the procurement of a new competitively tendered contract to commence December 2021.

The Council has a statutory duty to keep its estate in a health and safety compliant state. This interim contract is required immediately, to sustain an uninterrupted delivery of statutory testing and repairs.

In 2014, when it reviewed its corporate building maintenance arrangements and established a new long term strategy, the Council anticipated executing that strategy in 2 principal stages, starting with the procurement of the MTC which allowed procurement of critical services with the limited asset data available, followed by the procurement of services on a more user friendly, efficient and up to date contract form with informed risk pricing in a practical fixed price component.

The introduction of a short interim contract between the two, via a direct appointment was brought about by a combination of factors:

- The disruption in the market following the collapse of Carillion, and the need for the Council to avoid procuring a long term contractual commitment in such uncertain conditions;
- The need to commit to new “normals” in the post Carillion world including minimum 5 year contract terms;
- The need to accommodate the Council’s agenda to insource more of its contracted services, and allow time for focussed work on scoping this insourcing potential ahead of the next formal procurement;
- In the context of a disrupted market, the need to mitigate the possibility of a poor or failed procurement, and;
- Also in the context of a disrupted market, pilot the new form of contract, establish a body of internal experience in managing it, and establish revised and improved, centralised internal funding arrangements in advance of the new “mixed economy” of insourced delivery and externally sourced elements;
- The COVID 19 pandemic has made more acute officers’ preference to pilot the new arrangements with a known partner whose most senior management is already conversant with the Council’s estate, stakeholder context and its particular challenges.

The period of the execution of the MTC has delivered the outcomes required of it to facilitate moving to the next stage, including the establishment of comprehensive asset data, well established in-house contract management knowledge, and a much more comprehensive understanding of end-user requirements.

However, in addition to the reasons for inserting an interim stage as set out above, there is the very practical reality that if such a short term contract as the proposed interim arrangement were competed, no responsible organisation could sensibly and economically bid for it. A new contractor has to invest substantially at the beginning of a contract with a new client, and to under invest is to set up the organisation for future failure in service standards.

So the interim contract will adopt the new contract form proposed for the next procurement and will be executed with the locally experienced incumbent service provider. The adoption of the new contract form is a fundamental component in the road to more efficient and user friendly services.

Ahead of moving into a new 5 year contract, the Council needs to have taken some key steps in preparation, particularly in its ability to manage the contract effectively. That involves moving the end users of the Council as well as the managing team to a new contractual culture and structure, most likely involving a material element of insourced services, at the operational core of which is the centralisation of maintenance budgets, and how works are ordered, committed to, and paid for.

For the client management team meanwhile, the MTC has been very demanding in its administration, as it has also been for the Contractor's staff, and this has resulted in a significant backlog in the valuation of variable tasks, and a very high cost of administration for both client and contractor. The MTC included a high level of auditing and valuation of individual tasks. Under the proposed new arrangement a large proportion of the expenditure will be within the fixed price element. Officers anticipate that in excess of 80% by volume of reactive and remedial tasks will fall within the fixed price threshold and will therefore not require audit or individual valuation, although the contract allows for audit which ratchets up if performance weakens sufficiently. This, in turn, will free a significant proportion of the LBH contract management team's time to concentrate on proactive management of the services and the estate rather than retrospectively dealing with the valuation of tasks.

The use of the NEC3 Term Service Contract is recommended by the UK Government for all public sector service contracts and is well understood by the sector market.

Furthermore, the market has shifted since 2017, and contractors in the sector have no appetite for a short-term contract based upon the JCT MTC and a nationally published schedule of rates.

The service delivery requirements have been based on the objectives needed to operate a comprehensive repairs, maintenance and estates statutory compliance service; and also to improve on the limitations found in the MTC by implementing a new form of contract:

- a) Providing a single point responsibility for the management and coordination of all building, mechanical and electrical repairs and maintenance services, simplifying and improving accountability, visibility of cost, performance, condition and compliance;
- b) The optimum use of available technology to maintain and update plant asset information, to centralise work management, billing and payment processes and rationalise the excessive amount of orders currently being raised and audited;
- c) A contract structure that has a high level of defined fixed deliverables (particularly more sites in scope) from the start of the contract and a clear definition of any variable deliverables with structured costs;
- d) Contractor profit at risk variable on measured performance via Low Service Damages, which could reduce their charges as part of a monthly monitoring process;
- e) A contract, which aids the effective management of landlord/ tenant relations by distinguishing statutory compliance requirements (legal requirements to test and inspect) and any other form of maintenance that can be varied by budget holders' prerogative. Under the new contract, the deliverables of statutory compliance testing and inspection are brought into scope as part of the fixed cost.

The contract will be based upon the NEC3 Term Service Contract 2013 with LBH specific amended clauses and insurance risk requirements incorporated within the main terms.

The benefits arising from this approach are set out in further detail in section 8 (Savings) below. This will contribute significantly to the achievement of Value for Money by more appropriate use of available resources.

ALTERNATIVE OPTIONS (CONSIDERED AND REJECTED)

The following parameters have been considered prior to the decision that a direct award should be progressed with the rejection of the additional following options:

Options considered and rejected for the provision of works:

- a) Existing Frameworks – The appointment of a Contractor via an existing framework on a direct award basis could only be made on the basis of the framework standard terms, conditions, payment mechanism, performance measures and service specifications. This is considered not to offer the required flexibility or bespoke features necessary for the proposed LBH service.
- b) In-house or by Hackney Housing – The Direct Labour Organisation (DLO) management team were approached and they considered that their current technical capabilities (residential rather than commercial trade accreditations and skill sets) and capacity and the restrictive nature of their current base accommodation would preclude them from considering taking on the wider estate related services for a period of 4 – 5 years. At present, the Corporate Property and Asset Management team does not have the capacity or trade management experience to manage a separate and dedicated DLO for the corporate Property Groups. This is an area that needs to be explored at pace in the next year.

8 ANY OTHER UNRESTRICTED BUSINESS THE CHAIR CONSIDERS TO BE URGENT

There were no unrestricted items of urgent business.

NOTED

9 DATE OF FUTURE MEETINGS

NOTED – meetings of the Cabinet Procurement Committee commencing at 5.00pm for the remainder of the Municipal Year 2020/21 as follows:

6 July 2020
7 September 2020
5 October 2020
9 November 2020
7 December 2020
18 January 2021
8 March 2021
12 April 2021
10 May 2021

10 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED

Monday, 8th June, 2020

THAT the press and public be excluded from the proceedings of the Cabinet Procurement Committee during consideration of Exempt items 11-13 on the agenda on the grounds that it is likely, in the view of the nature of the business to be transacted, that were members of the public to be present, there would be disclosure of exempt information as defined in paragraph 3 of Schedule 12A to the Local Government Act 1972 as amended.

SUMMARY OF EXEMPT PROCEEDINGS

- 11** Procurement of interim 18 month contract for provision of statutory, testing, inspection, repair and maintenance services - Key Decision No. FCR Q65 - TO FOLLOW

AGREED AND NOTED the exempt Appendix 1 in relation to agenda item 7 in the unrestricted part of the agenda.

- 12** ANY OTHER EXEMPT BUSINESS THE CHAIR CONSIDERS TO BE URGENT

Nil.

NOTED

- 13** To consider the exempt minutes of meetings of the Cabinet Procurement Committee held on 11 March 2020, and 11 May 2020 (Special)

AGREED the exempt minutes of the meetings of Cabinet Procurement Committee held on 11 March 2020, and 11 May 2020 (special).

Duration of the meeting: 17:00hrs – 17.20hrs

Contact:

Clifford Hart - Senior Governance Services Officer - Clifford.hart@hackney.gov.uk
Clifford.hart@hackney.gov.uk

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TITLE OF REPORT :Capital Works to Hackney Council Housing

BUSINESS CASE

Key Decision No: NH Q86

<p>CPC MEETING DATE (2020/21)</p> <p>6 July 2020</p>	<p>CLASSIFICATION:</p> <p>Open</p>
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WARD(S) AFFECTED

All Wards

CABINET MEMBER

Cllr McKenzie

Housing Services

KEY DECISION

Yes

REASON

Spending or Savings

GROUP DIRECTOR

Ajman Ali, Acting Group Director Neighbourhoods & Housing

1. CABINET MEMBER’S INTRODUCTION

- 1.1 The Council is passionate about its housing stock, and committed to the aims and principles of social housing. It is both a privilege and a duty to repair and maintain the Council's homes and estates, where more than 30,000 tenants and leaseholders live and are their beating heart.
- 1.2 Last year we published a long term vision for our homes, in a new Housing Asset Management Strategy, and began work to procure new contracts to deliver that work, which would deliver on the ambitions of that document as well as the Council's wider objectives in making Hackney fairer, safer and more sustainable.
- 1.3 This procurement work has been unavoidably affected by the global coronavirus pandemic. While the ambitions remain, the Council has had to urgently respond to the risk of not having suitable contracts in place to maintain our homes to the required standard. This report outlines a business case to procure a specific range of projects over external frameworks, as an interim delivery arrangement until the new long term contracts can be put in place.
- 1.4 This will ensure that the Council can continue to maintain homes so they are safe, secure and decent.

2. GROUP DIRECTOR'S INTRODUCTION

- 2.1 The Council is facing an unprecedented challenge from the current Covid-19 outbreak; while frontline staff work to support residents directly affected by the lockdown, others are working to ensure that we continue to fulfill our core responsibilities. An important responsibility is the maintenance of our housing stock; ensuring that residents remain safe and secure and our homes are decent.
- 2.2 In May, a decision was sought to extend the Council's existing main capital delivery framework by one year, and up to a value of £225m. This decision was made in the context of the exceptional circumstances brought about by the Covid-19 outbreak as it initiated significant disruption not only to current programmes but also planned procurement work on replacement contracts.
- 2.3 The planned procurement work is to put in place long term contracts of up to 10 years. Securing prices for such works requires market conditions to be relatively stable. The current market, and that for the immediately foreseeable future, will be quite uncertain. As indicated in the May CPC report, an extension to Contract 1 alone may not be sufficient to ensure the delivery of a suitable level of capital investment until new contracts can be put in place.
- 2.4 This report recommends a decision on the procurement of a set of essential projects to be delivered to tenanted homes only, which will provide another important route for capital delivery over the next two years.

3. RECOMMENDATION(S)

The Cabinet Procurement Committee is recommended to:

- 3.1 Approve the procurement of a group of planned capital works to Hackney Council housing which are non-rechargeable to leaseholders, via a pre-existing external framework. They include specific internal, external and fire safety projects, as set out below, and have a total estimated value of £40m. This is to allow capital delivery to continue, pending the award of a new suite of long term contracts, which has been delayed due to the Covid-19 pandemic.

Project	Works Type	Scope of Project
Planned Internal Works	Kitchen and bathroom renewals, heating and electrical system upgrades and renewals	Qualifying properties in Lincoln Court and year 1 and 2 of the capital programme. Est 600-900 properties
Front Entrance Door Programme	Replacement front entrance doors to current fire safety standards	Qualifying non-Section 20 properties in blocks 6 stories and higher. Est 8,000-10,000 properties
Regents Estate External Works	Planned external works including window renewal	113 tenanted homes in the Regent's Estate
HRU Replacement Works	Replacement of heat recovery units	Tenanted homes in Finsbury Park Estate, Goldcrest Mews and Dunnock Mews
Seaton Point EWI	Replacement of External Wall Insulation (EWI), windows, concierge roof repairs and communal area works.	1-84 Seaton Point

- 3.2 Provide delegated authority to the Group Director of Neighbourhoods and Housing, in consultation with the Group Director of Finance and Corporate Resources, to approve direct awards of contracts at Regent's Estate, Lincoln Court and Seaton Point under this procurement, and note that these awards will be reported as an information item at subsequent meetings of this Committee. All other projects will return to CPC for approval of contract award following a mini-tender process.

4. RELATED DECISIONS

- 4.1 May 2020: CPC approval of a one year extension, effective from 31 August 2020, to the existing contracts under the 'Contract 1' framework for Decent Homes, Planned and Responsive Maintenance Works to Hackney Council housing. These include contracts with three service providers; two of which have Project Partnering Contract (PPC) forms of contract, and one of which has both a PPC and Term Partnering Contract (TPC) form of contract.

<http://mginternet.hackney.gov.uk/ieListDocuments.aspx?CId=113&MId=4804>

- 5.1 June 2019: The Procurement Strategy report approval of a suite of capital contracts for planned works to Hackney the Council's housing stock. The contracts cover planned internal, external, fire safety, mechanical and electrical works to Hackney Council homes. This procurement exercise is, in part, a replacement to Contract 1 which is the subject of this current business case.

<http://mginternet.hackney.gov.uk/mglIssueHistoryHome.aspx?IId=37259&optionId=0>

- 4.2 25 March 2019: Cabinet approval of the Housing Asset Management Strategy 2019-2027. This provides an overarching framework for investment decision-making across the Council's homes and estates. It sets out the ambitions that Hackney has for the quality of its homes and the priorities that will be established to ensure that the limited available resources are directed at the greatest need.

<http://mginternet.hackney.gov.uk/ieListDocuments.aspx?CId=111&MID=4332#AI32478>

- 4.4 30 March 2015: Cabinet Procurement Committee Approval to award a four year framework agreement to three Main Constructors for a period of up to four years was taken by the Cabinet Procurement Committee on 30th March 2015. The relevant minutes along with the full report can be downloaded from the attached:

<http://mginternet.hackney.gov.uk/ieDecisionDetails.aspx?Id=332>

5. OPTIONS APPRAISAL AND BUSINESS CASE (REASONS FOR DECISION)

- 5.1.1 The Council's capital delivery programme is essential to ensuring the ongoing maintenance of the housing stock, ensuring it reaches the required standards. Most current capital delivery projects are let via 'Contract 1'; a framework contract let in 2015, and includes three main contractors. Its original end date is August 2020. In June 2019 CPC approved a business case for the procurement of a suite of contracts to replace this. Work on this

procurement is progressing but has been significantly impacted by the coronavirus lockdown. This impact has both diverted staff resources, and caused significant uncertainty in the construction market which will impact the suitable timing of tendering for long term contracts. As yet the full impact remains unknown, however, it has been estimated that tendering will not start on the main framework contracts until Spring 2021, with works on the contract not starting until Summer 2022. The separate planned internal contract is expected to go out to tender and start works earlier, with works starting in early 2022. Refer to table 1 for an estimated programme for the longer term procurement work.

5.1.2 The Property and Asset Management team have reviewed the options to ensure that capital delivery can be maintained during the transition period to these new contracts. To that effect in May 2020, a report was brought to CPC on the extension of 'Contract 1' by one year and to a maximum value of £225m. This was approved and the relevant OJEU notice has now been posted on that contract variation.

5.1.3 Despite the exceptional circumstances of the coronavirus, there is a limit to the maximum value of the contract, and this is unlikely to be sufficient to ensure the required level of capital investment through to Summer 2022. As a result, as indicated in the May 2020 CPC report, further options to procure additional works in the interim have been researched, and this CPC report presents a preferred option to use a pre-existing external framework for a specific group of current planned projects which have no leaseholder recharge element. The details of these projects is set out in Section 5.4.

5.1.4 The impact on the programme for the current procurement work is set out in Table 1 below. This work includes the procurement of 5no. term contracts and a framework contract divided into 2no. lots. This is behind the originally planned programme for the work; that programme was highly ambitious and the team have been affected by unexpected resource limitations. However, significant progress has been made, and prior to the lockdown announcement the team were planning a rolling sequence of tendering exercises starting in July 2020 and continuing through to March 2021.

The phasing of the tendering processes for the different contracts is necessary as each evaluation exercise is officer resource intensive and it is critical that adequate time and resource is given to the evaluation process. Therefore, that same sequencing of issuing contracts for tender will have to remain in any amended programme.

5.1.5 It is difficult at present to estimate the duration of instability in the market; this issue is identified and mitigated within the risk register, however, it is expected that this pandemic will cause at least six months of serious disruption in which time, industry has limited sight of what long term recovery will be like, and during which time it will not be reasonably possible to obtain pricing which will be reliably sustainable for the long term contracts planned.

Estimates are that this period of uncertainty could readily last up to one year, and given the scale of these contracts, this amount of time has been allowed for as possible delay.

5.1.6 The current programme anticipates letting the smaller specialist M&E contracts first, and later the planned external framework contracts. This will continue. This is as the existing planned electrical contract already expired in March 2019 and these works are already subject to interim arrangements and remain a priority. However, strategically it is likely that these contracts, offering more discreet scopes of works, are those for which tendering can resume sooner.

The table below sets out the current programme dates, and an initial estimate of a revised programme, noting this will depend on market conditions. The initial estimate is to forecast a 6 month delay to tendering starting on any contracts and the main framework incurring a 9 month delay. This places the period where the Council will be securing prices between January and July 2021. The impacts on the programme will be subject to ongoing review with an aim to minimise delays to the procurement while ensuring that a successful procurement exercise can be undertaken.

The gap between the tender period and contract award is to allow for leasehold consultation and formal approval of contract award by CPC.

Table 1. Potential Impact on Procurement Programme

	Contract	Current Programme Tender Period and Contract Award (CA) Dates	Revised Programme Tender Period and Contract Award (CA) Dates
i	Lot 1 & 2 Framework for Planned External Works	Tender: Oct '20 - Mar '21 CA: Sep '21	Tender: Jul '21 - Dec '22 CA: Jun '22
ii	Term Contract Planned Internal Works	Tender: Aug '20 - Oct '20 CA: Jan '21	Tender: Feb '21 - Apr '21 CA: Jul '21
iii	Term Contract Communal Electrical Supply	Tender: Sep '20 - Dec '20 CA: May '21	Tender: Apr '21 - Jun '21 CA: Nov '21
iv	Term Contract Fire Safety Systems to Large Blocks	Tender: Jul '20 - Sep '20 CA: Mar '21	Tender: Jan '21 - Mar '21 CA: Sep '21
v	Term Contract	Tender: Jul '20 - Sep '20 CA: Mar '21	Tender: Jan '21 - Mar '21 CA: Sep '21

	Fire Safety Systems to Street Properties		
vi	Term Contract Communal Boilers	Tender: Sep '20 - Dec '20 CA: May '21	Tender: Apr '21 - Jun '21 CA: Nov '21

5.1.7 The council is a member of various external frameworks; these are already established in line with public procurement rules, and allow a faster tendering process than can otherwise be achieved. This enables them to be suitable for use as interim arrangements while the main procurement work goes ahead. However, they are still sufficiently flexible to allow the council to include many of its usual specific conditions to contracts let in this manner. Further details on the procurement process is set out in 5.4 and in Section 7.

5.2 BENEFITS REALISATION / LESSONS LEARNED

5.2.1 The main benefits of the works will be in improving fire safety, ensuring hundreds of tenants benefit from new kitchen, bathroom and heating facilities in their homes, and ensuring the significant external works scheme at the Regent's Estate can be completed. Those residents will in particular benefit from new windows.

5.2.2 The contracts will continue to be managed and monitored by Property and Asset Management. They have implemented a range of enhanced contract management and governance procedures in the past two years which focus on five key aspects to contract management: internal governance, payments, processes, project management and clerk of works inspections. These procedures and ongoing developments will be applied to this contract extension. These are as reported to the Audit Committee in April 2019. One additional benefit of these works will be in allowing continuity of capital delivery, and consequently opportunity to continuously develop these procedures.

5.2.3 A board of senior officers, including the Cabinet Member for Housing, called the Capital Monitoring Board, will approve all works, in the form of Sectional Commencement Agreements (SCAs), let under this contract extension in line with the procedures used currently.

5.3 Strategic Context

- 5.3.1 The capital works programme is important to meeting the Mayor's priorities for a fairer, safer and more sustainable borough. Sitting under these priorities is the Mayor's vision that everyone in Hackney has a good quality and stable home, and the commitment to ensuring the Council continues to invest in and make best use of its housing stock to provide the homes, blocks and estates in which people want to live and are proud of.
- 5.3.2 The Council has recently introduced a new Housing Asset Management Strategy 2019-2027. The strategy sets out long-term objectives for investing in our homes and estates, and the ambitions that Hackney has for the quality of its homes and the related priorities to ensure that the limited available resources are directed at the greatest need. This investment includes fire safety and energy-efficiency measures that are essential to providing homes that are safe, decent, and fuel-efficient for our residents. Works let under this business case will be aligned with the objectives of this strategy. The implementation of this strategy is included in the HRA business plan on capital investment, and any further works will be let in the context of that plan.
- 5.3.3 The Landlord and Tenant Act 1987 places a legal duty on the Council for the repair and maintenance of the Council's homes and estates. The extension of the current contracts will enable the council to continue to deliver on this responsibility.
- 5.3.4 Since the lifting of the Housing Revenue Account debt cap in October 2018, the investment in the stock can be managed holistically and the Housing Asset Management Strategy 2019-2027 / Housing Revenue Account Business Plan allocates budgets for each area of investment in the year of assessment, and therefore enabling the continuous investment plans over the 30 years of the Housing Revenue Account Business Plan. This Business Plan illustrates the Housing Asset Management Strategy 2019-2027 investment is financially sustainable over the longer term, but does require on-going revenue savings which will be approved as part of the budget setting each year. However, this must be kept under regular review to take account of both local and national policy / legal changes and adjusted as necessary.

5.4 Preferred Option

- 5.4.1 The preferred option involves the procurement of a group of planned capital works to Hackney Council housing which are non-rechargeable to leaseholders, via a pre-existing external framework. They include specific internal, external and fire safety projects, as set out below, and have a total estimated value of £28m. This is to allow capital delivery to continue, pending the award of a new suite of long term contracts, which has been

delayed due to the Covid-19 pandemic. The detailed list of proposed projects and tendering arrangements is set out in the table 2.

- 5.4.2 Most of the identified projects have already had budget approval as part of the internal annual budget setting process; those that don't are advance programme works which are indicated in the 7-year capital programme (See table 2 for details). These are largely planned internal works, which the council only carry out to tenanted properties, specialist M&E works to heating systems, front entrance doors to properties with no leaseholder recharge, and some external works to the Regent's Estate on houses where there are no leaseholders.
- 5.4.3 Plans to deliver some of these projects via Contract 1 had been advanced to the stage of having pricing from contractors. This was done when the original end date for the contract was August 2020. Given the time extension, but limited value, it is important that works let under Contract 1 are prioritised to those that cannot be delivered by other means. In general, as Contract 1 was let following Section 20 consultation procedures, the priority on Contract 1 will be to let works which are rechargeable to leaseholders, which are mainly external works. This approach will ensure the delivery of external works can be maximised until the new contracts are in place. Contract 1 was procured in compliance with the Public Contracts Regulations 2015 and the EU Directive 2014/24/EU.
- 5.4.4 The proposed procurement route is to use two pre-existing frameworks, which have already been established in accordance with EU rules; the South East Consortium and the London Housing Consortium (LHC). Hackney Council is a member of the South East Consortium (SEC) and is a founding member of the LHC. Both organisations operate a range of frameworks specific to different strands of works (e.g. planned internals, passive fire safety etc), and in each case the works would be tendered via the most appropriate framework for the work types.
- 5.4.5 There are two projects where current projects have already been fully priced and agreed with Contract 1 contractors and where the projects follow on from previous capital works at the estate. These are the Lincoln Court K&Bs, and Regent's Estate External Works. In these cases to ensure continuity for residents, and to avoid duplication of pre-construction costs, it is proposed to let the works by a direct award process off the SEC framework. The current Contract 1 contractors are also on the SEC frameworks. The May 2020 CPC reported on a value for money review of Contract 1, which found that Contract 1 continues to offer value for money compared to the general market.
- 5.4.6 The works at Seaton Point, including the replacement of the External Wall Insulation, are also already fully priced via mini-tender under Contract 1. The current default position is to let this project under Contract 1, however, we are at present awaiting the details of the Government's new Building

Safety Fund. Full details are expected in July 2020. This may enable the council to recover the leaseholders' proportion of the costs of the works from this fund. Should this be the case, or if leasehold charges are not due for any other reason, the council would propose to let the replacement works via direct award under the SEC framework.

5.4.7 Where direct award off the framework is used, the contractors would be subject to the same terms and conditions as the existing Contract 1. Given the low risk with these contracts it is recommended that the decision to award the contract is permitted under delegated officer approval, and reported to CPC for information.

5.4.8 All other procurements will be let via a mini-tendering process off appropriate frameworks, with contract award going to CPC for approval. The council can select for both cost and quality proposals. The council's specific requirements will be satisfied both in respect of specific works specifications and in service delivery aspects such as resident engagement, supply chain management and social value.

5.4.9 The list of proposed projects is as follows:

Project	Scope of Project	Notes on Project Status	Tender Route
Planned Internal Works: Lincoln Court K&Bs	Kitchen and bathroom renewals, electrical system upgrades and renewals and leaks repairs to c.100 qualifying properties at Lincoln Court.	Works surveyed and priced by Wates who are currently installing new front entrance doors at the block, and are completing the replacement of the EWI.	Direct Award via SEC framework
Planned Internal Works: Qualifying properties in year 1 and 2 of the capital programme.	Kitchen and bathroom renewals, electrical system upgrades and renewal to qualifying properties (scope per property subject to survey). There are c.6,000 properties in years 1 and 2 of the capital programme of which an estimated 500 properties qualify for works.	Year 1 works have budget approval, and initial surveys undertaken. Year 2 works subject to budget approval in January 2021 cabinet report.	Mini-Tender via suitable external framework
Front Entrance Door Programme;	Replacement front entrance doors to current fire safety	All blocks 10 storeys and higher required new doors. Section	Mini-Tender via suitable external

Remainder of 10+ storey blocks	standards to qualifying non-Section 20 properties in blocks 6 stories and higher. Est 2,500	20 for relevant leaseholders completed. First phase underway; later phases in early planning.	framework where no S20 Contract 1 where S20 required
Front Entrance Door Programme; 6-9 storey blocks	Replacement front entrance doors to current fire safety standards to qualifying non-Section 20 properties in blocks 6-9 storeys high. Est 6,000	These works have internal budget approval. Early review of block design and FRAs has started to determine which need to have an FD30s FED	Mini-Tender via suitable external framework or LHC framework where no S20 Contract 1 where S20 required
Regents Estate External Works	Planned external works including window renewal to 113 tenanted homes in the Regent's Estate	Works surveyed and priced by Engie, who are currently undertaking planned external works to the wider estate.	Direct Award via SEC framework
HRU Replacement Works	Replacement of heat recovery units in Finsbury Park Estate, Goldcrest Mews and Dunnock Mews	Technical surveys and option appraisals for new heating systems undertaken; specification developed to be used as basis for pricing.	Mini-Tender via suitable external framework
Seaton Point EWI Replacement	Replacement of external wall insulation, windows, concierge roof repairs, and communal area works at Seaton Point.	Mini-tender for works complete under Contract 1. Use of SEC subject to details of Government Building Safety Fund.	Direct Award via SEC framework

Table 2: List of proposed projects

5.4.9 The Cabinet approved, in October 2018, the fire door replacement programme (FED) which included the decision to waive leasehold recharge in certain circumstances. For properties where leaseholders are expected to contribute to the cost of the replacement via a Section 20 notice, the instruction to replace the door will be issued via Contract 1 to satisfy leasehold consultation requirements. While this will mean that a minority of the FEDs in a block will be replaced by a different contractor, this will not

give rise to any obvious visible difference between doors installed under Contract 1 or the external framework. This as the Council has a very specific door specification with a limited range of design options, which is necessary to ensure strict fire safety standards are achieved. Where leaseholders retain responsibility for their door in their lease (c.50% of leaseholders) they are able to choose their own door, and therefore visual unity in a block cannot be achieved.

Almost all the blocks requiring a new front entrance door have enclosed internal areas (as this gives rise to the need for one), therefore they have limited visual impact on the building.

Not all blocks which are 6-9 stories high will require replacement of the front entrance doors; this will be determined based on the specific building design and the recommendations arising from the fire risk assessment.

5.5 ALTERNATIVE OPTIONS (CONSIDERED AND REJECTED)

5.5.1 The key considerations for possible approaches were to ensure the continuity of the capital programme, ensure all works can be recharged to leaseholders, to ensure all relevant procurement legislation is adhered to, to continue to secure value for money for works, and to ensure that any options can be implemented within the limited timescales. A series of options were considered and tested against the above criteria.

Option 1 - Hold procurement of these works until new contracts are in place

5.5.2 Contract 1 was due to end on 31 August 2020; approval has been obtained to extend this to 31 August 2021. The total value of the existing contract 1 framework is capped at £225m and therefore there is a limit to the value of remaining works which can be let.

5.5.3 The procurement of the new framework contracts will be delayed by the Covid-19 lockdown, both due to internal operational limitations, and the need to ensure the market is suitable to procure long term contracts. At present a delay of 9 months is estimated in issuing the contracts to tender. It is estimated that it would take until late in 2022 to achieve spend on these new framework contracts. This is to allow for the full procurement process including the time needed to tender the contracts via a 2-stage procurement process, carry out further leasehold consultation, the Council Governance process to award the contract to the contractors, the mobilisation period, and to carry out pre-construction surveys and leaseholder consultation on initial projects let under these new frameworks. Spend on the proposed new planned internal contract is expected to start in early 2022.

- 5.5.4 There is therefore approximately two years until spend will be realised on the new frameworks. The remaining value of Contract 1 at c.£38m, is not sufficient to maintain the usual annual level of capital investment. It is important to retain this level of investment to avoid backlogs in capital delivery, ensure key fire safety projects are progressed, and to ensure continuity of service. Backlogs in capital delivery may also result in additional demands on repair budgets. The current investment in works delivered via Contract 1 is c.£35m per annum, therefore not allowing for additional interim arrangements to the new contracts would see a considerable shortfall in capital investment over the next two years.
- 5.5.5 The risks to continuity of the capital programme, and most notably, key fire safety works, meant that this option was rejected.

Option 2 – Procure a Stand Alone Contract

- 5.5.6 This option involves carrying out an independent procurement process to let any works required to maintain capital delivery until the new long term contracts are in place. This would include necessary two stage leasehold consultation where works were subject to recharge.
- 5.5.7 In general this option requires more resources than Option 4 to use an external framework, and it would also take a lot longer to procure. This presents a risk of diverting resources from the main procurement work for the new long term contracts and causing further delays.
- 5.5.8 There are also risks associated with securing value for money on contracts given the uncertain nature of the contract, although this is considered a much lower risk on smaller specific projects than when procuring long term qualifying agreement contracts.
- 5.5.9 A review of resource, market knowledge and relevant projects has led to the conclusion that this option is not preferred to the use of external frameworks (see Option 4) here may be future situations where stand alone procurements could be used, such as where the preparation of the tender documentation for the main long term contracts is largely complete, but it is not yet considered that the market is suitable for tendering such work. In that case, a one off procurement project may be entered into, subject to relevant governance approvals.
- 5.5.10 This approach may also be necessary should the council encounter the need for a very particular new strand of capital investment which could not be met by current arrangements, which could not be let via an external framework (e.g. due to leaseholder recharge limitations) and which could reasonably be held until the new frameworks were in place.

5.5.11 Due to the reasons set out above this was rejected as a main course of action at this time, though where conditions arise, the Council may elect to pursue this route in future.

Option 3 – Insourcing the Works to the DLO

5.5.12 The option of in-sourcing the planned works was examined, however, the scale of the work, both in value and in type, and the timescales involved, means that it is neither desirable nor possible to restructure the DLO in time to carry out this work.

5.5.13 In the business case report (NH P78) to CPC in June 2019, a detailed analysis was undertaken of the capacity to grow the DLO's capital works delivery. Key opportunities for work in this area were identified, and the proposed contract divisions for the new contracts to replace Contract 1 have been developed to support this medium and long term DLO growth. The key opportunities were in planned internal works including voids, kitchens, bathrooms and electrical work.

In order to deliver on this, the DLO will require stable sustainable growth to develop resources and the necessary skill sets. A short term move away from the strategy set out in June 2019, would likely undermine the long term DLO growth plan.

Option 4 - Procure Additional Interim works via External Framework

5.5.14 The preferred option involves procuring a group of projects via a pre-existing external framework. This will allow works to be procured in an efficient and timely manner, and without requiring so much resource that this has further impacts on the main procurement work programme.

5.5.15 Works procured from a national framework cannot necessarily include leaseholders, as the Section 20 consultation has not been undertaken by the Council prior to the frameworks being let. The loss of approximately 30% of the cost of any project is too significant, and would impact on the Council's wider ability to effectively maintain homes. However, the programme of capital works includes works which are not rechargeable to leaseholders, which will suit the the use of these frameworks.

5.5.16 Option 2 in the CPC Report NHQ66, indicated that in addition to the extension of Contract 1, there may be some requirement to carry out additional interim procurement via this route. This report stated: *Where necessary the Council may elect to pursue this route [meaning the use of an*

external framework] for the delivery of non-rechargeable works. This would be subject to the relevant decision making process at the time. There is limited work which falls into this category, though and it would be inadequate as a general replacement for maintenance works. As a result this option, as a main course of action, was rejected.

5.5.17 The use of these external frameworks would be insufficient as a main course of action, however, supplemented with the extension approved to Contract 1, there would be sufficient scope and capacity to continue with a range of planned capital works until 2022. Where, as indicated in 5.5.4 above a capital investment of c.£70m would be envisaged over a two year period, this option combined with the extension to Contract 1 will ensure contractual capacity for £78m. Given that the current working conditions mean that capital works are estimated to progress at a reduced rate for the remainder of the 20/21 financial year, this is likely to be broadly sufficient. However, as outlined in Option 2, any further delays to the new framework would necessitate the need for further interim arrangement to secure the necessary levels of investment.

5.5.18 The proposed procurement route is to make use of pre-existing frameworks, which have already been established in compliance with the Public Contract Regulations 2015 and the Directive 2014/24/EU. In particular the proposal is to draw on the frameworks established by South East Consortium and the LHC of which Hackney Council is already a member. Refer to Section 7 for details of the proposed procurement process.

5.6 Success Criteria/Key Drivers/Indicators

The success criteria / key drivers / indicators for this contract extension exercise are:

- Ensuring contracts remain in place for construction services to ensure the Council can invest in homes to fulfill its legal obligations as a landlord;
- Ensuring that the council can continue to deliver essential works, and allow the procurement work to be delayed until the market has returned to a sufficient level of stability to allow a long term tendering exercise to be carried out.
- Ensure that works are delivered within the capacity of the Housing Revenue Account (HRA) Business Plan.
- Provision of a cost efficient, quality driven related works across the entire housing stock, which are focussed on the greatest investment need, and meet all relevant technical standards;
- Ensuring compliance with the Council Standing Orders, Regulatory Procedures, and the Council's Corporate Policy;

5.7 Whole Life Costing/Budgets

- 5.7.1 The capital programme for housing covers the investment in HRA stock and assets managed by Housing Services and set out in this document, along with the investment in HRA hostels and housing grants managed by Housing Needs and Private Sector Housing.
- 5.7.2 The works which would be let under this contract have already been budgeted for in the 20/21 Council budget; budgets are set in line with the provisions of the HRA business plan. Variations to the required investment for projects, based on specific works requirements, is subject to internal board approval.

5.8 Policy Context

- 5.8.1 Works let as part of this procurement will be aligned with the objectives of the Housing Asset Management Strategy 2019-2027.

5.9 Consultation/Stakeholders

- 5.9.1 These works are not rechargeable to leaseholders, and therefore the provisions of leaseholder recharge legislation are not applicable.
- 5.9.2 Residents affected by these proposals will be consulted on the works in line with the expectations set out in the Asset Management Strategy. With elements such as Front Entrance Doors, there are very strict standards to achieve, opportunities for consultation are more limited, though efforts have been made to ensure residents have a range of design options to choose from.
- 5.9.3 On kitchen and bathroom works, the scope of the work to any property is determined by the council's qualification criteria for replacement; where these are met, residents have a range of design options to choose from. On all such projects the council appoints an internal Client Liaison Officer.
- 5.9.3 The proposals will be presented to wider stakeholders including members, and tenant and leaseholder representative groups, as part of engagement on the overall medium term plans to deliver the capital programme, i.e. including the extension to Contract 1 and the programme for the new contracts procurement.

5.10 Risk Assessment/Management

5.10.1 The key risks associated with this decision and actions to mitigate these are set out in the table below:

Table 3. Key risks identified

Risk	Likeli- hood	Im- pact	Ove- rall	Action to avoid or mitigate risk
	L - Low; M – Medium; H - High			
Unusual inflation affects contract pricing.	H	M	M	The Council remains under no obligation to issue works under this business case; where exceptionally high inflation occurs, to seriously affect the council's financial position, works can be reprioritised within financial limits.
The business case is rejected	M	M	M	Ensure the business case is comprehensive, non-ambiguous, and adequately supported by external expert advice.
Lack of available contractors to deliver work due to economic recession.	L	H	M	Apart from direct award projects, other works are not expected to be tendered until autumn, with works starting in the new year. This risk will need to be monitored, however, current expectations are that the economic situation will have stabilised somewhat by then, with most usual construction activities resumed. Each framework has several appointed service providers, limiting the risk of having no available contractors.
The procurement work to replace Contract 1 is delayed even further than currently anticipated.	M	H	M	The strategic team leading the procurement will monitor this as an ongoing risk, and will need to respond accordingly. This will significantly depend on how the industry return to BAU materialises.

Failure by contractors to comply with contractual obligations	M	H	H	The mini tender process allows for cost and quality considerations in the award process. The contract includes KPIs to allow performance monitoring. The Council are able to terminate the contracts should the contractors perform below standards.
Overrun budget	M	M	M	Work programmes, budgets and orders given to the contractors are continuously managed and formally monitored.
Lack of contract management resources within Property and Asset Management	M	H	M	This option does place some additional demands on the contract management team, and where additional staff resources are required, a business case will be made in the appropriate manner. Recruitment is difficult in the current circumstance so staff retention will be a priority.

5.11 Market Testing (Lessons Learnt/Benchmarking)

5.11.1 All works let on these contracts can be market tested against rates in place on the current 'Contract 1' to ensure that value for money is being achieved.

5.11.2 A post-project review process has been introduced into the capital delivery team, and this will be used to ensure lessons learnt from previous projects can be carried forward, and applied to these works.

5.11.3 The external frameworks proposed have been established using competitive tendering processes on a cost/quality basis in compliance with the Public Contracts Regulations 2015.

5.11.4 The proposed procurement strategy will increase flexibility and the Council's response on when to initiate the tendering process for the proposed new long term contracts, which will allow greater capacity to achieve value for money on these works.

5.12 Savings

5.12.1 There are no direct savings to be achieved from the tendering of these contracts, however the tender evaluation will ensure value for money is achieved from the delivery of the capital works, as well as considering the

quality of the works delivered. Any reductions in the contracts, component cost or budget requirement of specific block will be reinvested into other properties in line with the “hierarchy of needs” identified in the Housing Asset Management Strategy 2019-2027.

5.12.2 Use of frameworks can offer indirect savings by offering better value for money as they have reduced transaction costs. The potential to develop ongoing relationships with particular contractors can also assist in enabling greater social value benefits.

6. SUSTAINABILITY ISSUES

6.1 Equality Impact Assessment and Equality Issues

6.1.1 All tendering contractors will be required to demonstrate that they comply with the Equality Act 2010. Contractors also are required to demonstrate the following:

- that they operate an active equal opportunities policy that achieves targets that encourages an ethnically diverse workforce;
- consideration for local employment, including disadvantaged people (people that face additional barriers in the labour market i.e. long term unemployed, etc.), supporting young people to access and get started in the world of work;
- the London Living Wage (LLW) will be paid to employees, as a minimum;

6.1.2 Maximising the accessibility of homes, buildings and estates to those with limited mobility, including elderly residents, parents with small children, as well as residents with particular needs is a key consideration of all major planned maintenance work schemes, in line with the Housing Asset Management Strategy 2019-2027. This includes a range of works at the level of the property, block and estate, from designing and installing kitchens, bathrooms, front doors that are DDA (Disability Discrimination Act) compliant, to access ramps and canopies at block main entrance, to dropped kerbs for estates paths etc.

6.2 Environmental Issues

6.2.1 There is an obligation on all contractors to comply at all times with the Environmental Protection Act 1990 and other relevant legislation, as well as the Environmental policies of the Council. For example, ensuring that all vehicles minimise emissions.

6.2.2 The specifications used for these works will incorporate the council's usual terms for sustainability of construction materials and efficiency ratings for relevant components e.g. mechanical and electrical equipment, windows and external doors.

6.2.3 The contractors will be obliged to follow operational sustainability procedures as part of the contract terms, including on waste management and efficient vehicles.

6.3 Economic Issues

6.3.1 Contractors will be required to give consideration to engaging local suppliers in their supply chain in so far as possible, and consideration for directing resources towards the local economy.

6.3.2 Contractors will be asked to demonstrate minimum specific levels of hiring apprentices; these will be set in accordance with the size of each project and the type of work.

7. PROPOSED PROCUREMENT ARRANGEMENTS

7.1 Procurement Route and EU Implications

- 7.1.1 The preferred procurement route is to use two existing, national frameworks, the South East Consortium (SEC) and the LHC which have been established following a full tender process in compliance with the Public Contract Regulations 2015 and Directive 2014/24/EU.

Typically there are two options available to selecting a contractor, either by a direct award or by “call-off” or mini-tender where within limitations the Council has the opportunity to assess project specific cost and quality criteria to ensure alignment with the Council’s requirements. The underlying contract (the project specific contract) can then be let using the Council’s preferred contract form. , is aligned with the council’s wider expectations.

- 7.1.3 Both the LHC and SEC manage several frameworks suited to particular works types. For example, FD30s front entrance doors are most appropriately let on a Passive Fire Safety framework.

7.2 Resources, Project Management and Key Milestones

- 7.2.1 The procurement process to use these frameworks will be led by the Property and Asset Management team, with support from legal, procurement and finance. The award of any works via these external frameworks will be subject to the approval of Capital Monitoring Board.
- 7.2.2 The work to develop works orders (SCAs) to let under the frameworks and to manage the works on site, will be done in line with contract provisions and current internal management and resident engagement procedures by staff in the Property and Asset Management team.
- 7.2.3 The programme below is indicative for an initial project or projects; the large size of this suite of works, means there are likely to be several successive mini-tender projects. The programme is written anticipating ongoing limitations in contractors and supply chain resources as they begin to recover from lockdown; there may be opportunity to complete mini-tender activity earlier than this.

Table 4. Indicative Key milestones

Key Milestones	Month
CPC Meeting and Approval	July 2020

Negotiation with contractors on direct award projects	July 2020/August 2020
Internal approval of instruction to contractors on direct award projects via delegated authority	September 2020
Works start on direct award projects	October 2020
Development of documentation for mini-tender projects	From July/August 2020
Start of mini-tendering (note: projects will be sequenced)	From September/October 2020
CPC approval of contract award	From November / December 2020
Works start on mini-tender projects	From January 2021

7.3 Contract Documents: Anticipated contract type

7.3.1 The contracts used will be PPC forms of contract. This ensures consistency in overall contract administration arrangements with other capital contracts used by the team. PPC contracts are a design and build form of contract, and are the most common contract type used for long term building maintenance contracts.

7.4 Contract Management

7.4.1 The contracts will continue to be managed and monitored by Property and Asset Management. They have implemented a range of enhanced contract management and governance procedures in the past two years which focus on five key aspects to contract management: internal governance, payments, processes, project management and clerk of works inspections. These procedures and ongoing developments will be applied to this contract extension. These are as reported to Audit Committee in April 2019. In line with the proposal in 7.3.1 to continue using a PPC form of contract for these works, these enhanced contract management procedures will remain relevant and can continue to be applied.

7.4.2 The Housing Capital Monitoring Board, chaired by the Group Director Neighbourhoods and Housing and supported by the Director, Neighbourhoods and Housing Finance, will approve all works let via these external frameworks in line with the procedures used currently.

7.4.3 On all projects Hackney Council will continue to use clerks of works to inspect and sign off that the quality of the works is in line with the specifications. There are three specialisms; building clerks, mechanical clerks and electrical clerks. The team operates a schedule of required inspections to all external and internal works.

7.4.4 In so far as possible, the proposed contracts will carry the same contract terms as are currently used on capital works. As these will be one-off projects, rather than long term contracts, the terms for non-performance will be revised accordingly. Poor performance can result in not being selected again from the framework. There are no penalty clauses, in line with contract law. There are no identified liquidated or ascertained damages.

7.5 Key Performance Indicators

7.5.1 KPIs need to be adapted to the specific nature of the works, and reflective of the contract type. Across all kitchen and bathroom, FED and mechanical projects, the performance will be assessed per property, and a suite of KPIs will be tracked against all contractors used, covering the following:

- Performance against programme for works at a property
- Finance performance indicator for cost certainty
- Health and Safety
- Environmental Sustainability of Operations (e.g. Vehicles, Waste Management)
- Customer Satisfaction
- Defects Handling

The specific KPI definitions and targets will be developed specifically for each of the contracts proposed in the preferred option under this strategy (Section 5.4). Consideration will be given to the work type and volume. Defined failures to meet KPI requirements will constitute a ground for early termination of contracts.

7.5.2 Contracts for external works will be assessed against the standard range of external works KPIs used on the current Contract 1; this is to allow the results to be compared.

7.5.3 Depending on the volume of work, contractors will be assessed at mini-tender stage for social value initiatives; and these commitments will be reported against.

8. COMMENTS OF THE GROUP DIRECTOR FINANCE AND CORPORATE RESOURCES

- 8.1 The report recommends the procurement of a number of housing maintenance contracts for the Council's tenanted housing stock pending the re-tender of the main housing maintenance contracts in 2022. The recommendation will ensure that the delivery of capital investment in the Council's housing stock relating to planned maintenance, as set out in the Housing Asset Management Strategy 2019-2027 and approved by Cabinet in April 2019, is maintained.
- 8.2 The contracts will be funded from the Housing capital budgets approved by Council in January this year which are in line with the HRA Business Plan approved in April 2019.

9 COMMENTS OF THE ACTING DIRECTOR, LEGAL & GOVERNANCE SERVICES

- 9.1 This Business Case Report seeks approval for the procurement of a linked group of contracts, estimated total value £40m, to deliver planned capital works to Hackney Council housing (which said works are non-rechargeable to leaseholders) via two pre-existing External Framework Agreements, namely *South East Consortium* and *LHC*.
- 9.2 A Risk Assessment using the Council's Risk Assessment Tool (RAT) has been carried out and the result is *High Risk*. Accordingly, this Business Case is presented to Cabinet Procurement Committee pursuant to Contract Standing Order 2.5.3.
- 9.3 Contract Standing Order 5.1.4 provides that Officers may use External Framework Agreements as instructed or agreed by the Group Director, Finance and Corporate Resources, or designated deputy.
- 9.4 The linked group of contracts has an estimated total value of £40m, which is above the current EU Procurement Threshold of £4,733,252 for Works. Utilisation of these two EU-compliant External Framework Agreements will ensure that procurement of these contracts is in compliance with The Public Contracts Regulations 2015 (per Regulation 33 - Framework Agreements).
- 9.5 Legal Services will assist in the review and preparation of relevant contracts and associated documentation.

COMMENTS OF THE PROCUREMENT CATEGORY LEAD

- 10.1 This Business Case sets out contractual arrangements to maintain the delivery of the housing capital investment programme, pending the procurement

of a suite of 6 contracts starting towards the latter part of this year or early next, subject to sector conditions.

10.2 To maintain delivery a precautionary 1 year extension of Contract 1, the current delivery vehicle, was approved by CPC in May 2020 however it is unlikely to be sufficient given the OJEU financial limits.

10.3 The estimated total value of the proposed contracts is £40m which is above the EU Threshold of £4,733,252 and is therefore subject to the Public Contracts Regulations 2015 (PCR2015).

10.4 To address the risk of a potential gap in contractual arrangements and for efficiency and timeliness, the preferred solution, is to procure from suitable existing national frameworks as provided for in the Council's Contract Standing Order 5.1.4. Frameworks are overarching arrangements with groups of pre-qualified suppliers that permitted organisations may use to "call off" for contracts which are established in compliance with the PCR2015 and the EU Directive 2014/14/24/EU.

10.5 The preferred frameworks are the South East Consortium (SEC) and the London Housing Consortium (LHC). Section 7 of this document sets out the proposed procurement process.

APPENDICES

None

BACKGROUND PAPERS

None

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Comments of Acting Director, Legal and Governance Services 16th June 2020	Clive Sheldon, Lawyer Procurement and Contracts Team clive.sheldon@hackney.gov.uk 020 8356 6031
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**TITLE OF REPORT: RENEWAL OF GAS & ELECTRICITY SUPPLY CONTRACTS
INFORMATION REPORT - UPDATE ON CONTRACT APPROVAL**

<p>CPC MEETING DATE</p> <p>6th July 2020</p>	<p>CLASSIFICATION:</p> <p>Open with exempt appendix</p> <p>By Virtue of Paragraph(s) 3, Part 1 of schedule 12A of the Local Government Act 1972 appendix A is exempt because it contains Information relating to the financial or business affairs of any particular person (including the authority holding the information) and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>WARD(S) AFFECTED</p> <p>All</p>	
<p>CABINET MEMBER</p> <p>Cllr Burke</p> <p>Cabinet Member for Energy, Waste, Transport and Public Realm</p>	
<p>KEY DECISION</p> <p>No</p> <p>The report provides the outcome of the procurement strategy agreed in the March 2016 by Cabinet Procurement Committee</p>	

<p>REASON</p> <p>Energy is purchased on wholesale markets in advance of the delivery date.</p>
<p>GROUP DIRECTOR</p> <p>Ian Williams – Finance and Corporate Resources</p>

1. CABINET MEMBER’S INTRODUCTION

1.1 The London Borough of Hackney, in common with many other local authorities, relies heavily on the supply of gas and electricity from the market to deliver essential services to residents. As part of the Mayor and Council’s commitment to rapidly decarbonising the full functions of the local authority, the Council switched to 100% renewable electricity on 1 April 2020. The next step which the Council is actively working towards will see the Council secure 100% renewable electricity through the Power Purchase Agreements (PPA). This is a very challenging target but we believe that it will contribute towards reaching our net zero target

1.2 In October 2018, the Intergovernmental Panel on Climate Change issued its starkest warning yet, through the Special Report on Global Warming of 1.5C, regarding both the timescales and level of action required to drastically reduce greenhouse gas emissions in order to avert catastrophic warming and subsequent climate change. The report concluded that “limiting warming to 1.5C is possible within the laws of chemistry and physics but doing so would require unprecedented changes” and that “the next few years are probably the most important in our history.” The deep decarbonisation programme that Hackney Council is undertaking in respect of its consumption of energy, both on the supply and demand-side, could not be more timely.

1.3 In June 2019, the Council further strengthened its commitment to playing a full role in the transformation of the energy system through the agreement of a Climate Emergency motion at Full Council. This motion commits the local authority to a 45% reduction in emissions against 2010 levels by 2030 and net zero emissions by 2040, in-line with the most stretching targets contained within the IPCC 1.5C report.

1.4 REGO certificates are a major step forward for the Council in delivering against the 2018 manifesto commitment to transform the way we purchase wholesale energy to increase the generation of renewable energy beyond Hackney’s borders by using our corporate spending on gas and electricity to increase investment in sources of clean energy.

1.5 The natural next step in the process beyond 1 April 2020 will be to explore the potential for a Power Purchase Agreement (PPA) with a specific generation facility. Doing so will provide greater transparency and certainty regarding the provenance of the Council’s - and other bodies that procure energy jointly with the

Council, such as local schools - electricity. Securing such an agreement - and exploring ways of reducing the global warming impact of our gas consumption - would demonstrate in a very visible way to the residents of Hackney that our corporate spending on renewables is contributing to the delivery of new sources of clean energy, rather than merely sending a signal to the market that more renewable energy is required, which is the role that the purchase of REGO certificates performs.

2. GROUP DIRECTOR'S INTRODUCTION

- 2.1 This report provides the outcome of this year's purchasing round for energy used within Council offices, Hackney Housing and in Schools, where such Schools are part of the corporate contracting arrangement. This year's contract prices show an estimated 13% average decrease on the bottom line against last financial year's prices.
- 2.2 Notwithstanding the level of pricing achieved, the Council and in particular the Energy Management Unit will continue to work with other departments to pursue the delivery of energy conservation measures, some of which are highlighted in other parts of this report.

3. RECOMMENDATION(S)

Cabinet Procurement Committee is recommended to:

- 3.1.1 **Note the outcome of the purchasing arrangements which have placed Supply contracts with the Energy companies as follows:**
- 3.1.2 **The Half Hourly and Unmetered Electricity Supply contract is awarded to Supplier A, estimated contract values of £1,981k and £ 793k respectively.**
- 3.1.3 **The Non-Half Hourly Electricity Supply contract is awarded to Supplier A and B at an estimated contract value of £68k and £ 3,600k.**
- 3.1.4 **The Gas Supply contract is awarded to Supplier C at an estimated contract value of £1,692k. However, some supplies remain with Supplier D at £278k. These supplies have not migrated over to the new supplier due to outstanding account debts.**
- 3.1.5 **Note the indicative aggregate cost impact for Hackney, including Housing and Schools, from these tender awards is a 13% decrease against last financial year's projection, the actual impact will be monitored via OFP.**

4. RELATED DECISIONS

- 4.1 Cabinet Procurement Committee approved the Business Case report in its meeting of the 15th March 2016. The report recommended the appointment of the Crown Commercial Service as the energy purchasing agent for the Council and also for the Group Director of Finance and Corporate Resources to engage the service provider for future years' purchases

5. REASONS FOR DECISION/OPTIONS APPRAISAL.

- 5.1.1 This report provides Cabinet Procurement Committee with the results of the “risk managed flexible purchasing” exercise carried out on behalf of the Council by Crown Commercial Service (CCS) between Oct 2019 and March 2020 for all gas and large electricity supplies (Half Hourly including public street lighting) to secure a twelve month contract.
- 5.1.2 The report also provides the outcome of the purchase carried out by CCS who were also appointed to purchase the Council’s small electricity supplies (NHH supplies) based on the delegated authority provided by Cabinet Procurement Committee to the Group Director of Finance and Corporate Resources in March 2016.
- 5.1.3 The current contract prices for all supplies include those large (HH) Half Hourly electricity supplies including Unmetered (UMS) public street lighting, all gas and small (NHH) Non-Half Hourly electricity supplies for the year commencing 1st April 2020 to 31st March 2021 were presented to the Council during April and May 2020.
- 5.1.4 This year’s contracted prices (pence per unit) for the NHH electricity supplies are estimated at 12% less than last year’s prices. The prices include 3rd party costs, commodity rates, renewable levies as well as transmission and distribution costs. At the very end of 2019, COVID-19 has had a dramatic effect on markets around the world and the prices have reacted to this change.
- 5.1.5 An increasing proportion of the delivered electricity cost relates to non-energy costs that support providing reliable, secure, low carbon energy to the UK as part of the Government’s Electricity Market Reform. Transmission and Distribution costs are pass-through costs charges set by National Grid and Distribution Network Operators. These charges are site specific and typically represent over 60% of the overall delivered cost.
- 5.1.6 Contracted gas prices (pence per unit) are estimated at 30% less than last year’s prices. An increasing proportion of the delivered gas cost relates to non-energy costs that support providing reliable, secure, low carbon energy to the UK, the proportion in this contract is estimated at 28%
- 5.1.7 Large electricity supply prices have increased by an average 6% less for the Half Hourly (HH) and Unmetered (UMS) supplies . As with the NHH supplies, this is due Non Electricity Costs which the government levies on supplied to help incentivise the low-carbon economy, as well as the cost of delivering the electricity.
- 5.1.8 For this year’s supplies, the electricity contract was procured with 100% of its volume from renewable sources at £0.05/p/kWh (Supplier A) and £0.11p/kWh (Supplier B)
- 5.1.9 The contracts for all supplies is for a twelve month period commencing from April 2020 to March 2021.
- 5.1.10 The Council will explore the adoption of PPAs for the 2021/22 Electricity Procurement exercise. If Electricity is procured via PPAs, the Council will continue with CCS to procure energy for the gas contracts.

5.2 ALTERNATIVE OPTIONS (CONSIDERED AND REJECTED)

5.2.1 Previous Business Case reports and in particular the one considered and approved by Cabinet Procurement Committee in March 2016 detailed the options available to the Council for procuring its energy supplies contracts. The risk managed flexible purchasing of energy in advance of contract start date was and is still preferred to other types of purchasing arrangements.

6. PROJECT PROGRESS

6.1 Developments since the Business Case approval.

NONE

6.2 Whole Life Costing/Budgets:

6.2.1 The Council's requirement for gas and electricity has existed for many years and annual budgets are established and maintained. There is central provision to cover unexpected additional costs because of price volatility.

6.2.2 The Council's preferred strategy for managing inflationary cost pressures is that these are managed, wherever possible, from within existing cash limits and thus the budget for energy is not given an annual inflation uplift. However, in recognition of the potential volatility in the energy markets, and due to the fact that in the short term at least, demand is broadly uncontrollable, the Council sets aside a reserve to meet unforeseen changes in price, demand or any potential market volatility.

6.3 Savings

6.3.1 As part of the Council's Accommodation Strategy there is potential for reduced demand for energy as fewer buildings remain in the Civic Estate. This will be reviewed year on year and recurring savings may be able to be taken in future years.

7. SUSTAINABILITY ISSUES

7.1 Equality Impact Assessment and Equality Issues:

7.1.1 There are no specific equalities issues in these procurements but a failure to procure would have profoundly adverse effect on services.

7.2 Environmental Issues:

7.2.1 For this year's supplies, the electricity contract was procured with 100% from renewable sources.

7.2.2 The Authority has made a commitment to "achieving net zero carbon across the full range of council functions by 2040". This will require the complete decarbonisation of the electricity supply grid by this date. Many suppliers in the market offer "renewable" electricity tariffs, also known as REGOs, choosing to buy these does not necessarily result in additional renewable generation and carbon savings beyond those incentivised by the regulatory mechanisms. The only clear

ways to achieve this is to develop local generation (e.g. solar photovoltaics) and procure electricity through Solar PPA.

7.2.3 We have explored the potential for a Power Purchase Agreement (PPA). PPAs will provide greater transparency and certainty regarding the provenance of the Council's - and other bodies that procure energy jointly with the Council, such as local schools - electricity. The next step appraising the options of acquiring a large scale solar asset or signing a Corporate PPA. Under both options, the Authority will need to sign long term contracts of at least 10 years and the implications of this will need to be ascertained. The Authority will need to consider the commitment of resources to cover costs such as contracts, specialist advice etc; to support the development of this project. As the supply would still be via the grid, there would need to be an additional contract with a licensed supplier to manage and charge for all the grid services (i.e. transportation/distribution etc.).

7.2.6 The Council is actively looking to ensure that energy use in its building is efficient as possible and also make the most effective use of under-utilised buildings with a view to rationalise its corporate estate. The activities will not only deliver financial savings but will achieve CO₂ reduction. The Council successfully installed Solar PV systems at administrative buildings with potential savings of over 1,000 tonnes of CO₂ savings over the lifetime of these installations. The estimated yield on the 2020/21 renewable generation across the corporate sites is 137,000kWh. The Council is currently in the process of installing solar panels in two Leisure Centres under a PPA arrangement with the GLL

7.2.7 In addition the Council has also supported the development of community led projects to increase the production of renewable energy at a local level. One example is the 120kWp Solar PV project at Banister House which is estimated to generate 900MWh of electricity over its 20 year lifetime.

7.2.8 The Council has committed to implementing ISO 50001 Energy Management Standard, this will help the Council to identify efficiency savings measures that can be implemented through energy projects and energy efficient practices. As part of the initiatives under the Hackney Energy Company, we are investigating the installation of solar panels in the suitable Council properties as part of the fulfilment of the Mayor's Manifesto to install solar panels in Council owned properties.

7.2.8 For gas supply there are no 'renewable gas' contracts (although there are very small quantities of 'biogas' injected into the public supply network). As gas is consumed across the council estate for heating, the only route to '100% clean energy' target is to convert to zero carbon heating systems. This would need to be achieved through a longer term Decarbonisation strategy and program. This has been recognised as part of the development of the Energy Strategy.

7.3 Economic Issues: None

8. TENDER EVALUATION

8.1 Evaluation:

8.1.1 The purchasing of the Council's requirements was carried out over a six-month period using an existing framework agreement that was put in place by Crown

Commercial Service (CCS). The framework was competitively tendered and fully compliant with EU procurement regulations.

8.1.2 This report provides the outcome of purchases carried out by the suppliers appointed by CCS and contracts prices for all supplies (Non-Half hourly smaller electricity supplies, Half Hourly large electricity supplies, unmetered electricity supplies and all gas supplies) for the period from 1st April 2020 to 31st March 2021 of the contracted year. The contract prices were purchased between the six month period, 1st October 2019 to 31st March 2020, prior to the contract start date.

9. CONTRACT MANAGEMENT ARRANGEMENTS

9.1 Resources and Project Management (Roles and Responsibilities):

9.1.1 Contract management is undertaken by the Energy Management Unit. Each supplier provides a single contract manager to liaise with the Council.

9.1.2 All operational matters including supply and invoicing issues are dealt with directly between the EMU officers and the energy suppliers, while the CCS handles all strategic matters on behalf of the members of the Consortium. There is also a direct link between the Council and the CCS based on the contract awarded to the organisation to purchase energy on behalf of the Council. Issues that cannot be resolved at operational level are escalated to the CCS.

9.1.3 The Council is also a member of the London Energy Project which takes up concerns of common interest to its members with the CCS and suppliers

9.2 Key Performance Indicators: The EMU approve BACs and Direct Debit batches of invoices for payment and direct recharges to cost centres. Consumption data is collected in the EMU's monitoring database. This data is used to monitor budgets across the organisation and to assemble consumption data to be used for the purchase of carbon allowances under the Carbon Reduction Commitment scheme.

Category	KPI	Monitoring
Failed Registrations	Failed Registrations including Notice of Objections and Rejections to be notified to the Customer within two (2) Working Days of receipt.	LBH to hold record of nominations with proposal dates. Supplier to provide all details of objections and rejections to time scale. Record to be maintained by LBH
	Weekly report of any failed Registrations to be sent to the Authority on the first (1st) Working Day of each week.	Supplier to provide emailed spreadsheet. Record to be maintained by LBH

New Sites – Pricing	Interim prices to be provided to the relevant Customer and the Authority within three (3) Working Days for a single Site and within seven (7) Working Days for group Sites.	Supplier to provide emailed spreadsheet. LBH to hold record of nominations with proposal dates. Supplier to provide prices to timetable
Customer Contracts	Electricity Products Customer Contracts to be populated with individual Customer details and Metering Point Information, and issued to Existing Customers prior to the First Supply Start Date. Electricity Products Customer Contracts to be populated with individual Customer details and Metering Point Information, and issued to New Customers prior to the Earliest Supply Start Date for such New Customer.	Supplier to provide emailed spreadsheet. Compliance monitored by LBH.
Customer Queries	Responses to Customer Queries by telephone or letter to be given within two (2) Working Days. If it cannot be resolved within two (2) Working Days, a “holding” response giving the reason why resolution is not possible and a date when full resolution is expected must be provided.	Log of queries raised, held by LBH. Compliance monitored by LBH. Supplier to provide emailed response.
Customer Complaints	Customer Complaints to be given priority treatment and acknowledged by the Supplier to the Customer within one (1) Working Day of receipt. An estimated timescale for resolution must accompany the acknowledgment	Log of complaints held by LBH. Compliance monitored by LBH.
	Customer Complaints to be logged and reported to the Authority within one (1) Working Day of receipt.	Log of complaints raised, held by LBH. Compliance monitored by LBH.
	The Supplier to send a progress report to the Authority and the Customer each Working Day the complaint remains open/unresolved. Where resolution of the Complaint is not achieved within the estimated	Log of complaints raised, held by LBH. Compliance monitored by LBH.

	timescale, or the estimated timescale is not acceptable to the Authority or the Customer, escalation procedures shall be invoked.	
Quotations – Site Works and Installation Services	Quotations to be provided to the Authority within six (6) weeks of receipt of Order.	Log of quotations requested, held by LBH Compliance monitored by LBH.
Completion of work – Site Works and Installation Services	Completion of the work to be within the timeframe stated in the Supplier's quotation and acceptance letter. On completion the new Site is to be priced in accordance with the standard terms of the Electricity Products Customer Contract and arrangements for pricing.	Log of site works held by LBH Compliance monitored by LBH.

10 COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND RESOURCES

- 10.1 This report provides notification of the procurement of gas and electricity for the Half Hourly and Unmetered Electricity Supply contract, the Non-Half Hourly Electricity Supply and Gas Supply contract from suppliers A, B and C respectively for the 2020/21 financial year.
- 10.2 As mentioned in the recommendations, the aggregate indicative decrease on the bottom line is 13%, which for the non schools elements of Hackney's portfolio is as follows:

	General Fund £	HRA £	Total £
Elec 19/20 outturn	2,711,931	3,435,390	6,147,321
Gas 19/20 outturn	460,002	1,526,165	1,986,167
Total 19/20 outturn	3,171,933	4,961,555	8,133,488
20/21 Indicative cost with 13% decrease	2,759,582	4,316,553	7,076,135

LB Hackney contracts energy suppliers on behalf of schools, but energy costs are incurred by schools direct. The estimated impact for schools is as follows:

	2019/20 £	2020/21

Schools energy cost	2,359,370	2,052,652
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10.3 The ongoing volatility of the energy markets means it remains difficult to predict year on year changes to prices and particularly given Covid19. Spend will be closely monitored through OFP (excluding schools).

11. COMMENTS OF THE ACTING DIRECTOR OF LEGAL AND GOVERNANCE SERVICES

11.1 On 15th March 2016 Cabinet Procurement Committee approved a Report to appoint the Crown Commercial Services (formerly the Government Procurement Service) to procure energy on behalf of the Council and to retrospectively report on contract award. This Report sets out details of such procurement exercises for the supply of electricity and gas. Procuring supplies on behalf of a contracting authority by a third party is permitted under Regulation 37 of the Public Contracts Regulations 2015.

11.2 Following the procurement of energy supplies by the Crown Commercial Service, the Council will conclude individual supply agreements with each of the three suppliers. Such supply contracts are to be concluded for the period from 1st April 20120 until 31st March 2021.

12. COMMENTS OF THE PROCUREMENT CATEGORY LEAD

12.1 Cabinet Procurement Committee is recommended to note the outcome of the energy purchasing activity carried out, on behalf of the Council, by Crown Commercial Service (CCS) for the Council's energy contracts to cover the next 12 months from 1st April 2020 to 31st March 2021..

12.2 This year's contracted prices (pence per unit) for the NHH electricity supplies are estimated at 12% less than last year's prices. Increases in energy prices are due to a number of reasons. The increase in this cost is quoted by the suppliers as due to factors including an increase to 3rd party costs, commodity rates, renewable levies as well as transmission and distribution costs. COVID-19 has had a dramatic effect on markets around the world and the prices have reacted to this change.

APPENDICES

EXEMPT

Appendix 1: Summary of Contract Values by Suppliers

By Virtue of Paragraph(s) **(3)** Part 1 of schedule 12A of the Local Government Act 1972 this report and/or appendix is exempt because it contains

Information relating to the financial or business affairs of any particular person (including the authority holding the information) and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information

BACKGROUND PAPERS

Exempt appendix 1

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