

**SELECTION OF A CONTRACTOR FOR THE CONSTRUCTION OF MIXED TENURE HOUSING AT PEDRO STREET**

**CONTRACT APPROVAL**

**Key Decision No. NH Q38**

**CPC MEETING DATE  
(2019/20)**

**10 February 2020**

**CLASSIFICATION:**

**Open with EXEMPT APPENDIX 1**

**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, Housing 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 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 to financial viability and planning compliance. This approach enables the Council to combine the development of schemes which require a net investment with those that have the potential to generate a surplus. The 26 new affordable homes at Pedro Street will contribute to the Council's target to build over 3,000 new homes for social rent, shared ownership and outright sale. The cost of these affordable homes will be subsidised by homes for outright sale on other sites within the HSP, as agreed in the overarching Unilateral Undertaking agreed as part of the Programme.
- 1.3 The Pedro Street development will replace an old, now demolished boiler house that had become an eyesore on Clapton Park Estate. It is being replaced by 26 new, genuinely affordable homes for Council social rent and shared ownership. In addition, new landscaping and public realm improvements will provide a link between the development and Gilpin Square, and the shared surface will make the area more welcoming for pedestrians and cyclists.
- 1.4 The Council has worked closely with the Clapton Park Tenant Management Organisation (TMO) and Kings Park ward councillors 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.

## **2. GROUP DIRECTOR'S INTRODUCTION**

- 2.1 The HSP will deliver new, mixed tenure developments. Given current market conditions the Programme is forecast to be self-funding, but each individual scheme is subject to robust financial viability testing.
- 2.2 This report seeks approval to appoint a preferred contractor for the development of a mixed tenure housing scheme at Pedro Street on Clapton Park Estate. The Council has selected the preferred contractor via the South East Consortium (SEC) New Build and Refurbishment Framework, Lot 2: £3m-£8m. The recommendation is made on the basis of both cost and quality.

### **3. RECOMMENDATION(S)**

**Cabinet Procurement Committee is recommended to:**

- 3.1 Approve the appointment of Bidder A as the preferred contractor for the construction of mixed tenure housing at Pedro Street for the value set out in Exempt Appendix 1, plus a 5% client contingency to be held by the Council for scheme variations during the construction period.**
- 3.2 Agree to enter into a JCT Design and Build contract and any other ancillary legal documentation relating thereto with Bidder A for the construction of mixed tenure housing at Pedro Street on such terms as shall be agreed by the Director of Legal.**
- 3.3 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 29 February 2016 the Council's Cabinet agreed the Housing Supply Programme (HSP).**
- 4.2 At its meeting on 18 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 HSP and Estate Regeneration Programme (ERP). 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 The Council's Planning Sub-committee resolved to grant planning permission for the Pedro Street development on 7 February 2018, subject to the completion of a Unilateral Undertaking, which has since been authorised.**
- 4.4 At its meeting of 14 May 2019 the Hackney Procurement Board (HPB) approved the business case for mixed tenure housing at Pedro Street.**

### **5. REASONS FOR DECISION/OPTIONS APPRAISAL.**

- 5.1 This report outlines the process that has been followed in selecting a preferred bidder for the Pedro Street development.**
  - 5.1.1 It is proposed that the Council will enter into a JCT Design and Build contract with the preferred bidder. The Pedro Street contract requires the successful**

bidder to construct 26 new affordable homes, consisting 13 for social rent and 13 for shared ownership, with associated hard and soft landscaping.

- 5.1.2 The redevelopment of the Pedro Street site will contribute to delivering the Council's aspirations to make best use of Council land by building new social rented and low-cost home ownership homes on a range of unused or under-occupied sites across the borough. The shared ownership homes delivered on this site will generate cross subsidy to help support the delivery of the social rented housing.
- 5.1.3 The bids for the Pedro Street 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 HSP. These forecasts have been prepared on the basis of independent cost and value information provided 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.
- 5.1.4 The proposed contractor was selected via a Negotiated Process without Prior Publication procedure using the SEC New Build and Refurbishment Framework Lot 2: £3m-£8m. The route was the recommended method of procuring the proposed work, as the SEC Framework contained a suitable range of contractors, where best value could be obtained in terms of both price and quality. Tenderers were required to offer a fixed price for building out the whole of the works.
- 5.1.5 Two bids were received from build contractors via the Council's e-tendering portal, ProContract. Both bids received were in excess of the pre-tender estimate provided by the Council's professional advisors. In order to reduce bids down to an acceptable level, in accordance with Regulation 32(2) (a) of the Public Contracts Regulations 2015, the Council commenced a Negotiated Procedure with the two bidders.

## **5.2 ALTERNATIVE OPTIONS (CONSIDERED AND REJECTED)**

- 5.2.1 The option to 'do nothing' was considered and rejected. The HSP provides the opportunity to help alleviate the shortage of housing in the Borough. The Pedro Street site is a Council-owned brownfield site and, therefore, presents a significant opportunity to provide new affordable homes.
- 5.2.2 The Council owns and manages thousands of homes in the Borough, and as such has an in-depth understanding of and expertise in the affordable housing sector. In addition, the Council's Regeneration Division has already successfully delivered new build housing across a number of sites. Accordingly, the Council's recent approach to regeneration seeks to utilise its expertise, understanding and financial capacity to build and retain new affordable housing and outright sale homes directly through its in-house Sales & Marketing Team.

5.2.3 Consideration was given to procuring a build contractor using the restricted procedure route set out in the Public Contracts Regulations 2015. The estimated build costs exceed the EU threshold for works and this, therefore, was a viable option. However, it was recommended that the contractor was procured through the SEC Framework for the following reasons:

- Procurement process management costs will be higher for a stand-alone full EU-compliant process compared to a framework. This is principally in relation to internal resources and consultancy fees as a result of the need for a pre-qualification stage to be carried out;
- Such a pre-qualification stage would add 4 to 6 weeks to the procurement timetable; and
- Using a framework will provide a more streamlined procurement approach which in turn will generate time-saving benefits.

5.2.4 Procuring through several alternative frameworks was considered. The SEC Framework was considered to be the most appropriate for this project. Other frameworks in the market contained predominantly larger contractors and, therefore, interest and competition to bid for the work was considered less likely.

## **6. PROJECT PROGRESS**

### **6.1 Developments since the Business Case approval**

6.1.1 In May 2019 the Hackney Procurement Board (HPB) approved a single stage tender via the SEC New Build and Refurbishment Framework Lot 2: £3-£8m for the selection of a build contractor for the construction of mixed tenure housing at Pedro Street. As agreed at HPB, the tenders were to be evaluated on the basis of 30% quality and 70% price. Soft market testing of the SEC Framework was undertaken and expressions of interest were received from four framework members prior to HPB approval, indicating they would be submitting bids.

6.1.2 Following its approval, the procurement process commenced on 11 June 2019 via a mini competition. The Invitation to Tender, tender drawings, surveys and all other associated documents were issued to members of the SEC Framework who had expressed interest via the Council's e-tendering portal, ProContract. Framework members were given until 9 August 2019 to submit a bid.

### **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 HSP has adopted the same Specification, which is being

used for the Pedro Street project. The project is using Version 5 of the Specification to design and build the new homes.

- 6.2.2 The Council's New Build Property Management Team will take on the management and maintenance of the new homes on Pedro Street during the one year defects period. It is anticipated that the Clapton Park Estate Tenant Management Organisation will manage and maintain the building thereafter.
- 6.2.3 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 Business Plan.
- 6.2.4 The tenants of the Council 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.
- 6.2.5 The owners of the Council shared ownership homes will be recharged through a service charge, a proportion of the 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 Pedro Street 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 homes at Pedro Street will also contribute to alleviating the current pressure on the Council's housing register and temporary accommodation costs.

## **7. SUSTAINABILITY ISSUES**

### **7.1 Procuring Green**

- 7.1.1 The Pedro Street scheme will provide high quality soft landscaping, which will improve the ecological value of the site. It will also deliver homes which meet current regulatory requirements relating to sustainability, including Building Regulations and the London Mayor's Housing Supplementary Planning Guidance.
- 7.1.2 The development will replace an old, disused boiler house, bringing the site back into use. Any ground contamination issues identified will be remediated as part of the works.
- 7.1.3 Photovoltaic cells (PVs) will be installed in order to provide a source of renewable energy.

- 7.1.4 A Flood Risk Assessment was carried out for the Pedro Street site in accordance with the requirements of the National Planning Policy Framework (NPPF). The site falls under Flood Risk Zone 2, meaning certain steps must be taken to mitigate the risk of flooding. These include raising the building by 0.5m at the end closest to Gilpin Square.
- 7.1.5 Reducing energy consumption from buildings is a key policy consideration. The Pedro Street 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).
- 7.1.6 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.
- 7.1.7 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.
- 7.1.8 The contractor will be obligated to minimise construction related disruption to residents and other neighbouring buildings including the businesses on Gilpin Square close to the Pedro Street development.
- 7.1.9 The scheme encourages sustainable transport through the provision of 62 cycle spaces, in accordance with Hackney planning policy. These will be provided in the form of both an internal and external communal lockable bike store. The development is also car free, in line with planning policy.
- 7.1.10 The Pedro Street project will, in conjunction with the Council's Mandeville Street project, pay £7,500 towards the cost of an electric car club bay to be located in close proximity to the two developments. Council officers are in discussion with a car club operator to implement the bay. All residents of the new development will be gifted one year's free membership to the car club to encourage use of the scheme.

## **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 Key Performance Indicators (KPIs) have been established. KPIs will be monitored regularly at site meetings. The contractor and Employer's Agent (EA) will provide information that will form the basis of each score, which will be documented at each meeting. The contractor will 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 traders (such as bricklaying, carpentry, electrical, plumbing and plastering). Under the terms of their contract the contractor must employ at least one apprentice per £2m of construction contract value.
- 7.2.4 The appointed contractor will be required to provide the Council with a labour return for the scheme every three months during the construction phase and must notify the Council of all vacancies for employees, self-employed, sub-contractors and any other form or type of employment or service arising from construction of the development. The Council will endeavour to find suitable candidates to put forward for the roles within five working days unless otherwise agreed in advance. After such time vacancies can be filled through alternative channels.
- 7.2.5 A sum of £9,923 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 jobs associated with the development.
- 7.2.6 The preferred bidder has committed to paying all of its staff and sub-contractors the London Living Wage.

### **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 regards to the specification, local labour and employment and skills. The successful bidder has agreed to the Council’s targets in these areas. 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 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 Pedro Street development contains three units which meets Part M4(3) of the Building Regulations – ‘wheelchair user dwellings and adaptable dwellings’ and 19 units which meet the M4(2) requirements, which refer to accessible and adaptable dwellings.



The small scale of the development and viability considerations mean that it is not feasible to incorporate a lift into the east core of the development and therefore it is not possible to fully meet the M4(2) requirements for units above ground floor level.

## **8. TENDER EVALUATION**

### **8.1 Evaluation:**

#### Procurement Route

- 8.1.1 At its meeting in May 2019 HPB approved a single stage procedure via the SEC New Build and Refurbishment Framework Lot 2: £3m-£8m.
- 8.1.2 Soft market testing was carried out with Contractors of the SEC Framework prior to publishing tender documents. Contractors were offered a face-to-face meeting with the Council. Four contractors expressed an interest in tendering, while three of those contractors attended meetings with Council officers prior to tender documents being issued.

#### Invitation to Tender

- 8.1.3 Invitation to Tender (ITT) documents were issued via the e-tendering portal, ProContract, on 11 June 2019. The ITT documents included the Employer's Requirements, draft JCT contract, tender drawings and surveys. Bidders were given a deadline of 9 August 2019 to submit their tender.
- 8.1.4 During the tender process bidders sent a number of clarification questions to the Council via the messaging function on ProContract. These were anonymised and issued to all bidders with responses from the Council.
- 8.1.5 Two bids were received by the tender deadline. Please see exempt Appendix 1 for more details. All bids received were reviewed and verified by the Council and the Employer's Agent (EA) working on the project. Both bids were found to be compliant and were evaluated in full.

#### Evaluation

- 8.1.6 Tenders were evaluated on the basis of 30% Quality and 70% Price.
- 8.1.7 The Council's cost consultant evaluated the financial submission independently of the quality evaluation. At the same time the tender evaluation panel assessed the quality element of each tender bid. The tender evaluation panel consisted of:
- Project Lead (LBH)
  - Project Manager (LBH)
  - Design Manager (LBH)
  - Employer's Agent (Potter Raper)

## Quality Evaluation

8.1.8 For the Quality element, bidders were required to set out their responses to seven Method Statements scored 0-5, and one Statement which was scored on a pass/fail basis. Where necessary, further clarification was sought from bidders. A score of 2 or less on any one of the Method Statements would result in a fail and therefore disqualification from the tender process. Table 1 below gives details of the Evaluation Scoring Methodology used. Further details for the Method Statements and scores can be found in Appendix 1.

**Table 1 - Evaluation Scoring Methodology**

<b>Score</b>	<b>Rationale/Judgement</b>	<b>General Description</b>
0	The response fails to comply with the requirements of this ITT or is otherwise incapable of evaluation.	Wholly unsatisfactory
1	The response does not demonstrate an understanding of the Council's requirements as defined in this ITT, and is incomplete or is otherwise unconvincing in significant respects.	Unsatisfactory
2	The response demonstrates only a limited understanding of the Council's requirements as defined in this ITT, lacks detail or is not convincing in a some respects	Cause for concern
3	The response demonstrates an understanding of, and compliance with the Council's requirements as defined in this ITT.	Acceptable
4	The response indicates that the Tenderer would effectively deliver the programme of works in accordance with the Council's requirements. The response is convincing, detailed and demonstrates a good understanding of the Council's requirements as defined in this ITT.	Good
5	The response indicates that the Tenderer would effectively deliver the programme of works in accordance with the Council's requirements. The response is entirely convincing, highly detailed and demonstrates a complete understanding of and compliance with the Council's requirements.	Excellent

8.1.9 Each Method Statement was scored by the tender evaluation panel. A moderated consensus score was reached following individual scoring.

8.1.10 Both bidders submitted Contractor's Proposals. These set out the contractor's proposals for elements of work including those that were not specified in the tender documents, where they are unable to meet the requirement or they have proposed an alternative.

#### Price Evaluation

8.1.11 For the Price element, bidders were required to submit a financial proposal. The proposal included costs for the construction of 26 affordable residential units including communal areas, all associated external works and hard and soft landscaping. Details can be found in Appendix 1.

8.1.12 The price has been scored on the basis that the bidder providing the best offer to the Council scores the highest. The other bidder was scored in relation to how their price compared with the higher scoring bidder.

#### Negotiated Procedure

8.1.13 The financial evaluation established that both tender bids received were over budget. There were also a number of outstanding clarifications with both bidders where they had specified products, materials and proposals. Regulation 32 of the Public Contracts Regulations 2015 allows the Council to award a contract by a Negotiated Procedure without Prior Publication where, amongst other things, no suitable tenders have been submitted, provided that the initial conditions of the contract are not substantially altered. In order to refine each bidder's tender with regards to specification and to reduce costs, the Council informed bidders of its intention to enter into a negotiated procedure under Regulation 32 of the Public Contracts Regulations 2015.

#### The Evaluation Process at the Negotiation Stage

8.1.14 Bidders A and B were written to on 17 September 2019 inviting them to participate in a negotiated process. Both firms agreed to participate in the process.

8.1.15 In the letter, Bidders were reminded that the procurement process was undertaken via the SEC New Build and Refurbishment Framework Lot 2: £3m-£8m. The pre-tender estimate, provided by the Council's professional advisors, indicated that the build cost would fall within this price range (i.e. £3m-£8m).

8.1.16 Bidder B responded to the Council's letter stating that, while willing to enter into negotiation, it was their opinion that their bid could not be reduced to within the £3m-£8m price range "without a complete redesign, with the possible loss of units". Bidder B's original bid was more than £2m above the pre-tender estimate and higher than Bidder A's price. Following professional advice and the need to maximise the delivery of affordable housing, the Council informed

Bidder B that it was not willing to accept a redesign or the loss of units. Bidder B then withdrew from the procurement process.

- 8.1.17 On agreeing to participate in the negotiated process, Bidder A was sent a letter setting out the process and identifying areas of their bid where the Council wished to negotiate. Bidder A then submitted revised proposals including revised specifications and opportunities to reduce costs. These were discussed at a negotiation meeting held on 27 September 2019. The meeting was chaired by the Interim Head of Estate Regeneration Programme and Housing Supply Programme, and attended by the Employer's Agent (EA), Project Lead, Category Manager, Design Officer and representatives of Bidder A.
- 8.1.18 The negotiation meeting was not scored, but served as an opportunity to meet senior company personnel and seek confirmation of their commitment, priority, attitude and approach to the Pedro Street development. The meetings were also an opportunity for the Council to reiterate its vision and objectives for the HSP, and to give the bidder confidence in the Council as a development partner.
- 8.1.19 It was also an opportunity for the Council and Bidder A to clarify and agree their approach to a number of qualifications, clarifications and provisional sums in their tender submission.
- 8.1.20 It was agreed that, following the meeting, a tracker would be established to monitor and agree revised proposals put forward by Bidder A. There then followed a number of exchanges via the e-tendering portal, ProContract, whereby Bidder A put forward proposals and the Council responded to them.
- 8.1.21 One area of concern for the Council was Bidder A's proposed design team. On scoring their quality submission it was noted that Bidder A's design team did not have the necessary experience in the new build housing sector. At the Council's request Bidder A changed its design team and, as a result, the tender evaluation panel rescored Method Statement 4 of Bidder A's quality submission.
- 8.1.22 On 25 November 2019 the Council sent Bidder A a final copy of the proposal tracker with a request for a best and final offer (BAFO) submission. This offer was received by the Council on 28 November 2019. The offer was confirmed as valid by the EA. Their priced BAFO response was combined with the revised quality score to give an overall score.
- 8.1.23 Tender sum adjustments for Bidder A can be found on page 17 of Appendix 1. These reflect the outcome of negotiations to confirm the final specification. Changes to the specification were agreed by the Council's Strategic Design team following advice taken from the EA.
- 8.1.24 Given that only Bidder A submitted a best and final offer, their bid was evaluated on a stand alone basis. As per 8.1.8, Bidder A's quality submission was scored on its response to the Method Statements. They were given a

score of 3 or more for each of the Method Statements and their bid was therefore acceptable. A summary of Bidder A's scores for price and quality is set out in the table below. A full analysis of the scoring is set out in exempt Appendix 1.

	Quality (30%)	Price (70%)	Total (100%)
Bidder A	19%	70%	89%
Bidder B	Withdrew from tender process at negotiation stage		

8.1.25 Bidder A's final offer is 5.1% higher than the Council's pre-tender estimate provided by the EA. The HSP programme follows a portfolio approach to financial viability, as opposed to a site-by-site approach. This approach enables the Council to combine the development of schemes which require a net investment with those that have the potential to generate a surplus. As Pedro Street is a 100% affordable housing development, it was always anticipated that the scheme would have a net investment requirement, and would be cross subsidised by homes for outright sale on other sites within the HSP.

8.1.26 The additional investment requirement arising from the increased build cost for Pedro Street will be funded through an adjacent site. Daubeney Road is an 11 home HSP project, also located on the Clapton Park estate. The Council's Planning Sub-Committee originally resolved to grant planning permission for Daubeney Road in July 2018, to deliver 6 homes for social rent and 5 homes for shared ownership.

8.1.27 Officers working on the Daubeney Road project issued tender documents to identify a build contractor on 18 March 2019. Five bids were received by the deadline of 3 May 2019. As with Pedro Street, all of the tenders were above the pre-tender estimate.

8.1.28 In order to maintain the viability of both the Pedro Street and Daubeney Road projects and to ensure they can be delivered to programme, the decision was made to vary the tenure mix at Daubeney Road. This variation was agreed by the Council's Planning Sub-Committee on 9 January 2019. Following consultation with Kings Park Ward Councillors it was agreed to change four of the shared ownership homes to outright sale, in order to generate additional capital receipts. This additional income will be used to meet the increased build costs on the Pedro Street and Daubeney Road schemes. As part of the above variation, in respect of Daubeney Road, the remaining shared ownership home will be converted to social rent.

## **8.2 Recommendation:**

8.2.1 A preferred bidder was selected using the award criteria and scoring methodology set out in the ITT. Bidder A's submission, being the only final bid, achieved the highest score for quality and price combined and emerged as the Most Economically Advantageous Tender (MEAT).

- 8.2.2 It is therefore recommended that the contract for the construction of mixed tenure housing at Pedro Street is awarded to Bidder A.
- 8.2.3 Bidder A is committed to adhering to the design as per the planning permission and tender documents. This includes its responsibility to meet local labour, Ways into Work and local supply chain requirements.
- 8.2.4 A performance bond and parent company guarantee will be used on this project to alleviate the risk of Bidder A failing to fulfil its contractual obligations or becoming insolvent. This is a typical requirement for new build development projects.
- 8.2.5 A full analysis of the bids is included in exempt Appendix 1.

## **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 the Council's Project Lead overseen by a Project Manager. The Council has appointed Potter Raper Limited as its EA for the scheme, for the duration of the construction period. The project delivery team is:
- Project Sponsor – Director – Regeneration
  - Project Head of Service – Head of Housing Supply Programme
  - Project Lead – Project Officer, Housing Supply Programme
  - Project Oversight – Project Manager, Housing Supply Programme
  - Design Advice – Strategic Design Team
  - Legal – Senior Lawyer, Regeneration
  - Procurement – Procurement Category Lead and Procurement Category Manager
  - Employer's Agent – Potter Raper Limited
- 9.1.3 During the pre-construction and construction periods, the Pedro Street project will be managed on a day-to-day basis by the Project Officer and Project Manager in the Council's HSP team. 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. 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 and Project Officer, with

updates provided regularly to the Council's Director as project sponsor. The EA 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 is anticipated that work will start on site in July 2020 as summarised in the table below:

<b>Key milestones and dates</b>	
Report to CPC seeking approval to Award Contract for construction	10 February 2020
Decision and standstill letter issued	11 February 2020
Standstill period	12 - 25 February 2020
Proposed signing of contract	25 March 2020
Proposed start on site	July 2020

## 9.2 Key Performance Indicators:

<b>Main KPI Targets Set</b>	<b>Monitoring</b>
<b>1. Programme</b> - target to achieve Practical Completion in line with programme provided by the contractor during the tender period.	Monitored monthly based on total days early or delayed.
<b>2. Cost</b> - target for project to be delivered to cost.	Monitored monthly based on divergence between original contract value and forecast throughout the project.
<b>3. Quality control</b> - resolve all defects within timescales set.	Monitored by EA, number of defects remedied within/beyond timeframes.
<b>4. Employment</b> - provision of four apprentices across the project.  Target 30% local labour.  Pay all employees, including those of sub-contractors, the London Living	To be monitored at monthly site meetings.

Wage.	
<b>5. Sustainability</b> - meet the requirements as set out in the Site Waste Management Plan.  Project to meet requirements for energy saving measures including PVs.	To be monitored at monthly site meetings.

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

- 10.1 The increase in construction costs over and above the Employer's Agent's pre tender estimate has resulted in an adverse movement in the project's finances of £159k.
- 10.2 Due to similar price increases at the nearby Daubeney Road site (which is also within the HSP), 4 Shared Ownership units there have been flipped to Outright Sale. This has improved the financial position at Daubeney Road by approximately £200k, which is being used to offset the increased costs on Pedro Street and maintain the agreed financial position across both sites.
- 10.3 A contingency of 5% has been allocated to this project (cost centre X7573) and has been included in the financial appraisal. Any utilisation of this will need to be approved as per LBH's scheme of delegation.

## 11. VAT Implications on Land & Property Transactions

- 11.1 Shared ownership units - These will be zero rated so any VAT on costs will be recoverable.
- 11.2 Social rented units - The income is non-business so VAT on costs will be recoverable.

## 12. COMMENTS OF THE DIRECTOR OF LEGAL AND GOVERNANCE SERVICES

- 12.1 The public works contract in this Report was assessed as Medium Risk and Hackney Procurement Board approved the Business Case on 14 May 2019. The value of the proposed contract to be awarded is 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.
- 12.2. The Council used the South East Consortium New Build and Refurbishment Framework Lot 2 to seek tenders for the works contract in this Report. Contract Standing Order 5.1.4 states that officers may use Framework Agreements set up by other Central or Local Government organisations as



instructed or agreed by the Group Director, Finance and Corporate Resources, or designated deputy.

- 12.3 Evaluation of the tenders received did not result in a bid which the Council could accept and, therefore, it used Regulation 32 of the Public Contract Regulations 2015, under which contracting authorities may award public contracts by a negotiated procedure without prior publication to agree a contract with an economic operator. Regulation 32 can be used where “no tenders, no suitable tenders, no requests to participate or no suitable requests to participate have been submitted”. In this case no suitable tenders were received under the SEC Framework and, therefore, the Council sought to use this Regulation to negotiate the contract with the two bidders who provided compliant bids by the initial deadline. Following the conclusion of these negotiations it is proposed to award the contract to Bidder A.

### **13. COMMENTS OF THE PROCUREMENT CATEGORY LEAD**

- 13.1 The Business Case, approved at the Hackney Procurement Board on 14 May 2019, estimated the value of the works to be above £2m and having a risk level of Medium. In compliance with paragraph 2.7.7 of the Council’s Contract Standing Orders, the Contract Award must be determined by the Cabinet Procurement Committee.
- 13.2. The South East Consortium (SEC) New Build and Refurbishment Framework Lot 2 used to procure the works contractor is provided for in the Council’s Contract Standing Orders paragraphs 5.1.4 and 5.1.7. The use of an OJEU compliant framework such as the SEC New Build and Refurbishment Framework was to remove the need to undertake a costly and time consuming OJEU procurement process.
- 13.3 Regulation 32 of the Public Contract Regulations 2015 provides grounds for using the negotiated procedure without prior publication where there are no suitable tenders submitted as set out in this report.
- 13.4 Following Bidder B withdrawing from the negotiation, the process was structured around clearly identified negotiation points supported by a tracker to monitor and agree revised proposals put forward by Bidder A and submitted via the Council’s e-tendering portal, ProContract. In addition, the price evaluation was separated from the quality evaluation at BAFO stage so as not to influence the respective submission scores. It is proposed to select Bidder A for the works contract.

### **APPENDICES**

Exempt Appendix 1 - Pedro Street Tender Report

**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.

## **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.**

None.

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