

**SELECTION OF A PROCUREMENT ROUTE FOR THE DEVELOPMENT OF  
A MIXED TENURE HOUSING DEVELOPMENT AT FAIRBANK ESTATE N1  
7QQ KEY DECISION NO. NH Q 75**

**BUSINESS CASE**

**Key Decision: Yes**

**Risk Level: High**

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

**5 October 2020**

**CLASSIFICATION:**

Open with exempt appendix

**If exempt, the reason will be listed in the  
main body of this report.**

**WARD(S) AFFECTED**

**Hoxton West**

**CABINET MEMBER**

**Deputy Mayor Rebecca Rennison**

**KEY DECISION**

Yes

**REASON**

Spending/or saving

**GROUP DIRECTOR**

**Ajman Ali, Acting Group Director Neighbourhoods and Housing**

## **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 in the absence of any Government funding to build Council housing for social rent. The Programme is on track to deliver more than 600 new homes, with at least half for social rent and shared ownership.

1.2 In approving the Programme, Cabinet agreed to a portfolio approach that encompasses the whole Housing Supply Programme, 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 potential to generate a surplus.

1.3 The 73 new homes at Fairbank Estate, in Hoxton West, 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 the affordable homes at Fairbank Estate (28 for social rent and 9 for shared ownership) will be subsidised by the 36 homes for outright sale on the scheme.

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

2.1 The HSP will see the delivery of 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 is seeking approval to commence the procurement of a principal contractor for the development of a mixed tenure housing development at Fairbank Estate.

2.3 The process ensures that the Council selects a contractor on the basis of both cost and quality. It also allows for further detailed financial assessments of the proposed contractor to be undertaken prior to entering into formal contractual arrangements.

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

**Cabinet Procurement Committee is recommended to:**

- 3.1 Agree to a single stage competitive tender process using Lot 2 of the Southern Housing Group Framework, for the selection of a principal contractor for the construction of the 73 unit mixed tenure housing development, plus three commercial units, at the Fairbank Estate site, with associated landscaping and public realm improvements.**
- 3.2 Agree to the delegated approval of the Contract Award by the Group Director of Neighbourhoods and Housing, where required, and in consultation with the Group Director of Finance and Corporate Resources and the Director of Legal and Governance Services, to meet the GLA's programme requirements.**
- 3.3 Note that the associated demolition and enabling works of the existing site is included in the works for the principal contractor.**

#### **4. RELATED DECISIONS**

- 4.1 At its meeting of 29 February 2016 the Council's Cabinet agreed the Housing Supply Programme.
- 4.2 At its meeting on 18 July 2016, the Council's Cabinet approved the Sales and Marketing Strategy. The Sales and Marketing Strategy authorises the Director of Regeneration to implement the Sales and Marketing Framework. This is in relation to shared ownership and outright sale disposals, generated by both the Housing Supply and Estate Regeneration (ERP) Programmes.  
  
4.3 The strategy also gives authority to both the Director of Strategic Property and Director of Regeneration, to dispose of leasehold and freehold interests in shared ownership homes and outright sale homes (developed, or to be developed), as part of the HSP and ERP.

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

##### **5.1 Overview of the Fairbank Estate project:**

- 5.1.1 The Fairbank Estate project is a mixed tenure housing development which forms part of the HSP. It is located in the Hoxton West ward in the London Borough of Hackney. This report will outline the proposed process for procuring a principal build contractor to deliver this housing development, along with associated landscaping and public realm works.

5.1.2 The site is located along East Road and is bounded by Murray Grove to the north. It is occupied by a 20 storey Council-owned tower block, Thaxted Court, which is to remain occupied during construction and a two storey garage block, which is to be demolished. The western part of the site has a lower level car park that surrounds Thaxted Court. A low rise block, Halstead Court, is to the south of the site. The site sits directly over two Network Rail underground tunnels, which adds a level of complexity and risk to delivery of the project.

5.1.3 The proposed scheme consists of three, seven storey buildings providing 73 new homes, three ground floor commercial units and a community room. There will also be an entirely new public realm introduced which includes extensive infill works around Thaxted Court, hard/soft landscaping, a playspace, planting, car parking and a colonnade connecting the North and West blocks. The tenure of the homes will be as follows:

- 28 homes for social rent
- 9 homes for shared ownership
- 36 homes for outright sale.

5.1.4 A Planning application for the Fairbank Estate project was submitted in July 2020 and the application is due to be considered at the Planning Sub-Committee meeting in November 2020.

5.1.5 The Council will meet the full development costs of the scheme and act as developer for the social rent, shared ownership and outright sale homes. The form of contract will be a Joint Contracts Tribunal (JCT) Design and Build Contract 2016 with London Borough of Hackney amendments.

5.1.6 The Council's appointed Employer's Agent (EA), has provided an Elemental Cost Plan at the pre-tender stage. This can be found in exempt Appendix 1. The estimated costs for the construction works are based on the RIBA Stage 3+ proposals and reflect the Planning drawings prepared by the project architects. Bidders will be required to submit a contract price for the construction of the enabling and demolition, main build works and landscaping.

## **5.2 Strategic Context:**

5.2.1 The HSP was agreed by the Cabinet at its meeting on 29 February 2016.

5.2.2 Promoting mixed communities in well-designed neighbourhoods, where people can access high quality affordable homes, is one of the six key priorities of Hackney Council's Sustainable Community Strategy 2018-2028.

The provision of new affordable homes through the HSP, including the Fairbank Estate site, will assist in delivering this key priority.

5.2.3 The HSP is seeking 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 new affordable homes will contribute to the Council's objective to build over 3,000 homes over the next few years. Homes built for outright sale will be used to subsidise the Programme in the absence of Government funding. The Fairbank Estate project will be developed as part of the Programme and is therefore funded within an existing budget.

5.2.4 In line with the GLA's Building Council Homes for Londoners fund, the HSP is also seeking to use GLA grant funding to build more affordable homes, by meeting the GLA's required start on site deadline of March 2022.

### **5.3 Preferred Option**

5.3.1 Following a review of a number of options for the procurement of this project with the Employer's Agent and the Council's Procurement team, and as set out in Section 5.4 of this report and Exempt Appendix 2, the preferred option is to tender the contract to the Southern Housing Group Lot 2. This Framework offers a good range of suitable contractors and was selected following a soft market testing exercise. The process of using this Framework will be managed using the Council's e-tendering portal in compliance with the Public Contract Regulations 2015.

5.3.2 The Invitation To Tenders (ITT) will be issued to the contractors on Lot 2 of the Southern Housing Group in compliance with the Framework rules to deliver the scheme.

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

5.4.1 A range of procurement route options were considered with the project EA and Procurement Services. The principal objectives for the selection of the preferred procurement route were to access high quality and suitable contractors for the development, and to meet the GLA funding deadline to start on site by March 2022.

5.4.2 The pre-tender estimate for the works is above the EU Threshold for Works of £4,733,252 and is therefore subject to the Public Contracts Regulations 2015 (PCR2015). An Open Procedure, Restricted Procedure and a Competitive Procedure with Negotiation were considered. However, the

timeframe for using these procedures would be too lengthy and would risk missing the start on site deadline imposed by the GLA. For this reason, these options were disregarded.

5.4.3 The option of procuring a contractor for the Fairbank Estate project via a bespoke two-stage tendering exercise was also considered. This option was originally preferred on the basis that it would enable the competitive procurement of a framework contractor at an early stage to price a fully designed superstructure and to support the design of the substructure. This approach would have enabled the Council to use the expertise of the contractor in developing a build solution for the complexities of the scheme - namely the works below ground and the logistics of the works within an existing residential area. However, following the completion of the Stage 3 design in December 2019 and the anticipated completion of Stage 3+ design process, the level of the design information has increased. This, together with the programme implications of the two-stage procurement resulted in a re-evaluation of the preferred approach. This option was therefore rejected.

5.4.4 Using an OJEU compliant Framework which has medium to large sized building contractors was considered a favourable option given the potential to reach a good number of suitable contractors for this medium sized development. A range of EU compliant Frameworks were reviewed with the Employer's Agent, Regeneration Strategic Design team and Procurement Services.

5.4.5 Two Frameworks - Lot 2 of the Southern Housing Group Framework, and Lot 7 of the Hyde National Framework Partnership were selected for soft market testing using the Council's e-tendering portal. The results were mixed, with a better range of suitable contractors responding from the Southern Housing Group framework than the Hyde National Framework Partnership.

5.4.6 It is therefore recommended to proceed with Lot 2 of the Southern Housing Group Framework as the most suitable procurement route for the Fairbank Estate site. This framework has the following advantages:

- There is a good range of suitable contractors on the Framework
- The procurement timescales are acceptable.

## **5.5 Success Criteria/Key Drivers/Indicators:**

5.5.1 The Fairbank Estate development will deliver much needed affordable housing for social rent and shared ownership, as well as homes for outright sale.

### 5.5.2 Success will be measured by:

- Building high quality new homes and landscaping that improves the neighbourhood and promotes mixed communities;
- Practical completion of the proposed homes and landscaping work achieved by the agreed practical completion date;
- Maximising the capital receipt generated by the sale of the leases for the shared ownership and outright sale homes, which in turn will help to pay for social rented homes in the HSP;
- Delivering affordable homes that respond to local need;
- Ensuring that build costs represent value for money whilst maintaining quality;
- Delivery of employment and training benefits to the local community;
- Resident satisfaction; and
- The successful integration of the new development to the benefit of those living on the estate and working in the area.

## 5.6 Whole Life Costing/Budgets:

5.6.1 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.

5.6.2 The Council's Regeneration Divisional Programme Office (DPO) has recently issued Version Five of the Hackney New Build Design Specification, reflecting changes in legislation and Building Regulations, as well as the lessons learned from complete and emerging projects in the Council's wider Regeneration Programmes. Version Five of the Specification will form part of the Employer's Requirements for this project alongside a full set of tender drawings, design team specifications and contract particulars.

5.6.3 The Council's New Build Property Management Team will take on the management and maintenance of the new homes on Fairbank Estate during the defects period. It is anticipated that Hackney's Housing Services will manage and maintain the development thereafter.

5.6.4 There is funding within the HSP budget for this development.

## **5.7 Policy Context:**

5.7.1 A Cabinet report in October 2015 presented an update on the delivery of the Estate Regeneration Programme and introduced an outline proposal for a new HSP. This new Council-led initiative was introduced to contribute to meeting the commitments of the 2014 Mayoral manifesto, including building new affordable homes for local people with a focus on social rent and shared ownership.

5.7.2 In February 2016 Cabinet approved the HSP, which sets out to deliver high quality affordable homes on council owned sites. The HSP differs from the ERP in approach in that it has no element of demolition of existing homes, nor will it involve building on green space. The HSP is currently set to deliver around 682 new homes across 15 sites.

## **5.8. Consultation/Stakeholders:**

5.8.1 Extensive consultation has been undertaken with the relevant bodies (please refer to 5.8.2) representing residents and neighbouring buildings from the estate, Ward Councillors and local residents. These have been in the form of public engagement events and meetings at various stages of the project prior to planning submission. Statutory consultation has also been undertaken as part of the Planning application.

5.8.2 Key stakeholders include:

- Supporting Residents Group of Fairbank Estate (SRG)
- Local residents including tenants and leaseholders of neighbouring buildings
- Hoxton West Ward Councillors
- LBH staff managing and maintaining the estate.

5.8.3 Officers will continue to consult with local residents and other key stakeholders throughout the key stages of the project.

## **5.9 Risk Assessment/Management:**

5.9.1 The cost of the construction works represent a major element of the overall project expenditure. The form of procurement proposed provides access to an appropriate pool of contractors. A value engineering exercise has been conducted on the design proposals to manage the risk of inflated bid costs, where possible, and to obtain a competitive price for the works.



5.9.2 As outlined in 5.1.2 the project's site constraints carry a non standard element which is reflected in the cost and risk level of the project. These are the Network Rail tunnels and the requirement to keep Thaxted Court occupied throughout and beyond the construction of the project. The project team has worked with the Employer's Agent, a construction specialist, the architect and their engineers and Network rail to ensure that all risks associated with this element are subject to regular review and ongoing management.

5.9.3 A project risk register for the Fairbank Estate scheme is maintained and regularly updated.

5.9.4 The risk assessment tool has assessed the risk for this project as High. Individual risks relating to the Procurement, with mitigating actions, are set out below:

Risk	Likelihood	Impact	Overall	Action to avoid or mitigate risk
	L – Low; M – Medium; H - High			
Contractors do not submit tenders	L	H	H	Soft market testing has been undertaken by Procurement Services, which has also had input from the EA. The results indicate there is interest in the scheme.  Ensure the tender package, including the Employer's Requirements (ERs), provides tenderers with enough information to enable them to accurately bid.
Tenders returned over budget	M	M	H	Council officers will continue to work closely with the EA, who has provided an Elemental

				<p>Cost Plan and an up to date pre-tender estimate.</p> <p>Ensure the tender package provides tenderers with enough information to enable them to accurately bid.</p> <p>The EA will analyse the prices received and where necessary ask the tenderer to justify anything that appears inflated.</p> <p>At the soft market testing stage, we worked with the EA and Procurement Services to engage with contractors on their previous schemes which are of similar scale and value, to gauge market appetite.</p> <p>Obtain costs from bidders for all elements of the cost plan.</p>
Contractor goes into liquidation during construction	M	H	H	<p>Financial checks including a Dunn and Bradstreet check will be carried out to ensure the preferred bidder has the financial capacity to carry out the works before appointment.</p> <p>The soft market testing stage has engaged with contractors on how the current climate of Covid</p>

				19 has impacted them and how they are expected to be impacted if the current situation continues.
Quality of scheme does not meet expectations	L	M	M	<p>The architects have prepared a RIBA Stage 3+ design pack, so that the information given to tenderers is sufficiently detailed to ensure design quality is retained during delivery.</p> <p>The Council's Strategic Design Officers have had ongoing input at various design review stages to ensure the quality of the scheme meets the Council's expectations.</p> <p>The EA's appointed team, including Clerk of Works services, will ensure design quality is maintained. The EA is clear on the Council's aspiration to achieve a high quality affordable housing scheme.</p> <p>A preference for the contractor to retain the original architects will be stated in the tender documents.</p>
The duration of the procurement exceeds	M	H	H	A number of procurement options

<p>the anticipated programme, which may impact on achieving the GLA start of site date.</p>			<p>were reviewed by the project team in terms of appropriateness to the project, as well as in context with meeting the wider programme requirements of the project.</p> <p>The procurement route chosen for this project has been reviewed extensively to facilitate meeting the required programme, if there are no significant delays in the procurement process.</p>
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## 5.10 Market Testing (Lessons Learnt/ Benchmarking):

5.10.1 Soft market testing was undertaken to gauge market appetite.

5.10.2 The formal soft market testing questions were devised through consultation with the Employer's Agent, Procurement Services and Strategic Design officers. The questions were issued through ProContract.

## 5.11 Savings:

5.11.1 The Fairbank Estate project will deliver new, high quality, mixed tenure homes and associated landscaping and public realm works, as well as contribute to the regeneration of the Borough. This will provide better value for money through reduced maintenance and management costs. Furthermore, utility costs will be lower due to the efficiency of the buildings which are designed to meet both current and future needs of residents.

5.11.2 The new affordable homes at Fairbank Estate will also contribute to alleviating the current pressure on the Council's housing register and temporary accommodation costs.

## 6. SUSTAINABILITY ISSUES

## **6.1 Procuring Green**

6.1.1 The Council is committed to delivering procurement of works in accordance with the Sustainable Procurement Strategy, which engages with fair, sustainable practice that seeks to benefit the local community; and minimise any negative environmental impacts of goods, services and works contracts procured.

6.1.2 A number of environmental benefits will arise from the main works at Fairbank Estate. There will also be new public realm and landscape as well as improved access, which will help integrate new and existing buildings. A new play area will promote play in the community.

## **6.2 Procuring for a Better Society**

6.2.1 The Council procures on the basis of accepting the Most Economically Advantageous Tender (MEAT) and not simply lowest price. This is consistent with the “Best Value”, which is defined as the optimum combination of whole life costs and benefits to meet the customer’s requirement. This approach enables sustainability matters to be included in what we take into account when assessing ‘quality’.

6.2.2 A key opportunity for Hackney, as part of our commitments to obtain maximum value from contracted services and our wider spend with external organisations, is to strongly focus on securing enhanced contractual benefits for the local area, economy and for the health and wellbeing of our residents.

6.2.3 These contractual benefits could include: promoting social innovation; supporting local employment; encouraging local suppliers into the supply chain; improving regeneration and integration of the local community; or employment and skills initiatives such as apprenticeships.

## **6.3 Procuring Fair Delivery**

6.3.1 The principles of procuring fair delivery include: fulfilling our public sector equality duty; following ethical practices such as Fair Trade; paying the London Living Wage; tackling modern slavery and human trafficking and ensuring that communities, suppliers and workforces are diverse.

6.3.2 The Council is committed to ensuring that workers’ rights are preserved in the context of fair and prompt payment to subcontractors and as part of the procurement of new contractors and when a decision is made to in-source a

service. Each bidder will be required to comply with the Council's requirements with regards to the specification, local labour and employment and skills.

- 6.3.3 In accordance with the Sustainable Procurement Strategy we will require our suppliers to offer wages and benefits that as a minimum meet relevant industry benchmarks and nationally required standards, and to consider pay and workforce conditions in its services and works contracts in a manner consistent with Best Value, ensuring that pay rates are at least equivalent to the London Living Wage.

#### **6.4 Equality Impact Assessment and Equality Issues**

6.4.1 The HSP is building new mixed communities that are well integrated with surrounding areas and have well designed affordable homes for social rent and shared ownership, as well creating safer, more attractive environments.

- 6.4.2 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 housing mix for the Fairbank Estate development has been considered in line with housing needs of the Fairbank Estate and neighbouring Provost Estate. The development contains eight homes that meet Part M4 (3) – 'wheelchair user dwellings and adaptable dwellings' and 65 homes that meet the M4 (2) requirements.

#### **6.5 Environmental Issues:**

6.5.1 The Fairbank Estate development will provide high quality soft landscaping to enhance the appearance and the ecological value of the environment. The development includes significant infill work to bring the lower ground level around Thaxted Court up to street level - introducing improved landscape areas, and a play area.

- 6.5.2 The Fairbank Estate site is located in Flood Zone 1, which is categorised as having a low probability of flooding. A Flood Risk Assessment (FRA) was therefore not required for this site.

6.5.3 Reducing building energy consumption is a key policy consideration. This scheme meets the requirement to reduce CO<sup>2</sup> emissions by 35% from Part L of Building Regulations 2016 as per the requirements of London Policy and the Council. In order to achieve the zero carbon target, this scheme will be required to make a carbon offset payment.

6.5.4 The new buildings for the Fairbank Estate development will provide high quality energy efficient homes that meet current regulatory requirements relating to sustainability including Building Regulations, the Mayor's London Plan and the Council's Housing SPG. The new homes have been designed with Air Source Heat Pumps (ASHP) to achieve the required energy levels in accordance with current London Plan energy targets, and to support the transition from fossil fuels to renewable energy.

6.5.5 Recycling construction waste and the development of a Site Waste Management Plan are mandatory. The principal contractor will be required to minimise construction related disruption to residents and other neighbouring buildings including Thaxted Court and Halstead Court.

6.5.6 The scheme encourages sustainable transport through the provision of 174 resident and visitor cycle spaces - in line with Hackney's Cycle Parking and Storage Standards. These will be provided within communal lockable bike stores (some at basement level, accessed by a staircase with a cycle rail and a lift from a ground floor entrance) and within the new landscape.

6.5.7 The Fairbank Estate project and others will fall under the Ultra Low Emission Zone (ULEZ) when construction commences. In order to reduce the impact on air quality during the construction phase, development proposals must demonstrate how they plan to comply with the Non-Road Mobile Machinery Low Emission Zone and reduce emissions from the demolition and construction of buildings following best practice guidance.

## **6.6 Economic Issues:**

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

6.6.2 As part of the planning conditions for development in Hackney, the contractor is required to produce an Employment and Skills Plan (ESP) that sets out how the contractor will fulfil obligations to make employment-related opportunities available for local residents, particularly those out of work.

## **7. PROPOSED PROCUREMENT ARRANGEMENTS**

### **7.1 Procurement Route and EU Implications:**

7.1.1 As set out in 5.4.2 above, the pre-tender estimate for the works exceeds the EU Threshold for Works of £4,733,252. In compliance with Public Contracts Regulations 2015 (PCR2015), a mandatory Contract Notice will be placed in Contracts Finder, the Government's public sector tender portal. The Council's e-tendering portal will be used to procure a principal build contractor from Lot 2 of the Southern Housing Group Framework.

7.1.2 A significant amount of work has been undertaken to de-risk the project and site for development, and make it an attractive opportunity for potential bidders. This includes the completion of Network Rail surveys, statutory and services surveys, asbestos surveys, geo-technical surveys and topographical surveys. .

7.1.3 Bidders will be asked to return a quality and a finance response.

7.1.4 The quality criteria will include:

- Construction Programme including enabling works
- Project Delivery including site logistics, project team and key personnel
- Proposed Design Team
- Maintaining Integrity of Design
- Health and Safety
- Sustainability
- Community Engagement
- Local Employment, Training and Supply Chain
- London Living Wage compliance.

7.1.5 The financial criteria will include:

- Preliminaries including Project Particulars and Conditions of Contract
- Design fees – indicative of pre and post construction stages
- Build cost budget – indicative price per square metre (£/m<sup>2</sup>)
- Indicative elemental build up with narrative
- Overheads and profit
- Contractor Financial Assessment.

7.1.6 The tender returns will be evaluated on the basis of a 60:40 price:quality ratio. Tenders will be assessed by the Council's evaluation panel. The financial information submitted in the Pricing Document will be assessed and benchmarked against the Build Cost Information Service (BCIS) in order to verify the details of the tender, interrogate the financial figures submitted and examine the assumptions made.

## **7.2 Resources, Project Management and Key Milestones:**



### 7.2.1 Project Team:

- Director – Regeneration
- Head of Housing Supply Programme
- Project Manager
- Project Officer
- Architect – Lynch Architects
- Employer’s Agent – Ridge Partnership
- Cost Consultant – Ridge Partnership
- Development Advisor – GL Hearn.

### 7.2.2 Evaluation Team:

- Head of Housing Supply Programme
- Project Manager
- Project Officer
- Head of Strategic Design
- Finance Advisor
- Employer’s Agent.

### 7.2.3 Evaluation Team Advisors:

- Procurement Category Lead and Category Manager
- Legal Services – Procurement and Property Solicitors.

<b>Key Milestones (Indicative)</b>	
Gateway 2a approval	21 September 2020
Business Case Report to CPC for approval of the procurement strategy	5 October 2020
Issue Tender	30 October 2020
Tender returns	22 February 2021
Tender Evaluation	22 February - 8 March 2021
Contract Award Report	29 July 2021
Standstill Period (10 days)	30 July - 9 August 2021
Mobilisation period (10-12 weeks tbc)	August 2021 - November/December 2021
Start on site / Contract start	30 November 2021

## 7.3 Contract Documents: Anticipated contract type

7.3.1 The Joint Contracts Tribunal (JCT) Design and Build Contract 2016 with London Borough of Hackney amendments will be used.

7.3.2 A list of KPIs to be included in the contract are set out in 7.6 below.

#### **7.4 Sub-division of contracts into Lots**

7.4.1 Due to the value and type of contract, it was not considered feasible to divide the contract into Lots.

#### **7.5 Delegated Authority for Contract Award**

7.5.1 The Fairbank Estate project is due to receive Greater London Authority (GLA) grant funding if a start on site is achieved by no later than March 2022 (the target date is November 2021). There is a risk that this deadline may be missed. This report is therefore seeking approval for delegated authority of the Contract Award by the Group Director of Neighbourhoods and Housing, where required, and in consultation with the Group Director of Finance and Corporate Resources and the Director of Legal and Governance Services, to meet the GLA's programme requirements.

#### **7.6 Contract Management:**

7.6.1 The project will be managed by the Project Manager and overseen by the Head of the Housing Supply Programme. The Council has appointed the Employer's Agent as Contract Administrator. Regular meetings will take place until the contractor is on site. Thereafter, monthly site meetings will take place. The Council will carry out quarterly review meetings with the EA to ensure the project is progressing in line with expectations.

7.6.2 Decisions and change control will be undertaken at these meetings in line with agreed governance procedures and contract management policies. The Employer's Agent will carry out monthly valuations of the works completed on site and certify the value of those works. Project success will depend on the contractor finishing on time, to budget, and to the required quality standards.

#### **7.7 Key Performance Indicators:**

7.7.1 The main KPIs for the contract will be set to monitor:

- Programme
- Budget
- Quality
- Waste management
- Employment and training targets

- Neighbour complaints – the contractor will be required to be part of the Considerate Constructor Scheme.

7.7.2 In addition, resident satisfaction with the completed properties will be tested by survey and interviews after a period of occupation of the new homes.

## **8. COMMENTS OF THE GROUP DIRECTOR FINANCE AND CORPORATE RESOURCES**

8.1 This site will provide 73 residential units, with 28 of these being Social Rent, 9 for Shared Ownership and 36 for Outright Sale. The estimated build cost provided by the EA has been included within the latest financial appraisal that was approved at Gateway 2A and includes an estimated contingency sum. In addition to this there is also a client held contingency within the financial appraisal. Due to the complexities with this site, it is one of the most expensive within the HSP on a unit by unit basis.

8.2 The decision to use a Framework procurement route has been selected due to the time constraint of getting on site before the GLA's deadline. It is possible this may have an adverse impact on price compared to an open procedure where more contractors would be able to bid, but also should encourage those on Lot 2 of the Southern Housing Group framework to submit a bid, in the knowledge that there are a limited number of other competitors for the work. Using a framework also ensures the procurement is only open to companies who are suitable for a site of this size and complexity.

8.3 The complexities of this site means that build costs are high. However, due to the location, the sales values are also the highest within the Housing Supply Programme and this helps the project to break even financially. This scheme needs to maintain this break even position as there is no spare capacity within the rest of the programme to offset any losses.

8.4 Due to the current circumstances (Covid 19) it is not yet clear how the market will react to works such as these. Apart from the contingency sums mentioned above there are currently no further resources available to cover any price increases and there is a risk that the project will be delayed if the prices come back higher than the EA's estimate. The site has been de-risked by carrying out all relevant surveys (including Network Rail).

## **9. VAT Implications on Land & Property Transactions**

9.1 Shared ownership units - These will be zero rated so any VAT on costs will

be recoverable.

- 9.2 Social rented units - The income is non-business so VAT on costs will be recoverable.

## **10. COMMENTS OF THE ACTING DIRECTOR, LEGAL & GOVERNANCE SERVICES**

- 10.1 This Report has been classified as High Risk and the pre-tender estimate of the contract is above £2m. The Council's Contract Standing Orders state, at paragraph 2.7.10, that for High Risk Procurements the approval to progress to market will be with the Cabinet Procurement Committee. Therefore this report is being submitted to the Cabinet Procurement Committee at the Business Case stage for approval.
- 10.2 The estimated value of the works in this Report are above the current threshold for the works of £4,733,252 under Regulation 5 of the Public Contracts Regulations 2015. However, it will not be necessary to publish an OJEU notice in respect of the works as it proposed to use the Southern Housing Group Framework and undertake a mini-competition to appoint a contractor in line with the framework provisions.
- 10.3 The Council is permitted as a public sector body to use the framework above as, pursuant to Regulation 33(5) of the Public Contracts Regulations, it has been "clearly identified for that purpose in the call for competition or the invitation to confirm interest".

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

- 11.1 The pre-tender estimate of between £25m and £27.5m exceeds the EU Threshold for works of £4,733,252 the procurement is therefore subject to the Public Contracts Regulations 2015.
- 11.2 The procurement strategy and route to market has been informed by the Housing Regeneration aim of attracting small to medium sized contractors and to meet the Greater London Authority start on site deadline of March 2022.
- 11.3 The Southern Housing Group Framework Agreement provides a range of suitable, pre-qualified small to medium sized contractors and an efficient competitive tender call off process
- 11.4 Both the works and the development support the Council's Sustainable Procurement Strategy including measures particular to the construction and development sector. The contract will include the obligation for Non-Road

Mobile Machinery Low Emission requirements in compliance with the extension of the ULEZ to include Hackney. To achieve the 35% reduction in carbon emissions to meet Part L of the Building Regulations 2016 the Council will be required to make a carbon offset payment.

## **EXEMPT APPENDICES**

By Virtue of Paragraph 3 Part 1 of schedule 12A of the Local Government Act 1972 this appendix is exempt because it contains information relating to the financial affairs of the Council and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### **Appendix 1**

Elemental Cost Plan (exempt)

### **Appendix 2**

Ridge's Procurement route report (exempt)

## **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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