

TITLE OF REPORT Daubeney Road Mixed Tenure Housing – Main Contractor Award Key Decision No.NH Q34	
CPC MEETING DATE (2019/20) 13 January 2020	CLASSIFICATION: OPEN with EXEMPT APENDICES 1-3 By Virtue of Paragraph(s) 3, Part 1 of schedule 12A of the Local Government Act 1972 appendices 1-3 are exempt because they contain 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.
WARD(S) AFFECTED Kings Park Ward	
CABINET MEMBER Mayor Glanville, Regeneration	
KEY DECISION Yes REASON Spending/or saving	

GROUP DIRECTOR

Ajman Ali, Neighbourhoods and Housing Acting Group Director

1. CABINET MEMBER'S INTRODUCTION

- 1.1. At its meeting in February 2016, the Council's Cabinet agreed the Housing Supply Programme (HSP). The Cabinet report outlined how the Council will make best use of its land by building new social rented and low-cost home ownership homes on a range of unused or under-occupied sites across the borough, subsidised by homes built for outright sale as a result of minimal Government funding to build council housing for social rent. The Programme will see the delivery of more than 400 new homes, with a target tenure mix of 70% for social rent and shared ownership, with 30% outright sale.
- 1.2. In approving the Programme, Cabinet agreed to a 'portfolio' as opposed to a site-by-site approach. This enables the Council to combine the development of schemes which require a net investment with those that have the potential to generate a surplus.
- 1.3. At its meeting on 23 May 2017 the Housing Development Board (HDB) agreed to admit Daubeney Road, on the Clapton Park Estate, as an additional site to the HSP. The 11 new homes at Daubeney Road will contribute to the almost 2,000 Council homes to be started or completed between 2018-2022, more than half of which will be for social rent and shared ownership.
- 1.4. It was originally intended that the Daubeney Road scheme would be made up of 100% affordable homes, and the cost of these units would be subsidised by homes for outright sale on other sites within the borough. However, due to adverse market conditions, it is now intended that the Daubeney Road scheme will incorporate four outright sale units. The four outright sale units will be sold by Hackney Sales, the Council's own Sales and Marketing team. The incorporation of these outright sale units allows one shared ownership property to be converted to social rent, and ensures that the overall project remains viable in challenging market conditions.
- 1.5. The Council has worked closely with the Clapton Park Tenant Management Organisation (TMO) throughout the development of the project and will continue to do so during the project's construction phase. All properties will be managed by the Clapton Park TMO, following a handover period managed by the Council's New Build Team.

- 1.6. Hackney Council has declared a climate emergency and understands the radical action we must take to ensure all parts of the Council are working to reduce our carbon impact. This development will be constructed using Cross Laminated Timber (CLT), which brings a number of environmental benefits. This is in addition to a new community garden on Redwald Road and a contribution of £20,000 made towards local greening initiatives – making this development one of the the Council's most sustainable.

2. GROUP DIRECTOR'S INTRODUCTION

- 2.1. The Housing Supply Programme will see the delivery of new mixed tenure developments. Given current market conditions the Programme is forecast to be self-funding, but each new scheme is subject to robust financial viability testing.
- 2.2. This report seeks approval to appoint a preferred contractor for the construction of a mixed tenure housing scheme at Daubeney Road on the Clapton Park Estate. The Council has selected the preferred contractor through a restricted tender process via the Council's online e-tender portal, Pro-Contract. The recommendation is made on the basis of both cost and quality.
- 2.3. It is intended that the tenure mix of this scheme will be adjusted to ensure that it remains viable within the overall financial parameters of the HSP.

3. RECOMMENDATIONS

- 3.1. Approve the appointment of Bidder B as the preferred contractor for the construction of mixed tenure housing at Daubeney Road for the value set out in Exempt Appendix 3, plus a 5% client held contingency to be held by the Council for scheme variations during the construction period for the value set out in Exempt Appendix 3.
- 3.2. Grant delegated authority to the Group Director, Neighbourhoods and Housing, to approve the appointment of a reserve bidder, Bidder E, should it not be possible to enter into a contract with the preferred Bidder, Bidder B.
- 3.3. Agree to enter into a JCT Intermediate Building Contract 2016, and any other ancillary legal documentation relating thereto, with Bidder B (or Bidder E subject to 3.2 above) for the construction of mixed tenure housing at Daubeney Road, on such terms as shall be agreed by the Director of Legal.
- 3.4. Authorise the Director of Legal to prepare, agree, settle and sign the necessary legal documentation to effect the proposals contained in this

report and to enter into any other ancillary legal documentation as required.

4. RELATED DECISIONS

- 4.1. At its meeting of 29th February 2016 the Council's Cabinet agreed the Housing Supply Programme.
- 4.2. At its meeting on 18th July 2016 the Council's Cabinet approved the Sales and Marketing Strategy, authorising the Director of Regeneration to implement the Sales and Marketing Framework in relation to shared ownership and outright sale disposals generated via both the Housing Supply (HSP) and Estate Regeneration (ERP) Programmes. Cabinet also authorised 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. At its meeting of 23rd May 2017, the Council's Housing Development Board agreed to the addition of the Daubeney Road site to the HSP.
- 4.4. Hackney Procurement Board (HPB) approved the business case for the Daubeney Road development on 12th June 2018.
- 4.5. The Council's Planning Sub-Committee resolved to grant planning approval for the Daubeney Road development on 4th July 2018, subject to the completion of a Unilateral Undertaking, which has since been authorised.

5. REASONS FOR DECISION/OPTIONS APPRAISAL

- 5.1. This report outlines the process that has been followed in selecting a preferred bidder for the development of the Daubeney Road garages site, including demolition of the existing structures on site and associated enabling works.
 - 5.1.1. The Daubeney Road site forms part of the HSP. It is located in Lower Clapton and forms part of the Clapton Park Estate in the Kings Park ward.
 - 5.1.2. The development originally consisted of six social rent and five shared ownership homes. However, in order to ensure the project remains viable in relation to the tendered build costs, it is intended to adjust the tenure mix. The introduction of four outright sale homes will lead to a slight improvement in the viability of the project, from the budget position and the time of tendering, and this improvement will offset a construction price increase on another site within the same ward.

- 5.1.3. The proposed new tenure mix is:
- seven homes for social rent
 - four homes for outright sale.
- 5.1.4. The above tenure change was due to be considered by Planning Sub-Committee on 8th January 2020, and the outcome will be reported verbally to Cabinet Procurement Committee.
- 5.1.5. In addition to 11 new homes the development will also provide:
- a new pedestrian only through route connecting Daubeney Road and Redwald Road
 - landscaping and public realm improvements.
- 5.1.6. Outside of this procurement, but within the scope of the overall development project, the Council is delivering a permanent community garden on Redwald Road on the Clapton Park Estate, to replace the temporary facility previously located on the development site.
- 5.1.7. Also outside of this procurement, but within the overall project, a contribution of £20,000 will be made towards local greening initiatives (Daubeney Road parklet/Ten Times Greener project).
- 5.1.8. It is proposed that the Council will enter into a JCT Intermediate Building Contract 2016 with the preferred bidder. The contract requires the successful bidder to deliver an 11 home development and includes the demolition of the existing structures on site and associated enabling works.
- 5.1.9. The Daubeney Road development will contribute to delivering the Council's aspiration to make the best use of its land by building new social rented and affordable homes on a range of unused or under occupied sites across the borough. The outright sale homes delivered on this site will generate cross subsidy to help support the delivery of the social rented housing.
- 5.1.10. The bids for the Daubeney Road development were evaluated against the forecasts contained within the financial model for the scheme and were considered with reference to the viability of the overall programme. The viability forecasts were prepared on the basis of independent cost and value information supplied by the Council's professional advisors, and subject to scrutiny and cross-checking against other comparable schemes within the programme by the Council's Corporate Finance team.
- 5.1.11. The proposed contractor was selected via a restricted tender. This route was the recommended method of procuring the proposed works as it gave a wide range of suitably qualified contractors the opportunity to express an interest in participating in the tender process by completing

and submitting a Selection Questionnaire (SQ). Soft market testing demonstrated that this was an attractive procurement route for generating interest among small and medium sized contractors, increasing the probability of those shortlisted being selected as the preferred bidder.

- 5.1.12. A preferred bidder has been selected using the award criteria and scoring methodology detailed in the Invitation to Tender (ITT) document that was issued to shortlisted tenderers.
- 5.1.13. All tenderers submitted contract prices above the anticipated budget. It is intended that the project's viability will be maintained by adjusting the tenure mix to include an element of outright sale housing. (The full tender process is summarised in paragraph 8.)

5.2 ALTERNATIVE OPTIONS (CONSIDERED AND REJECTED)

- 5.2.1 The option to abandon the procurement process and begin a new process was considered. It was rejected due to the delay this would cause to the construction programme and the probability that continued build cost inflation would further increase the cost of tenders received in any future procurement exercise.
- 5.2.2 Value engineering of the design was considered and rejected, as it was established that there were no further value engineering measures that would significantly reduce costs without compromising the design intent of the project. It was also assessed that any minimal cost savings achieved through value engineering would, in probability, be negated by continuing build cost inflation.
- 5.2.3 Consideration was given to awarding the contract without changing the tenure mix at Daubeney Road. However, this was not supported because delivering the Daubeney Road project without adjusting the tenure mix would reduce the viability of the HSP and therefore compromise the delivery of affordable homes on other schemes within the portfolio.

6. PROJECT PROGRESS

6.1. Developments since the Business Case approval

- 6.1.1. When the Business Case for this contract was agreed at HPB, the price/quality ratio agreed was 70% price and 30% quality. This was subsequently changed to a 60% price and 40% quality ratio, as it was expected that the prices returned from contractors would be within a narrow band due to the contract type used. The ratio was therefore changed to ensure that quality had more of an influence in the final decision. This change was agreed with Corporate Procurement.

6.1.2. The tender required tenderers' offers be irrevocable and unconditional for a period of six months. Following a longer than anticipated review period after the receipt of tenders, a three month extension of tender prices was sought from the five tenderers. Two tenderers were unable to stand by their offer and were therefore deemed non-compliant.

6.2. **Whole Life Costing/Budgets:**

6.2.1. The Council's Regeneration division has, in consultation with Housing Services, produced a standardised New Build Design Specification for new build homes and landscaping, which takes into account whole life costs of new build properties. The project architects have been working with Version 5 of the specification for the Daubeney Road scheme.

6.2.2. The Council's New Build Property Management Team will take on the management and maintenance of the new homes at Daubeney Road during the defects period. It is anticipated that the Clapton Park Estate Tenant Management Organisation will manage and maintain the development thereafter.

6.2.3. The contract value is set out in the Exempt Appendix 3.

6.2.4. The ongoing maintenance costs of the new social rented properties and communal areas, as well as the management of the overall development, are included in the Housing Revenue Account (HRA) Business Plan.

6.2.5. The tenants of the social rented properties will pay a rent calculated in accordance with formula rent principles, as well as a service charge calculated in line with the Council's standard methodology.

6.2.6. The owners of the outright sale homes will be recharged through a service charge, a proportion of the management, cleaning and maintenance costs for any communal areas and shared elements of the Clapton Park Estate.

6.3. **SAVINGS**

6.3.1. The Daubeney Road project will deliver new, high quality, mixed tenure homes and contribute to the regeneration of the borough. This will provide better value for money for Hackney residents, and provide the basis for the Council to continue delivering a high quality and cost-effective housing management service.

6.3.2. The new Council homes at Daubeney Road will also contribute to alleviating current pressure on the Council's housing register and temporary accommodation costs.

7. SUSTAINABILITY ISSUES

7.1. Procuring Green

7.1.1. The Daubeney Road development will be constructed using Cross Laminated Timber (CLT). This brings the following environmental benefits:

- Reduction of noise and dust associated with blockwork construction. This will minimise disruption caused to surrounding residents, as well as reducing Health & Safety risks to the construction workforce;
- Improved environmental impact – CLT is a lower impact material with a reduced carbon footprint compared to traditional blockwork construction;
- Off-site design and manufacture is precise and this reduces construction waste;
- Improved thermal performance of the homes due to the precision of construction and insulating properties of the timber panels; and
- Reduction in the number of deliveries to the site.

7.1.2. Daubeney Road will provide high quality soft and hard landscaping to enhance the appearance and the ecological value of the site. The development will introduce a new pedestrian only east-west pathway, which will link the entrance to Daubeney Fields and the planned new community garden at Redwald Road.

7.1.3. A Flood Risk Assessment was carried out in accordance with the requirements of the National Planning Policy Framework (NPPF). The Daubeney Road development falls under a Flood Risk Zone 2 and the scheme has been designed at the appropriate finished floor level to mitigate the risk of a 1 in 100 year flood, plus climate change projections.

7.1.4. Reducing energy consumption from buildings is a key policy consideration. The scheme incorporates energy efficiency measures, which will deliver homes that meet current regulatory requirements relating to sustainability, including Building Regulations, the Mayor's London Plan and the Council's Housing Supplementary Planning Guidance (SPG). The use of CLT for construction will help to improve the energy performance of the scheme.

7.1.5. Due to the small size of the scheme, it is unable to successfully incorporate a community heating system, as significantly more dwellings would be required to provide an economically feasible centralised system that would assist in further reducing CO2 emissions.

7.1.6. 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 to residents and other neighbouring occupiers. The CLT construction method will provide an increased mitigation of these factors.

7.1.7. The scheme encourages sustainable transport through the provision of 24 cycle spaces, in accordance with Hackney standards. These will be provided in the form of 'M' stands, located within communal lockable bike stores and publicly accessible 'visitor' cycle parking. The scheme is a car free development in line with planning policy.

7.2. Procuring for a Better Society

7.2.1. The appointed contractor will be required to provide opportunities for local training and employment (for which a range of Key Performance Indicators will be established) and to use reasonable endeavours to source materials from local suppliers and manufacturers.

7.2.2. The appointed 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 30%.

7.2.3. The Employment and Skills Plan will also include an active programme for recruiting and retaining Apprentices in the various building trades (such as brick laying, carpentry, electrical, plumbing and plastering). Under the terms of their contract the contractor must employ at least one Apprentice per £2,000,000 of construction contract value.

7.2.4. The sum of £5,242.85 will be paid as a planning obligation to Hackney Works. This will go towards the cost of training and supporting out of work residents into construction/demolition jobs associated with the development.

7.2.5. The preferred bidder has committed to paying all its staff the London Living Wage and to transferring this commitment to its supply chain.

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. Key Performance Indicators will be agreed with the successful bidder and these will be scored at agreed intervals during the construction period. More information on KPIs can be found in section 10.2 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. The Daubeney Road development contains one 4 bed family home which meets Part M4(3) of the Building Regulations – ‘wheelchair user dwellings and adaptable dwellings’. New residents who are blue badge holders will be allocated a parking space close to the development site.

8. ALTERNATIVE OPTIONS (CONSIDERED AND REJECTED)

See above 5.2

9. TENDER EVALUATION

9.1. Evaluation:

Procurement Route

- 9.1.1. At its 12th June 2018 meeting, HPB approved a restricted tender process to appoint a contractor for the Daubeney Road project. A contract notice was placed on the Government’s tender portal, Contracts Finder, as well as on the London Tenders Portal and the Hackney website. The Council’s e-procurement system, Pro-Contract, was used.
- 9.1.2. The Council’s Employer’s Agent (EA) and Project Lead undertook soft market testing with a number of small and medium sized building contractors. Their feedback was that most contractors would be interested if the procurement route was a restricted procurement.

PAS91 Questionnaire

- 9.1.3. In the first stage of the restricted procurement process, all interested tenderers were required to complete an online Selection Questionnaire (SQ) and submit their responses via the Council’s designated e-tendering portal, Pro-Contract, by 20 November 2018. This opportunity was advised on Contracts Finder, The London Tenders Portal and Hackney Council’s website.
- 9.1.4. In the first stage of the restricted procurement process, all interested tenderers were required to complete an online Selection Questionnaire (SQ) and submit their responses via the Council’s designated e-tendering portal, Pro-Contract, by 20 November 2018. This opportunity was advised on Contracts Finder, The London Tenders Portal and Hackney Council’s website.

- 9.1.5. The questionnaire consisted of standard questions from PAS Construction Pre-Qualification Questionnaire, PAS 91:2013+A1:2017 questions and four supplementary questions.
- 9.1.6. The names of the contractors who submitted the SQ are set out in Exempt Appendix 1. The results of the SQ evaluation are summarised in the table below (and further details can be found in Exempt Appendix 2.

Supplier	Ranking	SQ Scores	Invited to tender Total
Supplier / Provider A	1	88%	Yes
Supplier / Provider B	2	81%	Yes
Supplier / Provider C	3	77%	Yes
Supplier / Provider D	4	73%	Yes
Supplier / Provider E	5	67%	Yes
Supplier / Provider F	6	65%	Yes
Supplier / Provider G	7	39%	No
Supplier / Provider H	8	35%	No
Supplier / Provider I	9	14%	No

Tender Process

- 9.1.7. The Invitation to Tender (ITT) was then issued to the six highest scoring tenderers via Pro-Contract on 18th March 2019.
- 9.1.8. In the ITT tenderers were asked to return a quality and finance response.
- 9.1.9. The quality evaluation considered: programme, project delivery, site logistics, design integrity and design, community engagement, local

employment, training and supply chain, risk register, sustainability and London Living Wage.

- 9.1.10. The finance evaluation considered the price of the tenderer's Preliminaries and Build cost budget. Tenderers were required to price against a fixed Bill of Quantities contained in the ITT. Tenderers were required to offer a fixed price for the whole of the works, and the fixed price was to be irrevocable and unconditional for a period of six months.
- 9.1.11. During the tender process, tenderers sent 23 clarification questions to the Council. These were anonymised and responses were provided via a Request for Information (RFI) tracker document which could be viewed by all tenderers.
- 9.1.12. Tenders were originally to have been returned to the Council on 23rd April 2019. Following the request by some of the tenderers, the deadline for tender returns was extended to 3rd May 2019.
- 9.1.13. Tenders were returned by five contractors to the Council via the online Portal. One bidder that was shortlisted in the SQ stage did not return a tender response.
- 9.1.14. The tender evaluation was a rigorous exercise conducted by a tender evaluation panel which consisted of the:
- Project Lead (LBH)
 - Design Officer (LBH)
 - Employer's Agent.
- 9.1.15. All five tender responses were evaluated and verified by the tender panel on a quality/price ratio of 40/60. The responses comprised answers to nine Method Statement questions and a priced Bill of Quantities.
- 9.1.16. During the clarification period, following a series of clarifications from tenderers, all bids were deemed to be quality and price compliant. Clarifications with each bidder can be found in Exempt Appendix 3.
- 9.1.17. On 19th July 2019 each Tenderer attended a clarification meeting with the purpose of enabling the evaluation panel to:
- Confirm that the contents of each Tender was accurate;
 - Question the Tenderer about areas of their Tender where the evaluation process indicates that they may have difficulty in meeting the specified requirements;
 - Assess the suitability of the person(s) who will be managing the Contract; and
 - Clarify any uncertainties and/or anomalies in the Tender.

All questions and responses were recorded for each meeting.

- 9.1.18. Tenderers were not advised of the Council’s budget for the project. All bids were returned over the Employer’s Agent Pre-Tender Estimate. Bids were over budget by between 12% and 33%.
- 9.1.19. Tenderers were requested to extend the validity of their bid price from November 3rd 2019 to January 31st 2020, in order to allow sufficient time for the relevant internal approvals and clearances to be concluded.
- 9.1.20. Two tenderers were unable to stand by their offer. Their bids were therefore deemed non-compliant, as the tender process required an unconditional and irrevocable offer.
- 9.1.21. A summary of the scores for price and quality of each bid, and their rank, following the evaluation period is set out below. A full analysis of the bids is included in the Tender Report at Exempt Appendix 3.

		Ranking	Quality	Price	Total
1	Supplier Provider B	/ 1	33.05%	54.62%	87.67%
2	Supplier Provider E	/ 2	20.30%	60.00%	80.30%
3	Supplier Provider F	/ 3	18.25%	59.14%	77.39%
4	Supplier Provider C	/ N/A	Non-Compliant		
5	Supplier Provider A	/ N/A	Non-Compliant		
6	Supplier Provider D	/	Non submission		

9.2. Recommendation:

- 9.2.1. A preferred bidder was selected using the award criteria and scoring methodology set out in the ITT. Bidder B’s submission achieved the highest score obtained for quality and price combined, and emerged as the Most Economically Advantageous Tender (MEAT).

- 9.2.2. It is therefore recommended that the contract for the construction of mixed tenure housing at Daubeney Road, Clapton Park Estate is awarded to Bidder B.
- 9.2.3. Should it not be possible to award the contract to Bidder B, it is recommended that the contract is awarded to the Reserve Bidder, Bidder E.
- 9.2.4. A full analysis of the bids is included in Exempt Appendix 3.

10. CONTRACT MANAGEMENT ARRANGEMENTS

10.1. Resources and Project Management (Roles and Responsibilities):

- 10.1.1. 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.
- 10.1.2. The project will be managed by the Council's Project Lead overseen by the Head of Housing Supply Programme. The Council has appointed an Employer's Agent (EA) for the scheme, for the duration of the construction period. The full project delivery team is:
- Project Sponsor – Interim Director, Regeneration
 - Project Head of Service – Interim Head of Housing Supply Programme
 - Project Lead – Project Officer, Housing Supply Programme
 - Design Advice – Divisional Programme Office Strategic Design Team
 - Legal Planning Solicitor, Property Solicitor and Procurement Solicitor from the Council's in-house Legal team
 - Employer's Agent
 - Architect.
- 10.1.3. During the pre-construction and construction periods the project will be managed on a day-to-day basis by the Project Lead. The building contract will be administered by the Council's EA. The EA will carry out monthly valuations of works completed on site and certify the value of these works.
- 10.1.4. Monthly project progress meetings will be held on site for the project. The contractor's project manager and construction contract manager for the site will report fortnightly to the Council's Project Team. EA, contract administrator and clerk of works roles have been procured to provide a comprehensive monitoring service to the Council, and ensure that the quality of workmanship and the finishes of the homes and public realm are delivered as intended.

10.1.5. It is anticipated that building work will start on site during May 2020 as summarised in the table below:

Key milestones and dates:	
Report to CPC seeking approval to Award Contract for construction	13 th January 2020
Standstill letter issued	14 th January 2020
Proposed Award of Contract	14 th January 2020
Proposed Signing of Contract	21 th January 2020
Proposed Start on site	1 st May 2020

10.2. Key Performance Indicators:

Key performance indicators will be agreed with the preferred contractor once appointed. They will cover items listed below. They will align with the KPIs of the HSP Mandeville Street scheme, a similar size scheme nearby in Clapton Park Estate, so that the schemes can be usefully compared.

Main KPI Targets Set	Monitoring
Client Satisfaction – Employer and Resident	Resident survey at end of defects period

Design – Design Development	Tracker during design development. Monitoring of planning conditions
Defects – During Construction and during the Defects Liability Period	Construction – via Clerk of Works tracker and through EA’s monitoring of adherence to Council’s ER’s and handover and defects procedure Defects – via New Build Property Management Team
Construction Time and Cost – At Commencement and Completion	Anticipated – at time of entering into contract Completion – actual final account and construction period Regular monitoring throughout contract at monthly site meetings
Health and Safety – Accidents, Incidents & Near Misses	As per Health & Safety records on site. To be monitored through monthly site meetings
Qualifications and Skills – As per Employment and Skills Plan	As detailed in the Employment & Skills Plan. To be monitored through monthly site meetings

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

11.1. The preferred tenderer’s price is above the budget allocated to this project by approximately £800k. To offset this, the tenure mix has been updated to maintain the financial viability of the scheme. Overall, the viability has now improved by approximately £200k, taking into account the increased works cost and the adjustment to the tenure mix. This improvement will be used to offset a smaller construction price increase on another site within the Housing Supply Programme.

12. VAT Implications on Land & Property Transactions

- 12.1. Outright sale units - These will be zero rated so any VAT on costs will be recoverable.
- 12.2. Social rented units - The income is non-business so VAT on costs will also be recoverable.

13. COMMENTS OF THE DIRECTOR OF LEGAL AND GOVERNANCE

- 13.1. The matter in this Report was assessed as Medium Risk and therefore the Business Case for the public works contract in this Report was approved at Hackney Procurement Board on 12th June 2018. However, the works contract is of a value higher than £2m and, therefore, under paragraph 2.5.3 of Contract Standing Orders, the award of contract will need to be approved by Cabinet Procurement Committee.
- 13.2. The details of the procurement process undertaken by the Council are set out in this report. The value of the proposed works contract is under the current threshold for works of £4,733,252 under the Public Contracts Regulations 2015. Therefore, it was not necessary to publish an OJEU notice in respect of the procurement of the works, but the Council did advertise the contract widely so as to comply with the principle of transparency in the procedure.
- 13.3. Following receipt of the bids the Council was unable to complete its evaluation of the tenders in accordance with the timetable set out in the Invitation to Tender. Therefore, in October 2019, the Council sought a voluntary three month extension to the evaluation period from those tenderers who had submitted a bid. So as to ensure equal treatment of tenderers in the evaluation of tenders by the Council, it was not permitted for bids to be amended during such extension period. Two of the bids were amended and therefore were deemed by the Council to be non-compliant.
- 13.4. Notwithstanding the proposed award to Bidder B, the Council would like to put in place a contingency in the event that we are not able to conclude a contract with Bidder B. Therefore this Report seeks approval by the delegated approval of the Group Director, Neighbourhoods and Housing to appoint Bidder E as a reserve contractor in such circumstances. Paragraph 2.2 ii) of the Executive Procedure Rules states that "If the Elected Mayor delegates functions to a committee of the Executive, unless s/he directs otherwise, the committee may delegate further to an officer". Cabinet Procurement Committee, as a committee of the Executive is therefore permitted to delegate to an officer the decision to agree the award of contract to the reserve contractor if applicable.

14. COMMENTS OF THE PROCUREMENT CATEGORY LEAD

- 14.1. The project has been assessed as Medium Risk with a value above £2m. The Contract Award therefore requires approval of the Cabinet Procurement Committee. The value of the Works is below the current EU Threshold of £4,733,252 and so is not subject to the Public Contract Regulations 2015.
- 14.2. The opportunity was advertised in Contracts Finder in late 2018, with the procurement following a two-stage restricted process. With delays to the process the Council, in October 2019, sought from bidders a voluntary three month extension to the tender validity period; the period within which a bidder agrees to keep their offer legally binding. As the procurement process remained open, and to ensure equal treatment, bidders had to commit to not modify or withdraw their bid for the additional period. Two of the bidders responded with an amended bid and therefore were deemed by the Council to be non-compliant.
- 14.3. The procurement process was supported by the Procurement Team with technical input from the Regeneration division's technical advisors.

APPENDICES

Appendix 1 Long List of Tenderers (EXEMPT)

Appendix 2 Short List of Tenderers (EXEMPT)

Appendix 3 Tender Review Analysis (EXEMPT)

EXEMPT

By Virtue of Paragraph Part 3 Part 1 of schedule 12A of the Local Government Act 1972 the three appendices are exempt because they contain information relating to the financial or business affairs of any particular person (including the authority holding the information) and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

BACKGROUND PAPERS

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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