



C A B I N E T P R O C U R E M E N T A N D I N S O U R C I N G C O M M I T T E E

Monday, 11 April 2022 at 5.00 pm,
Hackney Town Hall, Mare
Street, London E8 1EA

The live stream can be viewed here:

<https://youtu.be/BTPGYxwnbAY>

Back-up: <https://youtu.be/BBT85xDwqa4>

Members of the Committee:

Councillor Robert Chapman, Cabinet Member for Finance (Chair)
Councillor Anntoinette Bramble, Deputy Mayor and Cabinet Member for
Education, Young People and Children's Social Care
Councillor Christopher Kennedy, Cabinet Member for Health, Adult Social
Care and Leisure
Councillor Caroline Woodley, Cabinet Member for Families, Early Years and
Play

Mark Carroll
Chief Executive
Friday 1 April 2022
www.hackney.gov.uk

Contact:
Andy Spragg
Team Leader – Governance
governance@hackney.gov.uk

Cabinet Procurement and Insourcing Committee

Monday 11 April 2022

Agenda

1 Apologies for Absence

2 Urgent Business

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 11 below. New items of exempt urgent business will be dealt with at item 15 below.

3 Declarations of Interest - Members to declare as appropriate

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:

- (i) must disclose the interest at the start of the meeting or when the interest becomes apparent, and
- (ii) may not participate in any discussion or vote on the matter and must withdraw from the meeting room.

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.

Disclosable pecuniary interests, personal interests and prejudicial interests are defined at Paragraphs 8.1-15.2 of Section 2 of Part 5 of the Constitution and Appendix A of the Members' Code of Conduct.

4 Notice of Intention to Conduct Business in Private, Any Representation Received and the Response to Any Such Representations

On occasions part of the Cabinet Procurement and Insourcing 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. 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.

This agenda contains exempt items as set out at items 13 and 14.

No representations with regard to these have been received.

5 Deputations/Petitions/Questions

6 Unrestricted Minutes of the Previous Meeting of Cabinet Procurement and Insourcing Committee Held on 7 March 2022 (Pages 9 - 12)

To confirm the unrestricted minutes of the meeting of Cabinet Procurement and Insourcing Committee held on 7 March 2022.

- 7 Procurement for General Building Dedicated for ASMs; and Contract Variation Request on the Existing Contract Sum for P2014 General Building Works Contract 2 NH S054 (Pages 13 - 30)**
- 8 Lift Replacement and Maintenance Procurement Business Case NH S076 (Pages 31 - 38)**
- 9 Electrical Fire Safety: Large Blocks and Street Properties Contact Award and Update on Property and Asset Management Procurement Contract Approval NH S072 (Pages 39 - 52)**
- 10 Update on the Selection of a Contractor for the Construction of Mixed Tenure Homes at Kings Crescent Estate - Phases 3&4 CE S077 (Pages 53 - 80)**
- 11 Any Other Unrestricted Business the Chair Considers to Be Urgent**
- 12 Exclusion of the Public and Press**

Note from the Director of Legal, Democratic and Electoral Services.

Items 13 and 14 allow for the consideration of exempt information in relation to items 9 and 10 respectively.

Proposed resolution:

THAT the press and public be excluded from the proceedings of the Cabinet Procurement Committee during consideration of exempt items 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.

- 13 Electrical Fire Safety: Large Blocks and Street Properties Contact Award and Update on Property and Asset Management Procurement Contract Approval NH S072 (Pages 81 - 100)**
- 14 Update on the Selection of a Contractor for the Construction of Mixed Tenure Homes at Kings Crescent Estate - Phases 3&4 CE S077 (Pages 101 - 132)**
- 15 Any Other Exempt Business the Chair Considers to Be Urgent**

Public Attendance

The Town Hall is not presently open to the general public, and there is limited capacity within the meeting rooms. However, the High Court has ruled that where meetings are required to be 'open to the public' or 'held in public' then members of the public are entitled to have access by way of physical attendance at the meeting. The Council will need to ensure that access by the public is in line with any Covid-19 restrictions that may be in force from time to time and also in line with public health advice.

Those members of the public who wish to observe a meeting are still encouraged to make use of the live-stream facility in the first instance. You can find the link on the agenda front sheet.

Members of the public who would ordinarily attend a meeting to ask a question, make a deputation or present a petition will be able to attend if they wish. They may also let the relevant committee support officer know that they would like the Chair of the meeting to ask the question, make the deputation or present the petition on their behalf (in line with current Constitutional arrangements).

In the case of the Planning Sub-Committee, those wishing to make representations at the meeting should attend in person where possible.

Regardless of why a member of the public wishes to attend a meeting, they will need to advise the relevant committee support officer of their intention in advance of the meeting date. You can find contact details for the committee support officer on the agenda front page. This is to support track and trace. The committee support officer will be able to confirm whether the proposed attendance can be accommodated with the room capacities that exist to ensure that the meeting is covid-secure.

As there will be a maximum capacity in each meeting room, priority will be given to those who are attending to participate in a meeting rather than observe.

Members of the public who are attending a meeting for a specific purpose, rather than general observation, are encouraged to leave the meeting at the end of the item for which they are present. This is particularly important in the case of the Planning Sub-Committee, as it may have a number of items on the agenda involving public representation.

Before attending the meeting

The public, staff and councillors are asked to review the information below as this is important in minimising the risk for everyone.

If you are experiencing covid symptoms, you should follow government guidance. Under no circumstances should you attend a meeting if you are experiencing covid symptoms.

Anyone experiencing symptoms of Coronavirus is eligible to book a swab test to find out if they have the virus. You can register for a test after checking your symptoms through the NHS website. If you do not have access to the internet, or have difficulty with the digital portals, you are able to call the 119 service to book a test.

If you're an essential worker and you are experiencing Coronavirus symptoms, you can apply for priority testing through GOV.UK by following the guidance for essential workers. You can also get tested through this route if you have symptoms of coronavirus and live with an essential worker.

Availability of home testing in the case of people with symptoms is limited, so please use testing centres where you can.

Even if you are not experiencing covid symptoms, you are requested to take an asymptomatic test (lateral flow test) in the 24 hours before attending the meeting.

You can do so by visiting any lateral flow test centre; details of the rapid testing sites in Hackney can be found here. Alternatively, you can obtain home testing kits from pharmacies or order them here.

You must not attend a lateral flow test site if you have Coronavirus symptoms; rather you must book a test appointment at your nearest walk-through or drive-through centre.

Lateral flow tests take around 30 minutes to deliver a result, so please factor the time it will take to administer the test and then wait for the result when deciding when to take the test.

If your lateral flow test returns a positive result then you must follow Government guidance; self-isolate and make arrangements for a PCR test. Under no circumstances should you attend the meeting.

Attending the Town Hall for meetings

To make our buildings Covid-safe, it is very important that you observe the rules and guidance on social distancing, one-way systems, hand washing, and the wearing of masks (unless you are exempt from doing so). You must follow all the signage and measures that have been put in place. They are there to keep you and others safe.

To minimise risk, we ask that Councillors arrive fifteen minutes before the meeting starts and leave the meeting room immediately after the meeting has concluded. The public will be invited into the room five minutes before the meeting starts.

Members of the public will be permitted to enter the building via the front entrance of the Town Hall no earlier than ten minutes before the meeting is scheduled to start. They will be required to sign in and have their temperature checked as they enter the building. Security will direct them to the Chamber or Committee Room as appropriate.

Seats will be allocated, and people must remain in the seat that has been allocated to them.

Refreshments will not be provided, so it is recommended that you bring a bottle of water with you.

RIGHTS OF PRESS AND PUBLIC TO REPORT ON MEETINGS

Where a 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, may designate a set area from which all recording must take place at a meeting.

The Council will endeavour to provide reasonable space and seating to view, hear and record the meeting. If those intending to record a meeting require any other reasonable facilities, notice should be given to the Monitoring Officer in advance of the meeting and will only be provided if practicable to do so.

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 meeting.

Disruptive behaviour may include: moving from any designated recording area; causing excessive noise; intrusive lighting; interrupting the meeting; or filming members of the public who have asked not to be filmed.

All those visually recording a meeting are requested to only focus on recording councillors, officers and the public who are directly involved in the conduct of the meeting. The Chair of the meeting will ask any members of the public present if they have objections to being visually recorded. 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 and all recording equipment must be removed from the meeting. 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.

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:

- Director of Legal, Democratic and Electoral Services
- 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.

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.

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 meeting when the item in which you have an interest is being discussed. You cannot stay in the meeting 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 meeting 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.

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.

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 meeting, 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 meeting unless you have obtained a dispensation from the Monitoring Officer or Standards Committee. You cannot stay in the meeting 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 meeting. Once you have finished making your representation, you must leave the meeting 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 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 non pecuniary interest.

Further Information

Advice can be obtained from Dawn Carter-McDonald, Director of Legal, Democratic and Electoral Services via email dawn.carter-mcdonald@hackney.gov.uk



MINUTES OF A MEETING OF THE CABINET PROCUREMENT AND INSOURCING COMMITTEE

MONDAY 7 MARCH 2022

Chair	Cllr Robert Chapman in the Chair
Councillors Present:	Cllr Christopher Kennedy and Cllr Caroline Woodley
Apologies:	Deputy Mayor Anntoinette Bramble
Officers in Attendance	<u>In person</u> Rotimi Ajilore, Head of Procurement Andrew Spragg, Governance Services Team Leader <u>Attending remotely</u> Max Anderson, Project Manager, Regeneration & Capital Programme Delivery Dawn Cafferty, Procurement Category Lead - Social Care and Corporate Services Merle Ferguson, Procurement Strategy and Systems Lead Jane Havemann, Interim Head of Estate Regeneration Mario Kahraman, Senior ICT Support Analyst Jade Mercieca, Strategic Procurement Manager (Interim) Patrick Rodger, Senior Lawyer Chris Trowell, Interim Director, Regeneration Michael Wiktorko, Service Area Manager, Parking Services

The meeting was live-streamed here: <https://www.youtube.com/watch?v=rpbQHlw5tul>

1 Apologies for Absence

Apologies were received from Deputy Mayor Bramble.

2 Urgent Business

There were no items of urgent business.

3 Declarations of Interest - Members to declare as appropriate

There were no declarations of interest.

4 Notice of Intention to Conduct Business in Private, Any Representation Received and the Response to Any Such Representations

No representations had been received.

5 Deputations/Petitions/Questions

There were none received.

6 Unrestricted Minutes of the Previous Meeting of Cabinet Procurement and Insourcing Committee Held on 14 February 2022

Resolved:

That the unrestricted minutes of the Cabinet Procurement and Insourcing Committee meeting on 14 February 2022 were approved.

7 Any Other Unrestricted Business The Chair Considers Urgent

There was no urgent business to consider.

8 FCR S071 Vehicle Removals and Car Pound Services

8.1 The Service Area Manager, Parking Services introduced the report. Questions were reserved for the exempt part of the meeting and considered under item 12. These were regarding performance monitoring and the longer term plans regarding car pound services in the borough.

Resolved:

to approve the appointment of Supplier A as the supplier for the provision of Removals and Pound Services within the borough of Hackney, for a 5-year contract period commencing on 1 April 2022 with an option to extend for a further maximum period of 5 years (on 3-year and 2-year extension intervals).

Reason for Decision:

The business case approved by Hackney Procurement Board set out a Removal Services Framework, to run for four years from 1 April 2022, consisting of four lots:

Lot 1 - Vehicle Removal Service (Parking)

Lot 2 - Abandoned Vehicles Service

Lot 3 - Untaxed Vehicles Service

Lot 4 - Car Pound Services

However, before the specification was put together and the tender process started, the Council sent out an information leaflet and Expression of Interest questionnaire.

This is intended to give prospective suppliers the opportunity to help Hackney Council set up these important services, and also so that the specification produced is deliverable whilst taking advantage of developments in the marketplace that will benefit the users.

The Council received two responses and these replies pointed to the fact that suppliers could deliver all lots with ease, however provision of car pounds in Hackney, or within a reasonable distance of the borough is an issue as appropriate sites are not readily available.

At the conclusion of this exercise, a decision was taken to merge the initial four (4) lots into one single lot. A briefing note was presented to the Hackney Procurement Board to notify it of this change.

The supplier will carry out all removals within the borough and also provide a pound that will be used until the proposed Hackney car pound site has been established.

The Hackney-owned car pound will then be utilised by the successful supplier, and will increase capability for vehicle removals.

The cost of removal services is entirely funded by Parking Services and is already within the existing budgets. However, removal services allow the Council to generate further income through the issuance of Fixed Penalty Notices (FPN) which will be implemented by the end of 2022 as additional system developments are required.

The supplier's performance will be measured by 10 Key Performance Indicators (KPIs) and the contract managed by a dedicated team within Parking Services. A copy of the KPIs can be found in Appendix 3.

9 CED S069 Contract Award Report for the Selection of a Contractor for the Main Works for Marian Court

9.1 The Project Manager introduced the report. Questions were reserved for the exempt part of the meeting and considered under item 13. These were regarding the supported provided to residents to decant, and the need to award the contract in good time in order to manage project costs.

Resolved:

- To award the contract for the main works package for Marian Court Phase 3 & 4 to Bidder C, for the value set out in Exempt Appendix 3.
- To enter into a JCT Design and Build contract 2016 and any other ancillary legal documentation necessary relating thereto with Bidder C for the main works at Marian Court under such terms as shall be agreed by the Director of Legal and Governance Services, and authorise the Director of Legal and Governance Services to prepare, agree, settle and sign the necessary legal documentation to effect the proposals contained in this report and set out in Exempt Appendix 3.

Reason for Decision

The redevelopment of Marian Court represents an opportunity to deliver increased numbers of residential units in order to maximise the use of the land and to enable the renewal of an existing housing estate which has deteriorated, is costly to run due to energy inefficiencies, and would be prohibitively expensive to bring up to the Decent Homes Standard. It will also re-configure and provide improved amenity space, public realm and new community and commercial space.

10 Date of Future Meetings

It was noted that the next meeting of the Committee would be 11 April 2022.

11 Exclusion of The Public and Press

Resolved:

Monday 7 March 2022

That the press and public be excluded from the proceedings of Cabinet Procurement and Insourcing Committee during consideration of Exempt Items 12 and 13 on the agenda on the grounds that it is likely, in view of the nature of the business to be transacted, that were members of the public to be present, there would be a disclosure of exempt business as defined in paragraph 3 of Part 1 of schedule 12A of the Local Government Act 1972, as amended.

12 FCR S071 Vehicle Removals and Car Pound Services - Exempt Appendices

The discussion and decision are set out in item 8.

13 CED S069 Contract Award Report for the Selection of a Contractor for the Main Works for Marian Court - Exempt appendices

The discussion and decision are set out in item 9.

14 Any Other Exempt Business the Chair Considers Urgent

There was no urgent business to consider.

Duration of the meeting: 5.00pm - 5.45 pm

Contact:

Andrew Spragg

Team Leader - Governance

governance@hackney.gov.uk



<p>Procurement For General Building Dedicated For ASMS; and Contract Variation Request on the Existing Contract Sum For P2014 General Building Works Contract 2</p> <p>Key Decision No NH S054 APPROVAL</p>	
<p>CABINET PROCUREMENT AND INSOURCING COMMITTEE MEETING DATE (2022/23) 11 April 2022</p>	<p>CLASSIFICATION: Open</p>
<p>WARD(S) AFFECTED All Wards</p>	
<p>CABINET MEMBER Cllr McKenzie, Cabinet Member for Housing Services</p>	
<p>KEY DECISION Yes</p> <p>REASON Affects two or more wards</p>	
<p>GROUP DIRECTOR Ajman Ali, Group Director of Neighbourhoods and Housing</p>	

1. CABINET MEMBER'S INTRODUCTION

1.1 This report outlines the procurement approach to support the delivery of our Housing repairs service and the inhouse DLO within Building Maintenance. The approach aligns with our ambition to invest in and grow our inhouse DLO team, whilst building in more capacity and competition within the supply chain required to support the service.

1.2 The Council's Building Maintenance service has faced many challenges, remobilising from the Covid-19 pandemic, and we have acknowledged that in some cases repairs have taken longer than expected to be completed. Responding to the challenge, the Council has invested an additional £1M in the repairs service and are in the process of expanding the inhouse DLO team by 26 posts.

1.3 There are other work streams outside of this procurement that have been identified as areas for DLO growth, such as voids and disrepair. These are work streams currently undertaken in part by the DLO, supported by short-term arrangements with contractors. In addition, within this procurement, the intention will be to gradually increase the volume of work undertaken by the DLO, and

reduce the allocation of work to external contractors, subject to performance and demonstrating value for money.

1.4 There will always be a need for supply chain partners to support the delivery of our services. The division of these contracts into lots with two contractors, will give opportunities for smaller local businesses to compete, and encourage local employment opportunities in the borough.

2. GROUP DIRECTOR'S INTRODUCTION

2.1 This report identifies the procurement requirements to maintain and improve the existing service delivery within Building Maintenance and across our Housing repairs service. There have been significant challenges across the sector and industry throughout the Covid-19 pandemic, which has impacted our supply chain and service delivery. This report sets out the approach to strengthen our supply chain capacity, building in contingency by having two contractors in each lot and allocation of work.

2.2 There is a requirement to extend the existing contractor for General Building Works until 31/3/2023, by which time the procurement of the proposed contracts is timetabled to complete. The extension of the existing arrangement is within the parameters of the contract, in terms of both time and value. A variation of 15% additional contract spend is allowable and necessary in this case, as the original contract value would otherwise be exceeded.

2.3 During the challenging times we have had with the pandemic, the delivery of service has been impacted, with the over reliance on one provider being a barrier to performance and supply chain capacity. Moving forward the procurement of four contractors across two lots, will give greater flexibility, capacity and competition within our supply chain. It also provides for contingency, should there be any issues that lead to a termination of any contractors.

2.4 Lot 1 is the contract for works allocated by the Area Surveying Managers (ASMs), covering all internal and external general building works. This is typically minor works that are more extensive than straightforward responsive repairs undertaken by our inhouse DLO. The annual value of the contract is £6M, which would be split between contractors on a 60:40 ratio depending on their tender ranking. The contract duration is four years, with the option to extend twice by two years, totalling eight years.

2.5 Lot 2 is a smaller allocation of work to support the inhouse DLO within Building Maintenance. It covers all types of responsive repairs and will provide additional capacity to the DLO to manage peak demands in service. Again two contractors will be appointed with a 60:40 share of an annual allocation of £665k. It is anticipated that the smaller lot and allocation of work will appeal to small local businesses, supporting the local economy. The duration of the contract is two years, with an option to extend by a further year.

2.6 These contracts will support the DLO and delivery of service across Building Maintenance. As we continue to invest in and grow our inhouse DLO, we also need to maintain a healthy supply chain to support the delivery of services to our residents.

3. RECOMMENDATION(S)

The Cabinet Procurement and Insourcing Committee approves:

3.1 To vary the General Building Works for Area Surveying Managers (ASMs) Contract dated 01/10/2015 in favour of the existing Contractor until 31/03/2023 for an increased value of £7,098,000.00 excluding vat (£8,517,600 including VAT) to allow for the reprocurement of the service. This variation represents 15% of variation of the current contract value of £47M (excluding VAT) to support unplanned and unexpected works including both COVID and emergency works.

3.2 To procure four contractors to support the Building Maintenance service:

3.2.1 Lot 1, General Building Works for Area Surveying Managers (ASMs) for a period of 4 years with an option to extend up to a further 4 years for estimated contract value of £48M (excluding Vat):

i) Contract 1: The first ranked contractor will be allocated 60% of the work on a value basis.

ii) Contract 2: The second ranked contractor will be allocated 40% of the work on a value basis.

3.2.2 Lot 2: DLO Support Contractors for a period of 2 years with an option to extend up to a further 1 year for estimated contract value of £2m excluding vat :

i) Contract 1: The first ranked contractor will be allocated 60% of the work on a value basis.

ii) Contract 2: The second ranked contractor will be allocated 40% of the work on a value basis

4. RELATED DECISIONS

N/A

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

5.1 Reasons For Variation

5.1.1 The existing contract for ASM was not expected to reach the levels of expenditure before the end of the contract term and this was unforeseen due to the increase in demand. It has therefore been decided to bring the procurement of the new service forward to limit the size of contract variation and to allow competition.

5.1.2 Some of the reasons for the increased expenditure was for fire safety works which have become more pressing since the introduction of recommendations after Grenfell as well as supporting repairs to housing services during COVID.

5.1.3 According to our finance team report (Payment Cert Logs-2021-2022), the existing contractor has spent £40,265,513 by 7th December 2021, and Hackney's remaining value would be £7,054,487. Considering work in progress, £1,738,143.16 Hackney's remaining value is £5,316,344.04.

5.1.4 Therefore, due to market fluctuations, the massive demand in Hackney and the lack of supply in the other areas of the Council such as PAM, FRA, Regeneration, VOIDS, and electrical a 15% increase in the total contract value, would meet the Council's needs and therefore a variation of £7,098,000.00 is required.

5.1.5 The historic performance of the existing contractor prior to the cyberattack has been satisfactory in terms of quality of work and service delivery. The Building Maintenance team has been working with the ICT services to develop a robust process to quantify and evaluate the contractor performance information by using our in-house Business Intelligence capabilities and to publish performance dashboards.

5.2 Reasons For Lot 1 And Lot 2

5.2.1 The reasons for splitting the new contracts into two lots with 2 contracts each are:

5.2.1.1 For Lot 1: The existing expenditure against the contract is close to the awarded value of the contract

5.2.1.2 The DLO is planning to expand over over the years and these contracts will support the insourcing of services

5.2.1.3 The pre-tender estimate of these packages is above the UK threshold for works and a Find a Tender procurement is considered likely to result in a competitive market price.

5.2.1.4 This option delivers measurable benefits in that access to an external repairs resource directly contracted to the ASM and the DLO will enable:

i) DLO to have a friendly and positive competition against the General Building Works Contractors - Lot 1

ii) Undertake larger works, including those where minor elements were outside of its skills base.

iii) Manage fluctuations in workload while keeping the in house workforce fully employed at all times, including better managing the adoption of new work streams and the expansion of the in house team.

iv) Have direct access to external repair resources and better contribute to the housing emergency plan in accessing an additional repairs capacity in the event of a critical failure of current arrangements.

v) Deliver equal or better value for money than issuing these works to the P2014 contractors.

5.2.2 Bidders returns from both lots will be benchmarked against existing other contracts and the inhouse service to ensure value for money.

5.2.3 Both lots work shall be on a 60:40 value basis, split between the two appointed contractors for each Lot as determined by their tender ranking. That allocation shall continue unless either one of the two awarded contractors were terminated on performance grounds or in the event of one of the contractors giving Notice of Termination, thus enabling London Borough of Hackney to have a contingency plan in place.

5.3 Lot 1

5.3.1 The Hackney Commercial and Contracts Management Team evaluated the current contract situation and developed a strategy to optimise the management of the existing Contract.

5.3.2 Procuring this contract to hire two contractors rather than one will give Hackney a contingency plan in case one fails in the delivery, and also this will provide an opportunity for local and small-scale suppliers. This contract will be for 4 years with an option to extend for a further 4 years in periods of 2 years.

5.3.3 This will allow the DLO to take over works, if it proves value for money in a phased approach. Therefore, the contract will contain some amendments to the terms and conditions to allow for this to happen.

5.3.4 We have a General building contract in place, hired in Sep 2017, which was originally contracted to attend ASMs demands. This General building contract will finish in March 2023.. Because this exercise demonstrated great performance and value for money when compared to previous contractors we decided to procure the General building contract to attend ASMs demand.

5.3.5 Two contractors will provide contingency in the event that one contractor doesn't perform well. The allocation of general building work shall be on a 60:40 value basis, split between the two appointed contractors as determined by their tender ranking. That allocation shall continue unless either one of the two awarded contracts were terminated on performance grounds or in the event of one of the contractors giving Notice of Termination.

5.3.6 By taking on additional works in part resourced by external contractors the ASMs / DLO can better manage fluctuations in workload while keeping the Directly Employed Workforce fully employed at all times.

5.3.7 Additionally, this arrangement gives the ASMs / DLO direct access to external repair resources as part of a wider contingency to contribute to the housing emergency plan in accessing an additional repairs capacity in the event of a critical failure of current arrangements.

5.4 Lot 2

5.4.1 The Commercial and Contracts Management Team, within the in house service, evaluated resources and identified a need to procure two new contractors which can deliver the DLO's volume of specialist repair work it undertakes in those areas it can show equal or better value for money. Procuring this contract to hire two contractors rather than one will give Hackney a contingency plan in case one fails in the delivery, and also this will provide a substantial opportunity for local and small-scale suppliers.

5.4.2 This contract will have flexibility to allow the DLO to take over more services over time to ensure value for money VFM. Therefore, with some amendments to the terms and conditions this new enhanced contract will benefit both the service area and residents.

5.4.3 The existing DLO Support Contract has expired so there is an urgent need to get this in place.

5.4.4 The allocation of general building work shall be on a 60:40 value basis, split between the two appointed contractors as determined by their tender ranking. That allocation shall continue unless either one of the two awarded contracts were terminated on performance grounds or in the event of one of the contractors giving Notice of Termination.

5.4.5 By taking on additional works in part resourced by external support contractors the DLO can better manage fluctuations in workload while keeping the Directly Employed Workforce fully employed at all times.

5.4.6 Additionally, this arrangement gives the DLO direct access to external repair resources as part of a wider contingency to contribute to the housing emergency plan in accessing an additional repair capacity in the event of a critical failure of current arrangements.

5.4.7 LBH's focus and priority is on Security, Health and Safety, Organisational Competence & Capacity, the positive impacts around the society, Environment, employment & Training and completed projects and this will be tested as part of the procurement process.

5.5 Intended Procurement Arrangement

5.5.1 The pre-tender estimate of these packages is above the UK threshold for works and an open procurement is considered likely to result in a competitive market price. In the Longer term, the DLO intends to develop the capacity to undertake more of these works in house.

5.6 Division Of Work

5.6.1 For both Lot 1 and 2, the works will be divided on a 60:40 basis, between the two contractors based on their tender ranking. The contractors who succeeded in first place in Lot 1 and 2 will have 60% of the value of work. The second contractors in Lot 1 and 2 will have the remaining 40% stake of work.

5.6.2 This should

- Provide a wider contractors base to resource additional repairs capacity if needed to support the housing emergency plan
- Give a live backup should quality become an issue with either contractors
- Make the works more accessible to small, medium sized enterprise (SME) contractors.

5.6.3 The bidders will be able to bid for both lots but will only be awarded one contract to ensure that there is sufficient cover within the London Borough of Hackney.

5.7 Sustainability

5.7.1 The proposed arrangement should make these packages more accessible to smaller SME contractors. The contract conditions require all contractors to pay employees working on this contract the London Living Wage.

5.7.2 The appointed contractor will be expected to be accredited with ISO9001 and 14001 or an equivalent standard. The bidders will be required to demonstrate their commitment to carbon reduction.

5.7.3 The contractor must follow LBH's priority and consider the aspects related to Security, Health & Safety, Organisational Competence & Capacity, Impacts around the society, Environment, Employment & Training during and on the completion of the project / repair works.

5.8 Benefits Realisation / Lessons Learned

5.8.1 The former procurement exercises did not require contractors to have ISO certification (or an equivalent standard) as it only requested that they adhere to the regulations after the contract commences to avoid shortage competition however not all works were delivered to a consistent standard.

5.8.2 Within the new tender documents there will be enhanced environmental standards to require contractors to demonstrate carbon reduction wherever possible including vehicles, equipment, and supply chain. In addition, bidders will

be encouraged to state within their tenders their plans regarding the reduction of carbon emissions to support Hackney Council's commitment to Carbon reduction.

5.8.3 The pre-tender estimate for the lots is above the UK threshold for works and a Find a Tender procurement is considered likely to result in a competitive market price. It will also be advertised on Find a Tender Contract Finder and London Tenders Portal.

5.8.4 Strategic Context:

5.8.4.1 These contracts will support the inhouse service as it will enable the ASMs and DLO to provide a more effective repairs service. It will provide a larger repair resource to Neighbourhoods and Housing and expand the ASMs and DLO's versatility and the scope of repair activities undertaken including complex work items.

5.8.4.2 The supporting contractor arrangement will facilitate a managed growth plan progressively enabling the expansion of the in-house DLO team, providing additional employment opportunities for our locally recruited apprentices and meeting the council's strategic intention to in-source where practical.

5.8.4.3 The arrangements will deliver equal or better value for money than issuing these works to the other contractor. Benchmarking of the pilot arrangement indicates there should be an overall cost saving to the HRA compared to the existing P2014 supply chains.

5.8.5 Preferred Option:

- To procure via advertisement in Find a Tender 4 contractors across two Lots for General Building.

- Lot 1 General Building will be under the management control of the Area Surveying; and Lot 2 DLO support contractors will be under the management control of the DLO.

- Examples of the types of works include but are not limited to: roofing, frame, felt and tilling, carpentry, hot asphalt, damp work, replacement windows, glazing, general building, bathrooms and kitchens and other trade activities associated with repair installation and maintenance.

- This type of procurement is considered likely to result in a competitive market price.

- This option delivers measurable benefits in that access to an external repairs resource directly contracted to the ASMs and DLO will enable to

- i) Undertake larger works, including those where minor elements were outside of its skills base.

ii) Manage fluctuations in workload while keeping the in house workforce fully employed at all times, including better managing the adoption of new work streams and the expansion of the in house team.

iii) Have direct access to external repair resources and better contribute to the housing emergency plan in accessing an additional repairs capacity in the event of a critical failure of current arrangements.

iv) Deliver equal or better value for money than issuing these works to the P2014 contractor.

6. ALTERNATIVE OPTIONS (CONSIDERED AND REJECTED)

6.1 Option 2

6.1.1 Continue with the current arrangement of using a specialist contractor engaged through other contract mechanisms.

6.1.2 This would delay repairs due to the complexity of the arrangements and would result in the Council's client team having to coordinate the management of multiple contractors, increasing administration time and costs.

6.1.3 In addition there have been service issues with these type of arrangements and It will not resolve the quality of the repair service currently being experienced by this arrangement.

6.2 Option 3

6.2.1 Decline those works requiring contractors support. This does not support the long term strategy of bringing more work in house. This would limit the scope of work packages the DLO might otherwise undertake for the council and reduce the utility of the DLO as a resource. It would reduce the DLO's influence as a price moderator to external contractors. It would reduce the DLO's ability to maintain full employment of its operatives while resourcing an expanding / fluctuating workload, it would make balancing a changing workload to the recruitment process much more complex.

6.3 Insourcing:

6.3.1 These contracts will be supporting the in-house service to deliver effective housing repairs. This is in line with the insourcing strategy. The contractors will be used as competitors in Lot 1 and a backup plan for DLO, Lot 2 to supply any fluctuations in workload, especially while absorbing new work areas during the lifetime of the contract and in line with the growth plan. It is expected that some services will move in-house at the end of the contract.

6.3.2 This procurement will enable us to appoint 4 contractors against the two Lots to ensure that there is sufficient capacity and capability whilst the in house service

continues to grow. Failure to have the contracts in place would result in poor services for residents.

6.4 Success Criteria/Key Drivers/Indicators:

6.4.1 The following are the key success criteria:

- Works will be measured against other contracts to test performance to ensure that our residents obtain a good quality of service.
- A quick turnaround on reactive repair response times measured by current work order priorities.
- The ability of the DLO to undertake larger works including those where minor elements were outside of its skills base
- Reduced overall client administration where the DLO will now be enabled to take on the access and repair of all aspects for a particular job
- A flexible resource available to the DLO to facilitate fluctuations in workload, especially while absorbing new work areas
- Expansion of the capacity of the DLO to resource additional repairs capacity if needed to support the housing emergency plan
- The below table shows the evaluation criteria and weightings for both Lots and all contracts:

Question/Criteria	Weight
Price	60%
Security, Health & Safety:	16%
Organisational Competence & Capacity:	13%
Social Value and other positive impacts around the society: Environment, employment and Training	7%
Completed Projects	4%
TOTAL	100%

- There will be some pass/fail questions as well as minimum pass mark to ensure that the contractors meet the minimum standards of the Council and what is required by our residents.

6.5 Whole Life Costing/Budgets:

6.5.1 The whole life cost evaluation will be conducted by a separate evaluation team from the Quality evaluation team, based on the % bid offered in each supplier's tender and the Tenderer who offers the lowest cost to an acceptable tender will receive the full weighting (60%).

6.5.2 Works will be funded from existing client housing repair budgets.

6.5.3 The contractor returns will be benchmarked against existing DLO and existing contractor rates to ensure value for money.

6.5.4 The approximate anticipated value of work to be carried out under each individual contract is as follows excluding vat:

Lot 1	Per year	Whole contract life/ranked (excl VAT)	Whole contract life/ranked (incl VAT)
Contract 1: 1st ranked	£3,600,000.00	£28,800,000.00	£34,560,000.00
Contract 2: 2nd ranked	£2,400,000.00	£19,200,000.00	£23,040,000.00
	Total	£48,000,000.00	£57,600,000.00
Lot 2	Per year	Whole contract life/ranked (excl VAT)	Whole contract life/ranked (incl VAT)
Contract 1: 1st ranked	£399,000.00	£1,197,000.00	£1,436,400.00
Contract 2: 2nd ranked	£266,000.00	£798,000.00	£957,600.00
	Total	£1,995,000.00	£2,394,000.00

6.5.5 The reason for the above contract strategy is to avoid any disruption to the service in case one of the contractors terminates the contract. This will also be a great opportunity for local specialist contractors to tender and to minimise the risk, by having a contingency plan in place.

6.6 Policy Context:

6.6.1 Hackney Council Corporate Plan includes the improvement in the management and maintenance of homes and estates (on behalf of the 23,000 tenants and 9,000 leaseholders). Efficiency and sustainability being the key elements flagged. The benefits noted for these procurements support that intention.

6.7 Consultation/Stakeholders:

6.7.1 Client officers endorse the DLO contracting supporting trades to provide additional work capacity, provided this is limited to projects substantially undertaken by the DLO. It is seen as a positive step in simplifying and improving the efficiency of the repairs service.

6.7.2 Section 20 applies since we intend to carry out work and provide a service that leaseholders properties and all of the consultation steps will be undertaken in accordance with legislation.

6.8 Risk Assessment/Management:

6.8.1 The following risks have been identified:

Risk	Likelihood	Impact	Overall	Action to avoid or mitigate risk
	L – Low; M – Medium; H - High			
Failure to properly manage Contractors works inspections	L	M	L	Managers have the required level of experience. Inspections will be audited by the Estimating section.
Failure to properly manage contractor payments	L	L	L	Payment systems are in place and have been piloted in phase 1. Payments to be processed through the Estimating section.
The tendered costing more than the current alliance contractor rates	L	L	L	Tendered ratings will be benchmarked against the alliance contractor rates. Award will not progress unless value for money can be demonstrated

6.9 Market Testing (Lessons Learnt/Bench Marking):

6.9.1 There is a very established market for General Building Work Contracts and DLO Support Contracts in greater London. An open advert advertised on Find a Tender and Contracts Finder is planned to ensure effective competition.

6.9.2 Previous contractors involved in the pilot contracts advised that this would be an attractive works package.

6.9.2 Bidders can bid for all lots; however contractors will only be awarded to one of the four contracts to ensure that there is a sufficient number of contractors to deliver the works for the London Borough of Hackney.

6.9.3 Bidders must declare whether they plan to subcontract any parts of the work to avoid potential conflicts of interest for example a surveyor employed by the contractor will not be authorising works on behalf of the Council.

6.9.4 Both the Contractor and the Council will track and monitor the budget, open tickets and other key information. The Contractor will be required to hold records for a period of time as well as regular reports. This will provide an added protection against unforeseen circumstances such as cyber-attack / system failure.

6.10 Savings:

6.10.1 We anticipate both Lot 1 and Lot 2 procurements will be delivered at reduced costs compared to current alliance contractor rates. Tender bids will be benchmarked against Council contracts (added uplift according to BCIS index) to ensure value for money.

7 SUSTAINABILITY ISSUES

7.1 Procuring Green

7.1.1 The works undertaken will maintain and enhance the quality of the council's housing stock and the estate environment.

7.1.2 The quality element will ensure that the contractor will have a valid waste carriers licence. Contract arrangements require all waste to be disposed of at a licensed tip. Contractors should also produce their effective waste management strategy.

7.1.3 This procurement will ensure the appointed contractors commit to the use of local suppliers where possible, as some materials are specialist in nature and will form part of risk assessment and method statement. This will contribute to local economic growth along with local employment opportunities and lower carbon footprint by reducing vehicle journeys whilst offering overall contract efficiencies by achieving quicker repair turnarounds. Other environmental factors like CO2 emission and air pollution in the borough will be considered during each stage of procurement including the use of sustainably sourced materials and energy saving parts.

7.1.4 Hackney Council has a duty to adhere to the Modern Slavery Act (MSA) 2015 and we will ensure a zero-tolerance approach to modern slavery within business operations, supply chain and throughout the lifecycle of this contract. With the impact of Covid-19 in the industry, we are conscious that the construction industry is suffering and the risks of modern slavery within any supply chain are increased. As a result, we will engage with all current and future suppliers to ensure their policy and a process to preventing modern slavery is in line with our expectations and those of the legislation in place. Successful bidders will be required to show their Whistleblowing Policy. Training and staff awareness will be mandated during inductions by providing e-learning training modules which addresses modern slavery, human trafficking and whistleblowing

7.1.5 The quality question elements will require the contractor to comment on how they intend to employ local residents and if they have any electric vehicles in their fleet, if not if they are open to considering such an option.

7.2 Procuring for a Better Society

7.2.1 The contractors will be required to pay London Living wage and be asked to complete a template detailing how they will meet the employment requirements of Hackney.

7.3 Procuring Fair Delivery

7.3.1 By the nature of the service, the delivery will be equitable to residents. The inhouse service will ensure as part of their monitoring that all services are delivered to a good quality standard.

7.4 Equality Impact Assessment and Equality Issues

7.4.1 An alternative arrangement with contractors being engaged directly under the control of the ASM and DLO, rather than using the P2014 (another Council contract) external supply chain contractors would have no discernible impact.

8 PROPOSED PROCUREMENT ARRANGEMENTS

8.1 Procurement Route and UK Implications:

8.1.1 The proposed route is via Find a tender in line with the Public Contract Regulations 2015 as it is open and transparent and sufficient bids are anticipated.

8.2 Resources, Project Management and Key Milestones:

8.2.1 The following timescales are planned for the procurement however it should be noted that the Procurement can not commence until the initial notice period has expired:

Key Milestones	
Section 20 Complete	May 2022
Find a Tender Advert placed	June 2022
SQ Returns	July 2022
Issue Tender	July 2022
Tender returns	August/September 2022
Tender Evaluation ends	September/October 2022
Report considered at CPIC	October/November 2022
Standstill Period	November 2022
Mobilisation period	3 months
Start on site / Contract start	<i>Lot1: Total contract duration 4+2+2 (8 years)</i> <i>Lot2: Total contract duration 2+1 (3 years)</i>

8.2.2 Evaluations are expected to be completed by the following persons:

- Commercial and Contracts Manager

- Health and Safety
- Chief Estimator

8.3 Contract Documents: Anticipated contract type

8.3.1 It is anticipated that the contract will be awarded on a measured term contract JCT 2016 (with Public Sector Supplement) including the London Borough of Hackney Special Conditions.

8.3.2 The Supplemental Provisions address key outcomes such as sustainable development and environmental considerations, cost savings and value improvements as well as performance monitoring.

8.3.3 Liabilities of the contractor will be covered by the required insurances as below:

- Public/Products Liability £10m
- Employers Liability £10m
- Professional indemnity £5m

8.4 Sub-division of contracts into Lots

8.4.1 The proposed contract strategy has split the works into two lots with two sub-lots (contracts) to provide both a better service but to allow a mix of contractors to apply.

8.5 Contract Management:

8.5.1 The Contracts Managers will be:

- **Lot 1:** The two contracts will be managed by Paul Norey, Area Surveying and Communal Works Manager of General Building.

- **Lot2:** The two contracts will be managed by Lindsey Matthews, Repairs Customer Service Manager .

8.5.2 Day to day management of contractors will be managed by the ASM for Lot 1 and DLO building maintenance repair supervisors for Lot 2. These supervisors have extensive experience in managing repair works and contractors.

8.5.3 Contracts will be issued within a JCT measured term contract 2016 (including the Public Sector supplement).

8.5.4 Given orders will be issued across multiple work programs involving more than one manager, to maintain clear accountability the methodology for raising jobs to the contractors, calculating payment and management of the inspections will be generated through Repairs Hub (the DLO own repair services system) and e5 finance system.

8.5.5 In addition, the estimating / technical support section will carry out ad hoc spot checks as further control periodically. It is also expected that the client would carry out their own spot checks.

8.6 Key Performance Indicators:

The following KPIs apply to this contract:

- 95% post inspection pass rate
- 95% on quality. Quality will be averaged from customer satisfaction card responses and the council sample post inspections
- Minimum of 90% repairs within response times as outlined by the applicable priority periods A35.5 of these preliminaries
- 100% accuracy of applications (see below)

8.7 Accuracy Of Applications / Audit

8.7.1 KPI target percentage of 100% accuracy will be monitored by the periodic audit by the Client. The contractor is required to comply with the audit of completed works on the following basis:

- a) 10% periodic audit by the Client. If that audit reveals more than 12% discrepancies in favour of the Contractor then a 50% audit may be undertaken by the Client, the reasonable costs of which will be recharged to the Contractor.
- b) If the 50% audit reveals more than a 15% discrepancy in favour of the Contractor then a full audit of all completed works may be audited by the Client, the reasonable costs of which will be recharged to the Contractor.
- c) If that audit reveals a discrepancy of more than 18% in favour of the Contractor then the contractual termination mechanisms may be triggered.

8.8 Failure To Meet Targets / Persistent Failure

8.8.1 Work volume may be reduced if targets are not achieved. Should performance not improve after 4 weeks, work may be awarded to an alternative contractor. KPIs and Performance Standards achieved against targets during the term of this contract will be used as a factor in determining whether the Client extends the contract at any contract term breaks.

9 COMMENTS OF THE GROUP DIRECTOR FINANCE AND CORPORATE RESOURCES

9.1 The contracts are part of the delivery of the repairs service for the housing stock and therefore required and budgeted for in the HRA business plan. The volume and

value of works completed under the contract will be based on the schedules of rates and the demand for the repairs, but it is essential to maintain the properties in a good condition with the capacity to deliver the repairs promptly

10 COMMENTS OF THE DIRECTOR, LEGAL, DEMOCRATIC & ELECTORAL SERVICES

10.1 Paragraph 2.7.6 of Contract Standing Orders states that all procurements with a risk assessment of “High Risk” will be overseen by Cabinet Procurement Committee (now Cabinet Procurement and Insourcing Committee) and therefore this Business Case Report is being presented to Cabinet Procurement and Insourcing Committee for approval.

10.2 The current contract for General Building Works for Area Surveying Managers is still operating within the period of its maximum term. However the current spend on the contract over its term to date has been in excess of what was originally predicted at contract award stage. The reasons for this are set out at paragraph 5 of this Report. Therefore In order to ensure continuity of the works, whilst the new works contracts are procured under this Business Case Report, it is proposed to extend the value of the current contract for General Building Works for Area Surveying Managers. It should be noted that there is, therefore, some risk to the Council that a challenge to the award of the contract variation could come from competitors the Council has not approached to undertake the works. If such a challenge were successful it is likely that the Council would be liable to pay the lost profits of a party who has successfully challenged as well as the costs of bringing such a challenge and potentially a fine from the government for a breach of the Regulations. This should be considered in the decision to approve the award in this Report.

11 COMMENTS OF THE PROCUREMENT CATEGORY LEAD

11.1 It is planned to advertise on Find a Tender in compliance with the Public Contract Regulations for all Lots.

11.2 Other procurement routes such as Frameworks were considered however as the works are subject to Section 20 this route was deemed to best as it allows leaseholders to notify contractors of the opportunity and is fully transparent.

11.3 There is a requirement to vary one of the existing contracts due to the value of expenditure and the time needed for mobilisation. This is critical for service delivery and will allow the consultation process to take place. There is also a potential health and safety risk as some of the works to be carried out by the existing contractor are statutory.

APPENDICES

None

EXEMPT

None

BACKGROUND PAPERS

None

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Lift Replacement and Maintenance Procurement Business Case Key Decision No. NH S076	
CABINET PROCUREMENT AND INSOURCING COMMITTEE MEETING DATE 11 April 2022	CLASSIFICATION: Open If exempt, the reason will be listed in the main body of this report.
WARD(S) AFFECTED All Wards	
CABINET MEMBER Cllr McKenzie, Cabinet Member for Housing Services	
KEY DECISION Yes	
REASON Affects two or more Wards and involves significant expenditure	
GROUP DIRECTOR Ajman Ali - Group Director for Climate, Homes and Economy	

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 In 2019 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 recommends a decision to award new contracts to mitigate that risk. 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 has faced an unprecedented challenge from the Covid-19 outbreak; while frontline staff have worked to support residents directly affected by the pandemic, others have been working to ensure that we continue to fulfil

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 This report summarises the reasons for procuring contracts for lift replacement and maintenance to Hackney's housing stock. The contracts will be for an initial term of five years with the option to extend up to a further five years.
- 2.3 The proposal is for there to be two geographical areas, namely; north and south with one contractor covering each of these areas for the maintenance work with the lift replacement works being competitively priced by each of the 2 appointed contractors.

3. RECOMMENDATION(S)

That Cabinet Procurement and Insourcing Committee approves:

The procurement of two (2) contracts to undertake servicing and maintenance as well as lift refurbishments to Hackney's housing stock for a period of five (5) years with an option to extend for a further five (5) years.

4. RELATED DECISIONS

- 4.1 March 2019: Approval of the Housing Asset Management Strategy 2019-2027, by Cabinet on 25 March 2019. 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#A132478>
- 4.2 June 2019: Approval of the Business Case for Construction Contracts for Planned Capital Works to Hackney Council Housing, by Cabinet 11 June 2019. This provides the approach to be adopted to reprocur the planned capital works projects.
- 4.3 February 2021: Approval of Business Case and award of contract for interim lift servicing contracts.

5. REASONS FOR DECISION/OPTIONS APPRAISAL

- 5.1 The proposed lift replacement and maintenance contracts are required to ensure that Hackney Council meets its statutory requirements as a landlord and ensures the safety of its residents. In addition, it will ensure that lifts are out of service for the minimum time possible. The contracts will enable Hackney to achieve its objective to undertake capital investment within its significant lift portfolio thus minimising breakdowns and ensuring longevity of the lifts. As a

result of the significant statutory and reputational impact of not having a suitable lift contract in place the procurement of a lift contract can be considered of high risk to the Council.

- 5.2 The proposed approach has two geographical areas, namely; north and south. The rationale behind the split is that it enables greater resilience for the Council and also opens up the market to a wider number of tenders and in particular SMEs. The contract will be drafted to enable one contractor to take some of the work outside their allocated geographical area if the other contractor is not performing. Lift refurbishment packages will be competitively bid between the 2 appointed contractors.
- 5.3 Careful consideration has been given to the appropriate length of the contract. In reaching the conclusion thought was given to ensuring that Hackney could build a beneficial long term relationship with the successful bidders and the opportunity to ensure value for money as well as contain future procurement costs. As a result, the contracts are for an initial term of 5 years with an option to extend up to a further 5 years.
- 5.4 The risk log for the lift procurement is set out below;

<u>Risk</u>	<u>Impact</u>	<u>Mitigation</u>
Delays in Procurement	Risk that residents will experience an inadequate service.	Ensure that procurement is progressed in a timely manner and closely monitored.
Poor Specification	Increased costs.	Work closely with the appointed lift consultant to ensure appropriate specification.
Non-recovery of costs from leaseholders	Impact on HRA budget.	Ensure that sec.20 notices are accurately served.
Lack of interest from the Market.	High tender prices.	Ensure appropriate tender packages. Work with the appointed lift consultant to ensure appropriate split of work and tender documentation.

6. ALTERNATIVE OPTIONS (CONSIDERED AND REJECTED)

- 6.1 Option 1 - Procuring Repair Works and refurbishment Works separately (rejected)
- 6.2 The option would involve procuring the repairs works under a long term contract and procuring the refurbishment works through a framework. This approach was discounted as having different contractors undertake the lift refurbishments and then passing them over to a repairs contractor is likely to cause problems with the lines of responsibility and makes the repairs contract less attractive for bidders..
- 6.3 Option 2- Procuring 2 contractors (selected)
- 6.4 This option involves procuring the repairs and refurbishment works as a combined contract thus ensuring clear lines of responsibility. It also ensures that the contract is attractive to potential bidders thus ensuring that Hackney receives competitive bids. Having 2 contractors provides great resilience for Hackney and its residents and should there be poor performance from one of the contractors.
- 6.5 Option 3 - Procuring a single contractor (rejected)
- 6.6 This option involves procuring the repairs and refurbishment works as a combined contract thus ensuring clear lines of responsibility. It also ensures that the contract is attractive to potential bidders thus ensuring that Hackney receives competitive bids. Having a single contractor will reduce some of the Hackney management time but it will reduce Hackney's resilience to poor performance.

7. PROJECT PROGRESS

7.1 Developments since the Business Case approval. NONE

- 7.2 **Whole Life Costing/Budgets:** Funding is available for the work that would be undertaken through these contracts.

8. SAVINGS

- 8.1 The new contracts will ensure that Hackney is achieving the current market rates for the proposed works.

9. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

- 9.1 The maintenance of the lift is essential to the functioning of the housing blocks and their safe and convenient access. The cost of the service is included in the Asset Management Strategy and the HRA Business Plan and therefore budget provision has been allocated for the service.

10. COMMENTS OF THE DIRECTOR, LEGAL, DEMOCRATIC & ELECTORAL SERVICES

10.1 Paragraph 2.7.6 of Contract Standing Orders states that all procurements with a risk assessment of “High Risk” will be overseen by Cabinet Procurement Committee (now Cabinet Procurement and Insourcing Committee) and therefore this Business Case Report is being presented to Cabinet Procurement and Insourcing Committee for approval.

10.2 The contracts in this report comprise both works and services and are of a value higher than the current thresholds for works or services under Regulation 5 of the Public Contracts Regulations 2015. Therefore it will be necessary to publish a high value notice in respect of the procurement of these works/services. It is proposed to use the Restricted Procedure under Regulation 28 of the Public Contracts Regulations 2015 to make an award of contract.

11. COMMENTS OF THE PROCUREMENT CATEGORY LEAD

11.1 A number of procurement routes were considered due to the complexity of the service:

11.1.1 Framework: Although there are several frameworks in the market they do not allow leaseholders to nominate a contractor and as this will be a long term qualifying agreement this option was discounted.

11.1.2 Open Tender: This option would be compliant with the Public Contracts regulations and it would allow leaseholders to notify their nominated contractors of the procurement it was discounted. The reason for not selecting this option is that potentially there would be a lot of bidders and it would be resource intensive for both suppliers and buyers.

11.1.3 Restricted Tender: This option is the preferred route to market as it complies with the Public Contracts Regulations and it will allow leaseholders to notify their nominated contractors of the procurement. This will allow the deselection of contractors with the most suitable being asked to complete a full tender.

11.2 Section 20 applies to this contract and has an implication on the timetable.

11.3 The draft procurement timetable is as follows:

Date	Stage
12 th April 2022	Issue Section 20 Notice of Intention
1 st June 2022	Dispatch of the Find a Tender Contract Notice by the Authority. Procurement Documents (SQ and ITT) made available over the internet.
4 th July 2022	Deadline for SQ to be returned by Bidders to the Authority.
2 nd July 2022	Notify SQ Bidders and Debrief unsuccessful Bidders.
ITT STAGE	
1 st August 2022	Issue ITT document to shortlisted Bidders
2 nd Sept 2022	Deadline for return of ITT document
1st November 2022	Completion of the Authority approval and award decision processes.
2 nd November 2022	Issue Section 20 Notice of Proposal
30 th December 2022	Notification by the Authority of the award decision, debriefing unsuccessful Bidders and commencement of the standstill period.
6 th March 2023	End mobilisation / start on site

APPENDICES

None

EXEMPT

N/A

BACKGROUND PAPERS

In accordance with The Local Authorities (Executive Arrangements) (Meetings and Access to Information) England Regulations 2012 publication of Background Papers used in the preparation of reports is required

Description of document (or None)

None.

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Electrical Fire Safety: Large Blocks and Street Properties Contact Award and Update on Property and Asset Management Procurement Contract Approval	
Key Decision No. NH S072	
CABINET PROCUREMENT AND INSOURCING COMMITTEE MEETING DATE (2021/22) 11 April 2022	CLASSIFICATION: Choose out of the following 3 options:- Open with exempt appendices A, B & C If exempt, the reason will be listed in the main body of this report.
WARD(S) AFFECTED All Wards	
CABINET MEMBER Cllr McKenzie - Cabinet Member for Housing Services	
KEY DECISION Yes REASON Affects two or more wards and involves significant expenditure	
GROUP DIRECTOR Ajman Ali, Group Director for Neighbourhoods and 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 In 2019 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 recommends a decision to award new contracts to mitigate that risk. 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 has faced an unprecedented challenge from the Covid-19 outbreak; while frontline staff have worked to support residents directly affected

by the pandemic, others have been working to ensure that we continue to fulfil 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 This report summarises the reasons for awarding a contract for electrical fire safety works to large blocks and Street properties. The contracts will be for an initial term of five years with the option to extend up to a further five years.

3. RECOMMENDATION(S)

That Cabinet Procurement and Insourcing Committee approves the award of the following contracts:

Electrical Fire Safety:

- **Lot 1 - Large Blocks: Contractor 1 in Appendix A (Exempt) for a term of 5 years with an option to extend the contract for upto a further 5 years**
- **Lot 2 - Street Properties: Contractor 1 in Appendix A (Exempt) for a term of 5 years with an option to extend the contract for upto a further 5 years**

To note the update on the procurement of the framework for internal and external works.

4. RELATED DECISIONS

- 4.1 March 2019: Approval of the Housing Asset Management Strategy 2019-2027, by Cabinet on 25 March 2019. 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#A132478>

- 4.2 June 2019: Approval of the Business Case for Construction Contracts for Planned Capital Works to Hackney Council Housing, by Cabinet 11 June 2019. This provides the approach to be adopted to reprocure the planned capital works projects.

5. REASONS FOR DECISION/OPTIONS APPRAISAL

- 5.1 The proposed Electrical Fire Safety contracts are required to ensure that Hackney Council meets its statutory requirements as a landlord and ensures the safety of its residents. The contract will be able to ensure that all properties that require fire protection systems such as fire alarm systems, communal and

emergency lighting and automatic opening vents can either have these installed or upgraded. The contract will also enable the necessary servicing and testing as well as repairs to be undertaken.

- 5.2 The proposed approach to have two lots of work defined by building typology, namely; large blocks for lot 1 and street properties for lot 2. The rationale behind the split is that it enables similar type works to be packaged together to ensure that it best suits the market and thus ensures competitive submissions from tenderers.
- 5.3 Careful consideration has been given to the appropriate length of the contract. In reaching the conclusion thought was given to ensuring that Hackney could build a beneficial long term relationship with the successful bidders and the opportunity to ensure value for money as well as contain future procurement costs. As a result, the contracts are for an initial term of 5 years with an option to extend up to a further 5 years.

6. ALTERNATIVE OPTIONS (CONSIDERED AND REJECTED)

6.1 Option 1 - Procuring Works as part of Main Planned and Cyclical Works (rejected)

The option of procuring the necessary works through the main planned and cyclical framework was considered but this was discounted on the basis that it was important to engage directly with appropriate electrical contractors rather than undertaking the work through a main contractor with the need for Hackney to meet additional overheads and profits in respect of the main contractor.

6.2 Option 2- Procuring Works directly with Electrical Contractors (accepted)

This option involves going directly to the electrical contractors that have the necessary competence and experience to undertake the required works. This ensures that there is a reduced line of communication between Hackney's officers and the contractors staff as well as a more efficient contract. This option is the recommended approach.

7. PROJECT PROGRESS

- 7.1 The contracts are in 2 lots, namely; Lot 1 - Electrical Fire Safety - Large Blocks and Lot 2 - Electrical Fire Safety - Street Properties.
- 7.2 Lot 1 works include the provision of communal fire alarm systems , automatic opening ventilation(AOV) systems, installation of communal and emergency lighting , routine servicing and testing of such installations and related repairs. This is a five-year contract of up to £10m in total with the option to extend to 10 years.
- 7.3 Lot 2 works include the installation and repair works necessary to ensure that the council's sub-divided street properties have adequate provision of integrated fire alarms, emergency and communal lights and landlord's communal electrical supplies . The contract will also include routine servicing

and testing as well as repairs. This is also a five-year contract of £2-8m in total with the option to extend to 10 years.

7.4 Estimated maximum total value of both Lots, excluding VAT: £18,000,000

7.5 **Developments since the Business Case approval. NONE**

7.6 **Whole Life Costing/Budgets:** Funding is available for the work that would be undertaken through these contracts. The estimated value of the contract across the initial 5 year term is £18 million.

8. SAVINGS

8.1 The new contracts will ensure that Hackney is achieving the current market rates for the proposed works. There are no cashable savings arising from this contract but there may be cost avoidance savings resulting from planned preventative maintenance programmes leading to a reduction in reactive repairs.

9. RISK LOG

<u>Risk</u>	<u>Impact</u>	<u>Mitigation</u>
Poor Contractor Performance	Impact on residents and inability for Hackney to meet its statutory requirements	Careful due diligence during procurement and good contract administration once contractors are appointed.
Non-recovery of costs from leaseholders	Impact on HRA budget	Leasehold team ensuring that all necessary leasehold legislation is complied with.
Delays in mobilisation of contract	Impact on residents and inability for Hackney to meet its statutory requirements	Resources in place to ensure effective contract mobilisation.

10. SUSTAINABILITY ISSUES

Procuring Green

10.1 The bidders were asked to demonstrate during the ITT evaluation how they would support Hackney's commitment to achieving Net Zero Carbon 2040 and provide examples of how they had delivered this objective through their

previous clients. The winning responses form part of their contractual obligation to the Council. Responses had to include, at a minimum; Carbon reduction targets; the use of their Fleet for the delivery of this contract, Zero to landfill, Waste to energy recycling, Sustainable design and Construction.

10.2 KPIs will be monitored on a monthly basis and will form part of the monthly operational meeting agenda.

10.3 The provider's annual performance against these KPIs will also be used to grant potential extensions of the contract term as detailed in the KPI handbook in Part 1 item 2

10.4 Procuring for a Better Society

10.5 With such a similar scope of works this project would normally have been tendered as one project but, with a view to encouraging SMEs, the Board and officers decided to split the contract into two smaller parts. Namely: Large Blocks and Street properties.

10.6 Bidders were required as part of the tender process to pay the London Living wage .

10.7 An e-auction was conducted in respect of social value and the results are set out for the two winning bidders in Exempt Appendices B & C attached. KPI monitoring would be as above.

10.8 Procuring Fair Delivery

10.9 The bidders were asked to demonstrate during the ITT evaluation how they would support Hackney's diverse communities and backgrounds and ensure how their delivery of this contract will give consideration to the needs of Hackney's various community groups, vulnerable residents and people whose first language is not English, as well as their engagement and communication processes.

10.10 Equality Impact Assessment and Equality Issues:

10.11 The tender documents required the tenderers to set out their commitments with regards to this contract with particular reference to working with diverse communities.

10.12 The tenders were also required to confirm how they would induct and monitor their supply chain (where applicable) and demonstrate their commitment to adhere to the criteria set out under the Prompt Payment code.

10.13 The contract documents will include details on their commitment to resident engagement and customer care as well as their approach and method used to ensure their contract delivery will be tailored to Hackney's expectations through workshops designed to build solid working relationships with the client in partnership and where relevant, encourage the participation and input from resident representatives.

10.14 Note: There will be very little resident participation in this contract as its sole focus is on fire safety compliance as recommended by the Fire Risk Assessment (FRA) reports. Any likely participation would be centred around LED emergency lighting. For example where sensor lighting should be installed or not be installed due to religious reasons and maybe fitting type.

11. ALTERNATIVE OPTIONS (CONSIDERED AND REJECTED)

11.1 In-sourcing

11.2 The option of in-sourcing the design and works related to kitchen and bathrooms, fire safety systems to street properties and some planned communal electrical supply works was considered. However, this work would require a significant increase in the volume of capital works undertaken by the DLO, and it is unlikely that they would be able to scale up to deliver this work successfully in the short term. This is due to the additional specialisms and qualifications of operatives that are required for different work areas.

11.3 New areas of work will require time to ensure appropriately trained staff can be put in place, and to ensure that they can be offered on a cost-effective basis. Therefore the option to increase in-sourced capital workstreams at present was rejected, though it remains a longer term objective.

11.4 Framework or Term Contract.

11.5 Consideration was given to using framework contracts, term contracts or a mixture of both. Framework contracts allow the appointment of several contractors. However, they can only be let for four years. Term Contracts have the advantage of being up to 10 years long, but a single contractor is appointed. In areas where the volume of work was insufficient to have several contractors, term contracts were proposed.

11.6 One Off Procurements.

11.7 The use of one off procurement exercises for all projects was rejected as the significant amount of work in carrying out public procurement exercises meant that this would not offer value for money. It would lead to a wide variety of contractors making contract management more complex. One-off procurement exercises will therefore only be used for unusual items of specialist work which fall outside of the longer term contractual arrangements.

11.8 Design and Build or Traditional.

11.9 Another important characteristic considered was where design responsibilities lie. In Design and Build contracts, the contractor has the responsibility for design, whereas in traditional contracts they do not and usually the client appoints an architect or surveyor to carry out this function. This is highly skilled work, which requires a lot of staff resources, and includes applying for statutory consents (planning and building control), designing construction details, and often producing these quickly while works are on site. It requires accepting responsibility for design defects and any delays in producing details while on site, thus increasing the level of risk to the Council. However, it has the advantage of allowing a high degree of control over the works. Under design and build it is possible for the client to determine the scope of works, the specification and to sign off on the quality. The preferred option is to use design and build contracts.

12. TENDER EVALUATION

12.1 Evaluation:

12.2 In accordance with the strategy as set out in Section 3.1(i) of the Capital Works Procurement Strategy (NHP78), of 11th June 2019, a Find a Tender Notice, No. 2021/S 000-023375 was published on 20 September 2021. Pro-Contract Reference - DN569379. The notice set out that the Authority would be following the Restricted process as described by the Public Contracts Regulations 2015.

12.3 There were 48 companies who expressed a general interest in bidding for these two contracts. 29 of those companies did not respond or complete the Selection Questionnaire (SQ) but, on 21st October 2021, 19 Companies did complete and submit an (SQ). The names of the companies who applied are contained in an exempt Appendix A which is attached.

12.4 Quality comparison stage:

12.5 11 of the original 19 applicants, having passed the minimum standards qualification stage, were then scored for quality by an evaluation panel of 4 Authority officers. The officers held the following positions:

- Contracts Manager (Electrical Services) - Asset Management
- Electrical Services Manager - Asset Management
- Health & Safety & Risk Manager
- Senior Health & Safety Advisor

12.6 Quality Scores at SQ stage were as follows:

Lot 1 - SQ Ranked Quality Scores		
1	Applicant 1	68.70
2	Applicant 2	67.10
3	Applicant 3	66.50
4	Applicant 4	65.20
5	Applicant 5	60.20
6	Applicant 6	59.80
7	Applicant 7	57.10
8	Applicant 8	55.90
9	Applicant 9	48.20
10	Applicant 10	23.20

Lot 2 - SQ Ranked Quality Scores		
1	Applicant 1	68.20
2	Applicant 2	67.60
3	Applicant 3	65.30
4	Applicant 4	62.90
5	Applicant 5	62.60
6	Applicant 6	60.20
7	Applicant 7	57.50
8	Applicant 8	52.40
9	Applicant 9	46.90
10	Applicant 10	22.00

12.7 6 applicants from each Lot were taken through to tender (ITT) stage.

12.8 Tender Stage (ITT)

12.9 Evaluation Criteria had been set as: 60% Price and 40% Quality

12.10 6 bids were received for each of the Lots.

12.11 ITT Quality (40%)

12.12 After basic compliance tests had been carried out by procurement officers, the 12 quality submissions were evaluated by the following 7 Authority officers:

- Contracts Manager (Electrical Services) - Asset Management
- Electrical Services Manager - Asset Management
- Clerk of Works - Asset Management
- Energy and Sustainability Officer - Asset Management
- Client Liaison Manager - Asset Management
- Health & Safety & Risk Manager
- Senior Health & Safety Advisor

12.13 ITT Price (60%)

12.14 The pricing submissions were evaluated by a separate team from the quality evaluation team. Price was evaluated after the quality had been evaluated and moderated so that the team who evaluated the quality submission could not be aware of the prices submitted. Submitted prices were evaluated and checked by:

- Senior Procurement Category Manager - Construction
- Quantity Surveyor - Asset Management

12.15 Final scores for each of the two Lots are set out in Appendix A

12.16 **Recommendation:** Following a comprehensive and robust evaluation resulting in the scoring set out above it is recommended that Lot 1 and Lot 2 are awarded to the preferred bidders identified in Appendix A.

13. CONTRACT MANAGEMENT ARRANGEMENTS

13.1 Resources and Project Management (Roles and Responsibilities):

13.2 The Resources and Project Management (Roles and Responsibilities): Both Lot 1 and 2 of the Fire Safety Contracts will be managed by Anthony Childs, Electrical Service Manager along with the Electrical Clerk of Works (COW) officer Steve Busby. Denise Hill is the overall project manager for Term Alliance agreement and it the point of escalation should a matter arise that is unable to be resolved at the monthly operational meetings. Such matters are escalated in the Core Meeting

13.3 Officers are aware of the need to closely manage and monitor both contracts to ensure continuing compliance to the relevant regulatory standards and legislation in line with the FRA recommendations.

13.4 Robust specifications and SOR will be used to minimise client variation and also by using the technical skills, knowledge and expertise of the officers managing these works to ensure a good standard of contract management is applied at all times.

13.5 Performance is monitored through a set of KPIs with set targets. This review will take place at the monthly operational meeting and the results collected in accordance with the Contract's KPI handbook. An annual review of the KPI results will also take place at the Core meeting which will be used to decide whether an extension term, in the form of an extra year, will be granted to the appointed Provider.

13.6 Key Performance Indicators:

13.7 The KPIs are as follows:

Main KPI Targets Set
1. Customer Satisfaction – overall
2. Major Works - Client Handover Pass Rate
3. Time – Major Works completed in time
4. Recalls to Major Works Defects during the Defects Liability Period
5. Safety - Client H&S Inspections
6. Predictability Cost - Project Section
7. Time – Periodic Servicing and Inspection Programme
8. Early Warning Notices Resolution
9. Safety – Provider’s accident record
10. Social Value
11. ITT Commitment 1
12. ITT Commitment 2
13. ITT Commitment 3

14. UPDATE ON PROPERTY AND ASSET MANAGEMENT FRAMEWORK FOR INTERNAL AND EXTERNAL WORKS

14.1 In 2019 it was planned to have separate agreements for internal and external works. Extensive market consultation has identified that there would be both cost efficiencies and less disruption to residents if the works were combined for internal and external works.

14.2 It is therefore planned to procure a framework agreement with two lots for a combined internal and external works split into small and larger works. There will be a panel of suppliers for each of the two lots.

14.3 This would encourage SMEs to bid, would avoid unnecessary subcontracting and would allow value for money to be obtained by allowing the right size company to deliver the works.

15. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

15.1 The contracts for the planned preventative maintenance programme investments provided for in the Asset management Strategy and the HRA Business Plan and therefore there is budget provision for these contracts. The quantity and value of the works will be managed within the overall budget envelope of the Housing Capital programme and will be reviewed annually.

15.2 The selected contractors both scored an acceptable mid-range quality score, and both were the best priced tenders. This demonstrates Value for Money in the contract award.

16. COMMENTS OF THE DIRECTOR, LEGAL, DEMOCRATIC & ELECTORAL SERVICES

16.1 On 11th June 2019 Cabinet Procurement Committee agreed the High Risk Business Case in respect of Construction Contracts for Planned Capital Works to Hackney Council Housing. The contracts in this Report were part of such Business Case and therefore this Contract Award Report is being presented to Cabinet Procurement and Insourcing Committee for approval.

16.2 Details of the procurement process undertaken by the Council are set out in this report.

17. COMMENTS OF THE PROCUREMENT CATEGORY LEAD

17.1 This procurement was above the thresholds set out in the Public Contract Regulations 2015 and as therefore advertised in Find a Tender and restricted procedure was followed.

17.2 An update has been made in respect of the internal and external works agreements and the new strategy will allow less disruption for residents. It is planned to go out to tender for these works in the Summer of 2022.

APPENDICES

Appendix A - Detailed scoring of Bidders (Exempt)

Appendix B - Lot 1 e-Auction Results (Exempt)

Appendix C - Lot 2 e-Auction Results (Exempt)

EXEMPT

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.

CONFIDENTIAL

The appendices are confidential as they contain commercially sensitive information.

BACKGROUND PAPERS

None

Update on Property and Asset Management Procurement

In order to enhance the understanding of the market, Hackney held a bidders day on 25 January 2022. The event was well attended by contractors and has provided valuable insight into the approach that should be taken in procuring the main planned and cyclical framework. Following this event an internal discussion has been decided to procure contracts that can undertake both internal and external works. This has the benefit that residents are likely to be impacted less by a single package of work rather than two separate packages. It should also reduce costs as works can be carried out more efficiently and as a result there should be savings in contractor's preliminaries.

It is now proposed to combine the packages to ensure that appointed contractors are able to undertake both internal and external works thus ensuring that works to the property stock can be dealt in a more holistic approach. The intention is to have a 4 year Framework with 2 lots, namely: a larger value lot (individual orders greater than £350K) and a smaller value lot (less than £350K). Lot 1 would have 3 larger main contractors, whilst Lot 2 would have up to 5 SME contractors.

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<p>UPDATE ON THE SELECTION OF A CONTRACTOR FOR THE CONSTRUCTION OF MIXED TENURE HOMES AT KINGS CRESCENT ESTATE - PHASES 3&4</p> <p>Key Decision No - CE S077</p>	
<p>CABINET PROCUREMENT AND INSOURCING COMMITTEE</p> <p>11 APRIL 2022</p>	<p>CLASSIFICATION:</p> <p>Open with exempt appendices</p> <p>If exempt, the reason will be listed in the main body of this report.</p> <p>By Virtue of Paragraph(s) 3, Part 1 of schedule 12A of the Local Government Act 1972, appendix 1-3 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>Brownswood</p>	
<p>CABINET MEMBER</p> <p>Deputy Mayor Guy Nicholson</p>	
<p>KEY DECISION</p> <p>Yes</p> <p>REASON</p> <p>Spending</p>	
<p>GROUP DIRECTOR</p> <p>Ajman Ali, Group Director, Neighbourhoods and Housing</p>	

1. CABINET MEMBER'S INTRODUCTION

- 1.1. At its meeting in July 2011 the Council's Cabinet agreed the Estate Regeneration Programme (ERP). The Cabinet report outlined the Council's approach to the development of a strategy for the delivery of high quality new build homes and improved living standards across a number of Council owned estates in the Borough. The ERP was updated and approved by Cabinet in March 2014 and again in October 2015. A further update was more recently provided and approved by Cabinet in April
- 1.2. In approving the ERP, the Cabinet agreed to a portfolio approach to housing regeneration to counter the lack of Government grant available to build much needed new Council homes. This approach enables the Council to combine the development value of schemes which have the potential to generate a surplus with those that require a net investment. The value created by the outright sale and shared ownership homes to be delivered at Kings Crescent will help to fund the delivery of new social rented Council homes within the scheme, the refurbishment of existing homes at Kings Crescent, the new community facilities on the estate and make a contribution to genuinely affordable Council housing delivery across the ERP.
- 1.3. Through this self-funded, self-delivery model the Council has already built 115 high quality Council homes for social rent and shared ownership in the first phases of the regeneration at Kings Crescent, alongside major improvements to more than 100 existing homes and communal spaces on the estate, all this achieved by working in close partnership with residents. The recommendations in section 3, if approved, will complete the transformation of the estate and deliver the remaining new homes for Kings Crescent and residents of the estate.
- 1.4. Across all of its new housing developments the Council is committed to maximising the delivery of genuinely affordable Council homes; and I am delighted that, following design revisions and the new homes funding secured from the Mayor of London, the Council can now provide an additional 28 Council homes for social rent, bringing the total number of new Council homes on Kings Crescent to 107 overall, and ensuring the external refurbishment of 275 existing homes on the estate.

2. GROUP DIRECTOR'S INTRODUCTION

- 2.1. The Estate Regeneration Programme is based on the delivery of mixed tenure developments. Based on current market conditions the Programme is forecast to be self-funding, but each individual scheme is subject to robust financial viability testing. This report seeks authority to enter into contract with a preferred contractor to undertake the main works for Kings Crescent Phases 3&4, which will complete the estate regeneration by the provision of 28 homes for social rent, 75 homes for shared ownership and 116 homes for private

sale, along with a community facility, commercial and workspace unit, the external refurbishment of 174 existing homes, and associated public realm and landscaping works.

- 2.2. In line with the provisions of the Contract Standing Orders, the award of contract was presented to the Cabinet Procurement and Insourcing Committee (CPIC) for consideration and approval at its 6 December 2021 meeting. The recommendation was made on the basis of both cost and quality.
- 2.3. Since the approval, a Section 20 leaseholder consultation process has been completed. However, as set out below, as a result of significant and rapid changes in the construction industry, a contract based upon the Best and Final Offer submission dated 30 September 2021 submitted by the selected bidder, could not be entered into by the Council and the bidder.
- 2.4. Following legal advice, the Council re-opened the Invitation to Submit Final Tenders stage of the process, to allow the bidders who submitted a final offer in September 2021 the opportunity to reprice their submission.
- 2.5. Due to the prevailing volatile and inflationary market conditions, it is considered prudent to secure a contract with the selected bidder in the shortest period following completion of the re-opened Invitation to Submit Final Tenders stage and the necessary new Section 20 leaseholder consultation. To that effect, this report seeks approval to delegate authority to award and enter into the contract as set out below at Section 3.1.

3. RECOMMENDATION(S)

Cabinet Procurement and Insourcing Committee is recommended:

- 3.1. **To delegate the approval of the Contract Award for Kings Crescent Phases 3&4 to the Group Director, Climate, Homes and Economy in consultation with the Group Director, Finance and Corporate Resources.**

4. RELATED DECISIONS

- 4.1. At its meeting of 18 July 2011 the Council's Cabinet agreed the Estate Regeneration Programme. The Programme was updated and approved by Cabinet in March 2014 and again in October 2015. A further update was provided and approved by Cabinet in April 2019.
- 4.2. At its meeting on 18 July 2016 the Council's Cabinet agreed the Sales and Marketing Framework, authorising the Director of Regeneration to implement the Sales and Marketing Framework in relation to shared ownership and outright sale disposals for both the Estate Regeneration and Housing Supply Programmes, and authorising the Director of Strategic Property and the

Director of Regeneration to dispose of leasehold and freehold interests in the shared ownership and outright sale homes developed or to be developed as part of those Programmes.

- 4.3. An outline application for the refurbishment of existing buildings and the erection of new buildings ranging from four to 12 storeys equating to a maximum of 765 residential dwellings, retail, café/restaurant, community centre, and a multi-use games area was given Planning Consent on 26 November 2013 (Planning Ref 2013/1128). Phases 1&2 comprised 79 social rent, 36 shared ownership and 158 outright sale new build homes, the external refurbishment of 101 existing homes and 629m² of retail/cafe/restaurant space together with associated landscaping. Phases 3&4 were granted in outline with all matters reserved apart from an estate access road. The outline element provided parameters for a series of new blocks, external refurbishment of 174 existing homes and a further 500 m² retail/cafe/restaurant/leisure space and 240m² of community centre floorspace.
- 4.4. A detailed planning application for Phases 3&4 received full consent in July 2021. The consent enables the Council to increase the amount of housing to be delivered in comparison to the masterplan and set down in the Overarching Estate Regeneration Programme Unilateral Undertaking (UU) which was agreed by the Planning Sub-Committee in April 2014.
- 4.5. The masterplan scheme front-loaded the provision of 79 social rent homes for all phases. The consented mix for Phases 3&4 now consists of 28 homes for social rent, 75 shared ownership and 116 outright sale homes. The consented scheme for 219 homes represents an increase of two homes, and the overall mix of homes has been improved to include 28 additional social rent homes. Overall, there are four fewer shared ownership homes and 22 fewer outright sale homes than the masterplan.
- 4.6. The Council's (then) Cabinet Procurement Committee (CPC) approved the business case for the selection of a contractor for the construction of mixed tenure housing at Kings Crescent Phases 3&4 on 8 July 2019.
- 4.7. At its meeting on 6 December 2021 Cabinet Procurement and Insourcing Committee (CPIC) approved the proposed selection of a bidder to construct the scheme, who had submitted the most economically advantageous tender.

5. OPTIONS APPRAISAL

- 5.1. This report outlines the process for procuring a main contractor using a Competitive Procedure with Negotiation procurement route, and entering into a single stage design and build contract for Kings Crescent Phases 3&4. The Council wishes to continue the phased development of Kings Crescent as an exemplary housing, community and commercial scheme and to procure a

main contractor to deliver the project. The contractor will be appointed to take the project forward from RIBA stage 3+.

- 5.2. The parcel of land to be developed at the Kings Crescent site has been cleared since the last demolition in 2013. The development of the site represents an opportunity to complete the regeneration of Kings Crescent which, apart from the introduction of new-build mixed tenure homes, also provides for refurbishment of existing blocks, improved amenity space, public realm improvements, replacement community space, new commercial space and new office/workspace.
- 5.3. Kings Crescent Phases 3&4 comprises the following:
- 116 outright sale homes
 - 75 shared ownership homes
 - 28 social rent homes
 - 2 Refurbishment works to existing blocks (174 homes)
 - A new community facility
 - 480m² of retail commercial space
 - 500m² of office/workspace
 - Associated public realm and landscape works including improved facilities for play and recreation.
- 5.4. In addition to the works described in 5.1.3 the Council has incorporated a general repairs, maintenance and component renewal to the package of works in line with the provisions of the Housing Asset Management Strategy. This includes external works, works to communal areas and works to specialist mechanical and electrical services as identified by condition surveys, to be undertaken prior to works commencing. The budget for this work, allowed for in the Housing Asset Management Strategy, will be apportioned to this Regeneration scheme. This ensures a joined-up approach to capital investment, reduces overall disruption to residents and should offer better value for money compared to undertaking works separately.
- 5.5. Bidders were required to offer a single contract price for building out the whole of the scheme. A period of negotiation, based upon prescribed criteria defined by Hackney Council, was built into the procurement process. The form of contract to be used will be a JCT Design and Build Contract with Hackney Council amendments.
- 5.6. A construction cost plan was prepared for the Council by its Quantity Surveyor, setting out the estimated costs of construction. Please refer to Exempt Appendix 1.
- 5.7. The estimated costs were based on RIBA Stage 3 (planning application stage) proposals. A pre-tender stage estimate was based on developed designs (Stage 3+) and issued in September 2019. The tendered construction costs are set out in the Tender Report at (exempt) Appendix 1.

- 5.8. The cost of the scheme will be funded from sales receipts of the outright sale properties, the first tranche equity sales of the shared ownership properties, and GLA funding, as well as the future rental income from the social rented and shared ownership properties. In line with the Programme's portfolio approach, the projected scheme surplus will be used to cross-subsidise the Programme.
- 5.9. It is recommended that the Council will act as developer for the outright sale and shared ownership homes, marketing and disposing of them in line with the Council's approved Sales and Marketing Framework.
- 5.10. With 116 outright sale properties currently valued at £68m, this exposes the scheme, Programme and the HRA to an increased financial risk. In addition, the 75 shared ownership homes are currently valued at £43m, with forecast first tranche equity sales of £11m. To spread this sales risk it is intended to phase the release of the outright sale units.
- 5.11. A market review and marketing strategy will be produced for each sales phase, with authority to proceed to market properties delegated to the Group Director of the Chief Executive's Directorate and Group Director of Finance and Corporate Resources.
- 5.12. At current market values only a proportion of the outright sale homes would be eligible for buyers under the Government's Help to Buy Shared Equity scheme. This scheme has been significantly beneficial to sales progress with recent schemes and therefore is a consideration. Furthermore, it is not known at present whether the Government will continue funding Help to Buy after 2023.
- 5.13. Should sales not achieve the forecast values, or in the case of reservations being slower than expected, alternative strategies (as set out in the Risk Section below and which are not included in the current Sales and Marketing Framework) will need to be considered to maintain the viability of the scheme, Programme and HRA, some of which may require Cabinet approval.

6. PROJECT PROGRESS

6.1. Development since CPIC approval

Section 20 Notices to leaseholders for Major Works

6.1.1 Project progress regarding the following items is set out at Section 6 of the report approved at CPIC in December 2021 (Key Decision NH R53):

- Section 20 consultation for major works;
- Council buybacks;

- The procurement process from the issue of Invitation to Participate to the evaluation following Best and Final offer stage;
- Scheme design stages;
- Planning consent and amendments;
- Sales and marketing; and,
- Stakeholder consultation.

GLA grant funding

6.1.2 The intention was to achieve a start on site for the main contract works in March 2022 and to draw down GLA grant funding within the 2021/22 year. However, this has not been possible due to the circumstances outlined in this report. Discussions are underway with the GLA in respect of reprofiling the grant funding to 2022/23 or seeking alternative funding. These discussions will need to be concluded before the contract can be entered into.

Project Risks

6.1.3 The cost of the construction works and the income received from the sale of the shared ownership and outright sale homes are the major elements of the overall project finances, and factors relating to these are therefore the key risks that need to be mitigated and managed throughout the project.

Risk	Likelihood	Impact	Overall	Action to avoid or mitigate risk
	L – Low; M – Medium; H - High			
Financial/Programme: Contractor going into liquidation during construction.	L	H	M	Initial finance checks on all participating bidders have been carried out as part of the tender process. The requirements for a Parent Company Guarantee have been included within the contract particulars.
Financial/Programme: Covid-19 leading to programme delays.	L	M	M	The necessary Covid guidelines have been incorporated in the contractor's set-up and evaluated as part of their quality response.
Financial:	M	M	M	Sales valuations, provided by an

<p>Projected market values are not achieved due to a downward movement in the overall or local market.</p>			<p>independent surveyor and used for the financial appraisal. These have been reviewed and endorsed by the Council's Sales and Marketing team.</p> <p>Value increases are not assumed within the financial appraisal, but due to the anticipated length of the construction programme there is potential for the market to strengthen before outright sales homes are released.</p> <p>The scheme's 116 outright sale properties are valued at £68m, exposing the scheme, programme and HRA to financial risk. In addition, the 75 shared ownership properties are valued at £43m, with a forecast first tranche equity sales value of £11m.</p> <p>To spread the sales risk it is intended to phase the release of the outright sales properties.</p> <p>A market review and market strategy will be produced for each phase, with authority to proceed to market properties delegated to the Group Director,</p>
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				Chief Executive's directorate and Group Director of Finance and Corporate Services.
<p>Financial: Unable to sell all of the outright sale homes and generate the expected sales values.</p>	L	H	M	<p>There is an option to phase the sale of the outright sales homes through the construction phasing. The sales and marketing strategy also has a series of exit strategies to assist in this scenario:</p> <ul style="list-style-type: none"> • Sell some homes to the Council's Housing Company for letting as Hackney Living Rent (HLR) or Market Rent homes. • Convert some of the outright sale homes to shared ownership (subject to demand). • Sell some units to an individual investor or private rented sector operator.

<p>Financial: Unable to sell all of the shared ownership homes and generate the expected or required income for the Council.</p>	L	M	M	<p>Shared ownership could be converted to a rental product including Hackney Living Rent should the property market not be suitable for large scale disposals.</p>
<p>Financial/Reputational: Quality of the scheme does not meet expectations resulting in reputational damage and or increased cost to the Council.</p>	L	H	M	<p>Detailed tender documentation has been provided to bidders to ensure that the proposals are delivered as designed and specified.</p> <p>The preferred bidder has confirmed that it will retain all of the design practices. Their team has produced a high quality design proposal and understands the Council's vision for the project. Their retention will ensure the continuity of project knowledge and helps to ensure the quality of the design is carried through into delivery.</p> <p>During the delivery stage, the Employer's Agent team, including the Site Inspectors and the Clerk of Works will carry out regular site inspections to ensure work is completed in line with the specification documents.</p>

				Stringent Key Performance Indicators (KPIs), monitoring the quality of delivery, have been included within the contract. See 9.2.1.
Programme/Financial: Complexity of site or construction lead to increased cost and project delays	M	M	M	<p>Detailed tender documentation including extensive survey and site investigation information has been provided.</p> <p>A capped price: provisional sums for utility connections and diversions for most elements of the tender have been secured.</p> <p>The recommended bidder has demonstrated a thorough understanding of project risks, complexities and constraints as part of their tender submission, and in particular their risk assessment and programme.</p>
Programme/Financial: Option to tax the blocks containing the commercial space, particularly the B1 workspace, restricts the ability to attract start-ups, risking the lettability of the space.	M	L	L	Model the impact of reducing rents to accommodate the VAT potentially chargeable on the B1 workspace.

Programme/Financial: Increasingly high construction price inflation prohibits the selected bidder from committing to a tendered price during the period between selection and contract signature.	M	H	H	Delegated authority from CPIC will provide for the contract to be entered into promptly and will allow flexibility to select the second tenderer if necessary.
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7. SUSTAINABILITY ISSUES

7.1. Procuring Green

7.1.1 The scheme will provide high quality housing, workspace, retail, and community space, as well as new and improved landscaping and public realm, enhancing the ecological value and biodiversity of the project. The scheme also aligns with the Council's Transport Strategy and TfL's Healthy Streets Indicators, aiming to prioritise walking and cycling, providing safe environments with opportunities for play, shade and shelter, and opportunities to rest in a clean environment

7.1.2 The energy strategy meets the London Plan and Hackney Local Plan policy standards on energy by:

- Reduction in carbon emissions against Building Regulations Part L 2013 by 37.9% for residential, 26.7% for non-domestic (36.5% combined) achieved by:
 - Enhanced U-values of walls, floors, roofs and windows;
 - Improved air tightness through reduced air permeability rates;
 - Reduced need for artificial lighting;
 - Incorporation of low energy light fittings;
 - Incorporation of mechanical heat and ventilation recovery system (MHVRs);
 - Incorporation of advanced lighting and space conditioning controls;
 - Incorporation of heat and electricity consumption devices for individual homes;
 - Minimising internal heat generation through energy efficient design;
 - Reducing the amount of heat entering the buildings during summer through orientation of the glazing, external shading and the provision of internal blinds;
 - Consideration of the carbon dioxide emissions associated with gas-boilers;
 - Supplying energy efficiently by connecting to the estate-wide combined heat and power (CHP) system which will enable potential link-up with district heat network;

- Provision of photovoltaic panels (PVs); and
- Achievement of BREEAM 'Excellent' rating on the community and commercial spaces.

7.1.3 The London Plan and Hackney Planning Policy standards on sustainability are achieved by:

- Effective Resource Management
 - Re-use of vacant and developed land with an effective layout and scale;
 - Efficient design of the massing and internal layouts;
 - Enhanced ecology and biodiversity with associated landscaping;
 - Use of responsibly sourced materials with low embodied carbon and
 - Specification of water efficient fittings, limiting water consumption.
- Adaptation to Climate Change
 - Provision of passive and active design to address overheating and demand for active cooling;
 - Incorporation of Sustainable Urban Drainage Systems measures to address future risks of flooding.
- Pollution Management
 - Adoption of a Site Waste Management Plan to reduce waste and pollution during the construction period;
 - Adoption of suitable noise mitigation strategies including the provision of refuge areas for residents.

7.1.4 The scheme proposals have been designed and coordinated to connect into the existing energy centre completed in Phases 1&2. The CHP system and high efficiency boilers have been designed to take the load from connection to Phases 3&4 when designed and constructed.

7.1.5 The new-build element of the scheme will be car-free with substantial provision for cycle parking, a car club space and electric vehicle charging points.

7.1.6 The scheme will deliver homes which meet current regulatory requirements relating to sustainability, including Building Regulations and the London Mayor's Housing Supplementary Planning Guidance.

7.1.7 During the pre-commencement phase of the building contract, the site will be tested for contamination and remediated appropriately.

7.1.8 The recycling of construction waste and the development of a Site Waste Management Plan are mandatory. The contractor will be obligated to minimise construction related disruption, for example dust nuisance to residents and neighbouring buildings.

7.2. **Procuring for a Better Society**

- 7.2.1 The appointed contractor will be required to provide local training and employment opportunities, for which a number of KPIs have been established. KPIs will be monitored regularly at site meetings. The contractor and Employer's Agent will provide information that will form the basis of each score, which will be documented at each meeting.
- 7.2.2 The appointed main works contractor will provide a draft Employment and Skills Plan to the Council for approval prior to works commencing on site. They will also prepare and implement an active programme for recruitment in order to achieve a local labour target of 25%. Under the terms of the contract the contractor must employ at least one apprentice per £2m of construction contract value, which reflects the Unilateral Undertaking requirement, and as previously agreed by CPC.
- 7.2.3 As part of the Unilateral Undertaking a sum of £101,234 will be paid as a planning obligation to Hackney Works, as a contribution towards the cost of training and supporting out of work residents into jobs during the construction of the development. A further sum of £55,558 will be paid as a contribution towards facilitating local people into end use ('operational phase') jobs provided through the operation of the commercial floorspace.

7.3. **Procuring Fair Delivery**

- 7.3.1 Tender documents issued to each bidder were identical, giving them equal opportunity to review and respond. Throughout the tender process bidders submitted clarification questions. Where a clarification was not commercially sensitive, the clarification and the Council's response was anonymised and issued to all bidders.
- 7.3.2 Each bidder was asked to comply with the Council's requirements with regard to the specification, local labour, employment and skills, and Fair Payment Charter. The preferred bidder has agreed to the Council's targets in these areas, including payment of the London Living Wage to all employees - a commitment also extended to their sub-contractor supply chain - and cooperation with Hackney Works to promote diversity in their workforce.
- 7.3.3 KPIs have been agreed with the contractor and will be scored at agreed intervals during the construction period. More information on KPIs can be found in section 9.2.1 below.

7.4. **Equality Impact Assessment and Equality Issues**

- 7.4.1 The Council is committed to building new homes that are adaptable to the varying needs of occupiers over time and that will enable people to live independently in their homes for longer.

7.4.2 22 homes (10% of the new build homes) are designed to wheelchair adapted standard, as set out in Part M4(3) of the Building Regulations. All other homes have been designed to be wheelchair accessible, meeting the requirements set out in Part M(2).

8. PROCUREMENT PROCESS & EVALUATION

8.1 Initial Tender Process

8.1.1 The procurement route undertaken for the new build and refurbishment works was via an OJEU Competitive Procedure with Negotiation. This comprised:

- (i) Selection Questionnaire
- (ii) Invitation to Participate.

8.1.2 The Evaluation Panel for the tender process comprised:

- Project Manager, Regeneration (LBH)
- Employer's Agent (acting on behalf of the Council)
- Quantity Surveyor/Cost Consultant
- Head of Regeneration Strategic Design (LBH)
- Resident Representatives (for selected quality questions).

8.1.3 The procurement process was managed and coordinated by members of the Procurement team.

(i) Selection Questionnaire (PAS 91)

8.1.4 The PAS 91 was published on the Council's e-tendering portal, ProContract on 3 July 2020, inviting interested contractors to express an interest in tendering for the works contract at Kings Crescent, by responding to the PAS 91.

8.1.5 Six responses were received and evaluated.

8.1.6 All submissions provided responses to the Pass/Fail sections, and the project specific/qualitative questions appropriately. Their responses were evaluated on the following criteria:

- The contractor's eligibility to bid;
- Financial and economic capacity to undertake the contract;
- Experience in the delivery of high quality development including, external refurbishments and high quality landscape and public realm;
- Experience of working with key stakeholders and existing communities in urban and constrained environments;
- Their track record of good construction practices; and
- Their track record of client and customer satisfaction including defects management.

8.1.7 On conclusion of the evaluation of the PAS 91 submissions, three bidders were invited to participate in the tender.

(ii) Invitation to Participate

8.1.8 The Invitation to Participate (ITP) documents were published on the e-tendering portal, ProContract on 12 October 2020. Contractors were originally required to submit bids by 25 January 2021. An extension was granted upon requests, until a final tender deadline was issued for 8 February 2021.

8.1.9 All three invited contractors submitted tender responses.

8.1.10 As previously agreed by CPC, the tenders were evaluated on the basis of 30% quality and 70% for price.

Tender evaluation

8.1.11 Following submission of their bids, clarifications on the submissions were raised with any bidders via ProContract, by the EA and Quantity Surveyor, to clarify any errors in the tenders submitted or any apparent inconsistencies prior to the evaluation process.

Quality Evaluation - 30%

8.1.12 For the Quality element, bidders were required to set out eight Method Statements addressing the following quality criteria:

- Programme;
- Project delivery;
- Project risks;
- Site logistics;
- Design team and integrity of design;
- Community engagement;
- Local employment, training, and supply chain; and
- Added value.

8.1.13 A commitment to paying the London Living Wage was a pass/fail criterion.

8.1.14 The evaluators also undertook site visits to two completed projects put forward by each bidder.

Price Evaluation - 70%

8.1.15 Tender prices were scored using the published pricing evaluation methodology; whereby the lowest priced bid achieves the highest score of 70%, with all other prices scored relative to the highest prices.

- 8.1.16 The prices were also assessed against the pre-tender estimates that had been prepared by the project QS.
- 8.1.17 All of the tenders received exceeded the pre-tender cost plan, ranging between 5% and 14%, and were thereby not compliant with the ITP on the basis of the financial key performance indicators.
- 8.1.18 In addition, the three bids included provisional allowances related to ground conditions, utility connections and diversions, and did not comply with the requirement for an all inclusive fixed price for the delivery of the scheme.
- 8.1.19 A summary of the quality and price scores for each tender, and the respective total overall scores are set out in the table below:

	Quality (30%)	Price (70%)	Total (100%)
Bidder A	19.20	70.00	89.20
Bidder B	22.17	69.23	91.40
Bidder C	19.53	63.32	82.85

- 8.1.20 The Council did not receive any bids within its budget, or without caveats to the price.
- 8.1.21 The Council wrote to bidders on 9 April 2021 informing them that, under the terms of the Invitation to Participate, that the Council was able to exercise its right to proceed to the negotiation stage.

8.2 Negotiated Stage

- 8.2.1 On 22 April 2021, the bidders were informed of the next steps in the negotiation, as well as the main issues and project areas for discussion and review.
- 8.2.2 One of the three contractors confirmed that they did not wish to proceed to participate in the negotiation process after receiving information on the process.

Negotiation

- 8.2.3 The two remaining bidders participated in six rounds of negotiation meetings between 6 May 2021 and 5 August 2021.
- 8.2.4 A schedule of cost saving proposals was agreed with the respective bidders.

8.2.5 During the negotiation phase meetings, the risks associated with compliance with the anticipated Fire Safety Bill were considered in depth. The Council considered the risks of alternative routes to compliance with Building Regulations for fire safety, and opted to amend the strategy and confirmed the change in requirements with the respective bidders.

Invitation to Submit Final Tenders (ISFT)

8.2.6 The Council sought to conclude the tender process by inviting contractors' final tenders for including:

- The value engineering proposals agreed with respective bidders;
- The revised fire strategy requirement to comply with forthcoming fire safety and Building Regulations requirements;
- Inclusion of the Council's requirements for use of Building Information Modelling processes.

8.2.7 The ISFT was published on ProContract on 17 August 2021.

8.2.8 Two tenders were received on 30 September 2021.

8.2.9 The Evaluation Panel for the ISFT submissions tender comprised the same evaluators as that for the original ITP (see 8.1.2), apart from resident representatives. The tenders were awarded in accordance with the original Invitation to Tender award criteria, apart from the additional criterion of compliance with the revised fire strategy.

Quality Evaluation - 30%

8.2.10 As for the initial Invitation to Tender, for the Quality element of the ISFT, bidders were required to set out eight Method Statements addressing the following quality criteria:

- Programme;
- Project risks;
- Site logistics;
- Design team and design integrity;
- Community engagement;
- Local employment, training and supply chain; and
- Added value.
- Commitment to paying the London Living Wage (pass/fail criterion).

8.2.11 Site visits were undertaken to two completed projects of the respective bidders, however the findings were not taken into account.

8.2.12 Quality responses were evaluated by the panel and scored based on the tender evaluation methodology set out in the ISFT. The moderation of quality scores was concluded at a moderation meeting on 12 October 2021.

Price Evaluation - 70%

8.2.13 Fixed price quotes for utility connections and diversions were not provided by bidders.

8.2.14 As recommended by the project Employer's Agent, bidders were therefore instructed to include a provisional sum defined by the project's Quantity Surveyor (QS) for this element within their tender proposal, but were required to submit fixed prices for all other elements of the tender.

8.2.15 The prices were scored using the published pricing evaluation methodology: whereby the lowest priced bid achieves the highest score of 70%, with the other price scored relatively to the highest scored price. Prices were also assessed against the pre-tender estimates prepared by the project QS.

8.2.16 A summary of the quality and price scores for each tender, and the respective total overall scores are set out in the table below:

	Quality (30%)	Price (70%)	Total (100%)
Bidder A	25.59	70.00	95.59
Bidder B	26.73	67.95	94.68

8.3 Update since the project was presented to CPIC (December 2021):

8.3.1 Originally the preferred bidder was selected using the award criteria and scoring methodology set out in the ISFT. Bidder A's bid achieved the highest score overall in quality and price combined. Their responses to the tender demonstrated an excellent understanding of the project's constraints and risks; a good approach to health and safety; minimising disruption; communicating well with stakeholders; and providing employment and skills opportunities. As such, their bid was deemed the most economically advantageous tender (MEAT).

8.3.2 The requirement for a parent company guarantee was included in the proposed contract to mitigate the risk of Bidder A failing to perform contractual obligations or becoming insolvent. This is a typical requirement for new build development projects.

8.3.3 A full analysis of the bids is included in exempt Appendices 1 and 2.

- 8.3.4 It was recommended that the contract for the main works at Kings Crescent was to be awarded to Bidder A, commencing on site in Summer 2022, with a projected completion date of Summer 2025. The award of contract was to be subject to the successful completion of the Section 20 consultation period.
- 8.3.5 The Standstill period expired in January 2022. Simultaneously the Section 20 consultation process was implemented, ending on 20 January 2022. However, during a period of pre-contract discussion, Bidder A confirmed their inability to commit to their tender price submitted as part of the BAFO process.
- 8.3.6 Acting on legal advice, Bidder A was requested to confirm their position. In March 2022 Bidder A confirmed that they were not able to enter into a contract based upon their BAFO submission.
- 8.3.7 On further legal advice, Bidder B was subsequently asked if their BAFO tender would be held until August 2022. Bidder B confirmed that they could not do so
- 8.3.8 Following confirmation that neither bidder would enter contract at the price agreed in the BAFO submission, the Invitation to Submit Final Tenders (ISFT) has been re-issued, which will allow the bidders to re-price their submissions valid to 31 August 2022. All costs associated with delivery of the project and inflationary changes are to be incorporated within the re-priced BAFO submission.
- 8.3.9 The ISFT has been re-opened on the basis that:
- The existing quality scores will be added to the score for the final resubmitted price to calculate an aggregated overall score (i.e. quality scoring will not be reopened);
 - The agreed contract terms and conditions are to remain unchanged; and,
 - The bidders are required to hold their tendered price until 31 August 2022 to enable the completion of the new Section 20 leaseholder consultation process and for the award and entry into the contract.

9. CONTRACT MANAGEMENT ARRANGEMENTS

9.1 Resources and Project Management (Roles and Responsibilities):

- 9.1.1 The necessary resources and skills to ensure that the project will be successfully managed have been identified and are either available within the Council or have been procured externally.
- 9.1.2 The project will be managed by a Project Manager in Regeneration who will be overseen by the Estate Regeneration Head of Service. The project delivery team is:

- Project Sponsor - Director, Regeneration
- Project Head of Service – Head of Estate Regeneration Programme
- Project Lead – Project Manager, Estate Regeneration Programme
- Design Advice – Strategic Design Team
- Employer’s Agent
- Cost consultants/Quantity Surveyor.

9.1.3 During the pre-construction and construction periods, the Kings Crescent Phases 3&4 project will be managed on a day-to-day basis by the Project Manager in the Council’s Estate Regeneration team. The building contract will be administered by the Council’s Employer’s Agent. The Employer’s Agent and Quantity Surveyor team will carry out monthly valuations of works completed on site and certify the value of these works. During the Pre-Construction Phase, the Employer’s Agent will attend contract Design Team Meetings, which will be programmed by the contractor, but are likely to take place at least monthly (or as required) in order to meet the contract programme.

9.1.4 The contractor’s project manager and construction contract manager will report monthly to the Council’s Project Manager, with updates provided regularly to the Council’s Director, Regeneration as project sponsor. The Employer’s Agent will also act as Clerk of Works to ensure that a comprehensive monitoring service is provided to the Council, to make sure that the quality of workmanship and finishes of the homes and public realm are delivered as intended.

9.1.5 It was anticipated that the start on site of Kings Crescent Phases 3&4 would occur in Summer 2022. A revised schedule of milestones and dates reflecting the reopening of the tender is summarised in the table below. This timeline is subject to the discharge of pre-commencement planning conditions and the successful completion of the new Section 20 Stage 2 consultation.

Key milestones and dates	
Report to CPIC seeking approval to delegate the Award of the Contract for main works	11 April 2022
Return of re-priced best and final tender	14 April 2022
Standstill letter issued	3 May 2022

Standstill period	3 - 13 May 2022
Section 20 notices issued	16 May 2022
Section 20 consultation period ends	17 June 2022
Proposed contract signing	23 June 2022
Proposed start on site (new build construction)	Winter 2022/23
Practical Completion	Winter 2025/26

9.2 Key Performance Indicators

9.2.1 The key performance indicators (KPIs) that have been included in the tender documentation and on which the contractor will be assessed, are as set out in the table below:

KPI subject	Measurement	Monitoring method & info responsibility	Metric
Programme	Total days ahead or delayed	Contractor to update the programme on a monthly basis and provide reasons for delays. EA to assess the Contractor report and provide own final monthly review.	Nr. of days
	Accuracy, timelessness, and quality of Contractor's programme/ delay reporting	EA to assess monthly	Qualitative assessment
Cost	Divergence between original cumulative forecast and last valuation.	Contractor to make applications. EA to report monthly.	£ difference on total gross value

	Divergence between application and agreed valuation (or Pay Less Notice amount)	EA to value and report monthly	£ difference on total gross value
	Divergence between last monthly forecast and last valuation	Contractor to make applications. EA to report monthly.	£ difference on total gross value
Change Control	Contractor proposed changes – Quality and timeliness design, time and cost information	EA to assess monthly	Qualitative assessment
	Employer proposed changes – Responsiveness of design and cost information (including detail and breakdowns)	EA to assess monthly	Qualitative assessment
Quality of Construction	Assessment of site inspector report – seriousness of quality concerns identified.	EA to assess monthly	Qualitative assessment
	Assessment of Contractor response to remediating site inspector concerns	EA to assess monthly	Qualitative assessment
	Defects – number remedied within timeframes	Contractor and LBH to provide information to EA for monitoring and report monthly from practical completion	Nr of defects
Design	Timeliness of general design information release to allow sufficient time for Employer review	Contractor to report days early or delay from information release schedule targets. EA to check and report	Qualitative assessment

Health and Safety	Qualitative assessment of Contractor H&S approach including site assessment by PD and response to H&S concerns including accidents and near misses	Contractor to provide own H&S assessments and information. EA and PD to assess	Qualitative assessment
Waste Management	Percentage of waste diverted from landfill	EA to assess monthly	% diverted
	Initiatives undertaken to minimise waste arising from deliveries to site	EA to assess monthly	Qualitative assessment
Employment and Training	Percentage of local labour (aiming for 30%)	Contractor to provide monthly labour return	Target met/ exceeded
	Number of apprentices	Contractor to provide monthly labour return	Target met/ exceeded by what percentage
	Confirmation of London Living Wage	Contractor to report monthly on checks and confirm London Living Wage compliance	Yes/ No
	Quality of engagement and communication with Hackney works	Contractor and Hackney Works (through LBH Project Officer) to report. EA to assess	Qualitative assessment
Neighbour Satisfaction	Number of complaints, and quality of response	Contractor to provide information. EA to assess monthly	Qualitative assessment
	Initiatives undertaken by the Contractor to ensure engagement and communication with neighbours.	Contractor to provide information. EA to assess monthly	Qualitative assessments

Supply Chain Management	Fair payment of subcontractors	Days behind or ahead of payment schedule and total value of arrears	Qualitative assessments
	Fair payment of subcontractors	Percentage of contractors paid on or before time provided each month	Qualitative assessment

10. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

- 10.1 Kings Crescent Phases 3&4 is the second part of the London Borough of Hackney's regeneration of the southern section of the estate. There was an earlier redevelopment to the western end of the estate by Circle, in the 1990s. The first phase of estate regeneration, Phases 1&2, delivered 273 new homes and refurbished 101 existing homes. The contract award for that phase of development was the first of the new phase of Hackney Regeneration and followed the 'Hackney Model' contract structure. This transferred the sales risk to the developer, and included an overage agreement. As a result of rising sales values, the scheme benefited from a sales uplift, shared 50/50 with the developer under the terms of the overage agreement. These additional funds, combined with a contingency underspend, have been transferred to Kings Crescent Phases 3&4 to fund additional social housing.
- 10.2 Kings Crescent Phases 3&4 will deliver 28 homes for social rent, 75 homes for shared ownership and 116 homes for outright sale, along with a community facility, commercial and workspace unit, the external refurbishment of 174 homes, and associated public realm and landscaping works. The original planning permission for Phases 3&4 did not include homes for social rent, however the transfer of a 'surplus' from Phases 1&2, combined with affordable housing grant from the GLA, and the use of offsite affordable housing planning contributions (Section 106 funds) has enabled the provision of additional homes for social rent.
- 10.3 The original appraisal structure assumed the use of the 'Hackney Model' including a development agreement with a development partner, similar to Phases 1&2. However, since Phases 1&2 the Council has developed its own in-house sales team, and the housing and construction market has changed, such that the development partners were taking less risk on future increases in house prices, and therefore it was beneficial for the Council to take on the sales risk in consideration for the allowance for 'developers profits', typically 25%. Consequently the appraisal included an allowance for sales contingency.

- 10.4 As the scheme design and cost plan was developed, the viability of the scheme was challenging, mainly due to the refurbishment of the existing housing, and the commercial and community spaces being developed in the scheme. In addition, there were some design features that increased scheme costs above the appraisal assumptions. To mitigate these additional costs, the sales contingency was reviewed in line with increases in sales values and the realisation of the sales values achieved in Phases 1&2.
- 10.5 The pre-tender estimate included an estimated tender price as set out in exempt Appendix 1. The scheme has other development costs and sales receipts from outright sale and shared ownership disposals. The scheme also received other funding, as set out in paragraph 10.2. Including future rental income, the scheme is estimated to deliver a positive Net Present Value (NPV). The original tenders, returned in February 2021, were above the pre-tender estimate and work was done to reduce cost through value engineering, but also to accommodate the changing fire safety strategy within the design and include Building Information Modelling. Whilst it was recognised the pre-tender estimate had not been achieved from the value engineering, the scheme could be delivered within the project budget, including contingencies.
- 10.6 The scheme was resubmitted to the contractors for Best and Final Offers which were returned in August 2021. During this time, Brexit and Covid had impacted on the construction market and the Council was aware of tender price increases of 10-20% being received by both other Councils and other Council departments.
- 10.7 Further Finance comments are set out in exempt Appendix 3.

11. COMMENTS OF THE DIRECTOR OF LEGAL, DEMOCRATIC AND ELECTORAL SERVICES

- 11.1 On 8 July 2019 Cabinet Procurement Committee agreed a Business Case in respect of a tender process for the selection of a contractor to undertake the works at the Kings Crescent Phases 3&4 development. Therefore in accordance with Contract Standing Order 2.7.10 the decision to award the contract will be with the Cabinet Procurement and Insourcing Committee.
- 11.2 Paragraph 2.2 ii) of the Cabinet Procedure Rules states that “If the Elected Mayor delegates functions to a Committee of the Cabinet, unless they direct otherwise, the Committee may delegate further to an officer”. Cabinet Procurement and Insourcing Committee, as a committee of the Cabinet, is therefore permitted to delegate to an officer the decision to agree the award of the main works contract in this Report.
- 11.3 The Council is using the Competitive Procedure with Negotiation under Regulation 29 of the Public Contracts Regulations 2015 to make the award of

contract for the main works, and details of the procurement process being undertaken are set out in this Report.

12. COMMENTS OF THE PROCUREMENT CATEGORY LEAD

- 12.1 This procurement was completed under the Competitive Procedure with Negotiation, and it has been supported by internal and external legal teams.
- 12.2 Due to the market conditions the Council was unable to enter in contract with the preferred bidder. The market is finding it difficult to hold pricing within its supply chain and prices remain volatile. The risk of delay may result in the contractors not entering into contract, which could lead to reputational damage particularly in respect of Section 20 and resident consultation.
- 12.3 Bidders had offered social value as part of their bid submission and demonstrated their understanding of the importance of resident engagement. This is covered in the next stage of the procedure as well as their commitment to a quality scheme.
- 12.4 A standstill period will be run in accordance with the Regulations.
- 12.5 The form of the contract will be the JCT Design and Build Contract 2016 with Hackney amendments.

APPENDICES

Appendix 1 (Exempt) - Tender Report 21 November 2021- Kings Crescent 3&4

Appendix 2 (Exempt) - Kings Crescent 3&4 Tender Update report.

Appendix 3 (Exempt) - Comments of the Group Director of Finance and Corporate Resources

EXEMPT

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 and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Information relating to the financial or business affairs of any particular person (including the authority holding the information)

BACKGROUND PAPERS

In accordance with The Local Authorities (Executive Arrangements) (Meetings and Access to Information) England Regulations 2012 publication of Background Papers used in the preparation of reports is required

Selection of a contractor for the construction of mixed tenure homes at Kings Crescent Phase 3&4 - Cabinet Procurement and Insourcing Committee 6 December 2021.

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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