

**AGENDA ITEM 8**

<p><b>TITLE OF REPORT : Lift Maintenance Contract to Hackney Council's Housing Stock</b></p> <p><b>BUSINESS CASE</b></p> <p><b>Key Decision No: NH R59</b></p>
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<p><b>CPC MEETING DATE (2020/21)</b></p> <p><b>12 April 2021</b></p>	<p><b>CLASSIFICATION:</b></p> <p><b>Open</b></p>
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<p><b>WARD(S) AFFECTED</b></p> <p><b>All Wards</b></p>
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<p><b>CABINET MEMBER</b></p> <p><b>Cllr McKenzie</b></p> <p><b>Housing Services</b></p>
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<p><b>KEY DECISION</b></p> <p><b>Yes</b></p> <p><b>REASON</b></p> <p><b>Spending or Savings</b></p>
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<p><b>GROUP DIRECTOR</b></p>
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## **1. CABINET MEMBER'S INTRODUCTION**

- 1.1 The Council is passionate about its housing stock, and committed to the aims and principles of social housing. It is both a privilege and a duty to repair and maintain the Council's homes and estates, where more than 30,000 tenants and leaseholders live and are their beating heart.
- 1.2 In 2019 we published a long term vision for our homes, in a new Housing Asset Management Strategy. A key action is to ensure all new contracts are procured in line with its objectives and the Council's wider objectives in making Hackney fairer, safer and more sustainable.
- 1.3 Our buildings have over 600 lifts, many of them serving high rise homes and residents who otherwise would struggle to leave their home. They are an essential part of the building and we need to ensure they are well maintained.
- 1.4 This report recommends a new framework contract for lift servicing, maintenance and renewal so that we can deliver on this.

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

- 2.1 This report summarizes the options appraisal for the reprocurement of the housing lift maintenance contract, known as contract 9, to ensure ongoing maintenance and capital investment in the Council's lifts. The contracts cover routine servicing, responsive repair, and capital investment including replacement. Officers have reviewed a wide range of options, to arrive at a recommendation which provides an enhanced range of service providers.
- 2.2 The approach to this procurement follows from the provisions of the Housing Asset Management Strategy 2019-2027, which was approved by Cabinet on 25 March 2019. This procurement exercise is an important aspect to implementing this strategy and embedding its ambitions into contracts.
- 2.3 The contracts will ensure that Hackney can recommence a lift renewal programme, which is established within the Asset Management Strategy. While routine servicing and maintenance are essential, many of the lifts are at an age where replacement is necessary. This will assist in improving the reliability of our lifts to the benefit of residents.

- 2.5 The framework contract proposed will allow for opportunities to SMEs to work with Hackney, while still ensuring the council can effectively manage contracts. Their value will also ensure that there are available social value benefits for local residents.

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

The Cabinet Procurement Committee is recommended to:

- 3.1 Approve the procurement business case for the Lift Maintenance Contract to Hackney Council's Housing Stock as a 4 year framework contract including servicing, repair and capital works. The contract is to have 3-5 contractors, a duration of 4 years, and a maximum combined spend of up to £30m; £10m revenue and £20m capital.

### **4. RELATED DECISIONS**

- 4.1 March 2019: Approval of the Housing Asset Management Strategy 2019-2027, by Cabinet on 25 March 2019. This provides an overarching framework for investment decision-making across the Council's homes and estates. It sets out the ambitions that Hackney has for the quality of its homes and the priorities that will be established to ensure that the limited available resources are directed at the greatest need.  
<http://mginternet.hackney.gov.uk/ieListDocuments.aspx?CId=111&MID=4332#A132478>
- 4.2 June 2015: Approval to award the TPC and/or PPC contracts for lots 2, 3, 4, 5, 6, 8 and 9 for an initial five year term, with an option for the Council to terminate at year 3 and an option of extending the contracts for a further two years at year 5, and a further two years at year 7, up to a maximum of nine year contract terms, was taken by Cabinet Procurement Committee at its June 2015 meeting. The relevant minutes along with the full report can be downloaded from the attached:  
<http://mginternet.hackney.gov.uk/ieListDocuments.aspx?CId=113&MID=3392#A122646>
- 4.3 February 2021: A decision to approve a one year interim lift servicing and repair contract was taken by Hackney Procurement Board in February 2021. This is to ensure the council's lifts are maintained between the end of the ELA contract and the start of the contract proposed by this business case.

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

5.1.1 The reason for this decision is as the current contract covering lift servicing, maintenance and capital works, is ending in June 2021, and a replacement contract is essential. The contract end has been as a result of termination by the current service provider. The current contract was let in September 2015, and extended by two years in September 2020 for two years.

5.1.2 Interim arrangements are being put in place to cover the period from June 2021 until the new contracts, proposed by this business case, are in place. These contracts will cover repair and servicing only. The business case was approved by Hackney Procurement Board in February 2021 (Refer also to 4.3). The recommendation to award the new contract will be presented to Hackney Procurement Board in April 2021.

5.1.3 The main reasons to require this contract are:

- The need for the Council to fulfill its legal obligations as a landlord for the maintenance of its lifts,
- The opportunity for capital investment works in particular to contribute to broader Council ambitions of creating a fairer, safer and more sustainable Hackney;
- The ambition to ensure our homes and estates are places residents are proud of.

It is necessary, therefore, that any new procurement for lift maintenance works, is aligned with these strategic objectives.

5.1.4 The proposal has been developed in the context of the Housing Asset Management Strategy 2019-2027. The detailed approach set out to capital delivery in Section 5 notes that the lifts are a specialist mechanical and electrical workstream and that works should be delivered on a standalone programme. While the strategy generally proposes a holistic approach to carrying out works, it noted that there would be some cases where it was necessary to do specific types of work on a standalone basis. The reasons to recommend certain components to be replaced as standalone components included works that require a specialist contractors and works that are very expensive (to ensure leaseholder bills do not become excessive). It was for these reasons that the strategy identifies them as a separate specialist workstream

5.1.5 The AMS also identifies a 5-year programme for the replacement of lifts, and this contract will have an objective to deliver that programme.

5.1.6 The council currently spends £1.5m - £2m per year on lift repair and servicing. These are revenue costs. Based on the 5-year forward programme for lift renewals, and allowing that some other lifts may be identified as additional needs for lift renewal, the council estimates that

a capital programme of between £3m and £5m per annum is necessary. In the longer term, there is an aim that an increased capital programme can deliver savings in day to day repairs, as well as increase overall lift performance.

5.1.7 The scope of the contract will be the entire lift stock. At present the Property and Asset Management team manage just over 600 lifts. This figure changes regularly as new developments are handed over to business as usual management, and as some older blocks are demolished. These lifts are spread across about 400 buildings and serve about 15,000 homes.

5.1.8 The key deliverables for this procurement are:

- Procuring lift servicing and repairs services, including out of hours attendance, to ensure the Council can maintain its lifts so that they are reliable and safe.
- Procuring lift replacement services to ensure the council can invest in new lifts.
- Procuring contracts on terms that are in line with the provisions of the new Housing Asset Management Strategy 2019-2027;
- Provision of a cost efficient, quality driven related works across the entire housing stock, which are focussed on the greatest investment need, and meet all relevant technical standards;
- Maximising the indirect social value from these contracts through local employment, community investment and resident satisfaction with the quality of their homes and local area;
- Procuring contracts which maximise the opportunities for SMEs and in-sourcing of services, while ensuring that the risks associated with contract management are appropriately managed;
- Ensuring compliance with the Council Standing Orders, Regulatory Procedures, and the Council's Corporate Policy;
- Procuring long term contracts which allow for continuity of service delivery and long term sight of costs. This will contribute to ensuring that the works can be delivered within the capacity of the Housing Revenue Account (HRA) Business Plan.

5.1.9 In 2015 the Council awarded Contract 9, Lift renewals, major components, servicing and repairs to one contractor, Express Lift Company, a trading arm of Otis Ltf. Table 1 below provides details on type, legal status, duration and indicative values of these contracts, as per the Procurement 2014 report.

Table 1. Summary of Procurement 2014 for Contract 9

No	Contract Title	Contract Type	Duration (years)	Estimated Contract Value £m

9.	Lift renewals, major components, servicing and repairs	Specialist Freestanding TPC + PPC	9 (initial 5 years, plus two possible 2 year extensions)	£35m - £40m
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## 5.2 BENEFITS REALISATION / LESSONS LEARNED

5.2.1 Contract 9 was let while the housing services were under Hackney Homes, an ALMO. Since then, this team has made a transition back into the Council which was a disruptive process to normal working arrangements and caused the loss of quite a number of key staff. This caused a loss of continuity and institutional knowledge, however, the appointment in 2018 of a permanent senior management team has improved this situation considerably and within Property and Asset Management the contract management capability has improved significantly. In 2020 a new lift team was appointed, and in tandem with this procurement work, a review will be carried out to ensure the staffing levels are suitable to the management of the service.

5.2.2 Contract 9 combines a Term Partnering Framework, to cover repair and servicing works, and a Project Partnering Framework, to cover capital works, and both were let in November 2015. At time of writing, both are still in place, but due to end in June 2021. The key lessons learnt which will be carried forward are highlighted in Table 2 below:

Table 2: Contract 9 - Key lessons learnt

Issue	How we intend to respond
The entire servicing, capital and repair works were let to a single contractor, making resolving underperformance and the contract end more challenging.	The proposed new contract is a framework arrangement to allow the council access to 3-5 contractors. On servicing and repair works, two would generally be assigned to half the borough each, while others would be available as back ups in case of underperformance.
The contract combined both servicing/repair and capital works. There is a concern that one aspect	Where there is a framework contract arrangement, the range of contractors makes this a much

<p>was more financially viable to the incumbent resulting in challenges when the anticipated level of capital works were not instructed.</p>	<p>reduced possibility, as where one work stream was not as viable to one contractor, others are available. The council will likely also make use of the NHF schedules of rates (as is being done on other capital contracts). These have the advantage of being well understood. Contractors will tender by offering a % adjustment which will apply to all rates.</p>
<p>The inflation clause significantly under-measured the true level of inflation. This meant that by Year 5 of the contract only 2% inflation was awarded, where 10% has occurred in the market.</p>	<p>The council has worked with the current provider to ensure that a fairer assessment of annual inflation is calculated and awarded, and this methodology will be carried forward to the new contract.</p>
<p>The current contract had too many KPIs, making review of these overly complicated. Ultimately while they could inform extensions, they did not inform ongoing incentives in the contract.</p>	<p>We will produce a simpler set of KPIs and link them to the ongoing award of capital works, and retention of the servicing/repairs works.</p>
<p>The council did not deliver the expected volume of capital works. Lifts are expensive and proposals often met with high levels of opposition particularly from leaseholders.</p>	<p>The team, within the AMS, and in more detailed work to support it, have developed a more robust approach to developing works proposals and communicating these to leaseholders.</p>

### 5.3 Strategic Context

5.3.1 The proposed contracts are intrinsic in meeting the Mayor's priorities for a fairer, safer and more sustainable borough. Sitting under these priorities is the Mayor's vision that everyone in Hackney has a good quality and stable home, and the commitment to ensuring the Council continues to invest in and make best use of its housing stock to provide the homes, blocks and estates in which people want to live and are proud of.

5.3.2 The proposed contracts are a key driver in managing and maintaining Hackney's lift stock efficiently and sustainably. This procurement

strategy is aligned with the objectives of the Housing Asset Management Strategy 2019-2027. The strategy sets out long-term objectives for investing in our homes and estates, and the ambitions that Hackney has for the quality of its homes and the related priorities to ensure that the limited available resources are directed at the greatest need.

5.3.4 The Landlord and Tenant Act 1987 places a legal duty on the Council for the repair and maintenance of the Council's homes and estates, which includes lifts. The new contracts make a significant contribution to undertaking this statutory function.

5.3.5 The capital works aspect to these contracts supports the Asset Management Strategy which set out the objectives and priorities for investment in the existing housing stock and other Housing Revenue Account (HRA) assets. The HRA Business Plan is now an integral part of the Housing Asset Management Strategy 2019-2027 and sets out the financial parameters for the planned investment programmes.

#### **5.4 Preferred Option**

5.4.1 The preferred option involves letting a framework contract of 4 years duration and including 3-5 contractors. Within these contractors, two initially would carry out repair and servicing works to the north and south of the borough. Where either of these contractors fail to perform, the council could suspend or remove them, and award the works to the next contractor on the framework. Lift renewal projects could be mini-tendered between all contractors on the framework allowing for competitive pricing.

5.4.2 This option allows the council to manage the risk of under performance by having back up contractors available. It also allows a clear separation of revenue and capital works, such that a contractors performance against these can be assessed separately.

5.4.3 The disadvantage of this option is that framework agreements can only last for 4 years, however, as discussed in Option 1, the advantages of enabling competitive pricing between contractors on the framework and having back up in the case of underperformances, is considered to outweigh the benefits of a longer term contract which does not permit these mechanisms.

5.4.4 It is proposed that the separation of the borough into north and south be done by Area Manager patch, e.g. with one contractor serving three areas, and the other serving four. This alignment with our housing management structure should ensure that there are no complications arising to the housing management team from having two contractors.



5.4.5 As the contractors on the framework would each be expected to deliver lower values of work, and potentially a more limited range of works, than with the current contract arrangement, there is an increased opportunity to attract SMEs (Small to Medium Enterprises) to be appointed to the frameworks.

Table 4. Proposed framework arrangement

<b>Contractor</b>	<b>PPC Contract</b>	<b>TPC Contract</b>
Contractor 1	May mini tender for capital works	Preferred Contractor for North of the Borough for repair and servicing work
Contractor 2	May mini tender for capital works	Preferred Contractor for South of the Borough for repair and servicing work
Contractor 3	May mini tender for capital works	Back up Contractor for North or South of the Borough for repair and servicing work
Contractor 4 - To be determined if required	May mini tender for capital works	Back up Contractor for North or South of the Borough for repair and servicing work
Contractor 5 - To be determined if required	May mini tender for capital works	Back up Contractor for North or South of the Borough for repair and servicing work

5.4.6 During the option appraisal exercise, the option for in-sourcing these contracts now, was given consideration, but ultimately rejected as the Housing Service needs longer time to prepare the skills, staff capacity, equipment and infrastructure to deliver them. In addition due to the specialist nature of lift parts, new supply chain management arrangements would need to be put in place. These include those identified in Option 3 and 4 (Section 5.5).

5.4.7 In reviewing the potential contract division, officers were mindful of the risk that having too many contractors could impact on the Council's ability to manage contracts effectively, and may require

additional resources which compromises the overall value for money achieved. Therefore we have sought to identify meaningful opportunities for SMEs, while still maintaining a reasonable number of contracts.

5.4.8 Frameworks and partnering arrangements are being proposed over one-off procurement actions, as this gets better value for money out of costs incurred in running a procurement exercise, and also ensures the council gets the benefit of volume pricing.

5.4.9 The number of suppliers to be appointed to the framework has been suggested at 3 to 5; this should ensure it is manageable, that there is enough work to be attractive to each supplier, but still allow for ongoing competition between contractors and improved performance over the life of the framework.

5.4.10 It is essential that the delivery of work under these contracts meets both the council's needs and expectations of residents. The Housing Asset Management Strategy 2019-2027 places resident consultation at the centre of the approach that will be adopted to deliver the programmes of work. The Housing Asset Management Strategy 2019-2027 sets out the key work stages that will be followed on capital projects to ensure that projects are prepared, scoped and delivered in a consistent manner, and sets out the resident consultation and engagement that will take place at each stage to ensure they are able to contribute to the development of proposed programmes of work, and are kept reliably updated during them. The principles of these work stages will be embedded in all the above proposed contracts.

5.4.11 On the repair and servicing contracts officers are initiating a detailed review of procedures to ensure that these are effective, embed strong communications with residents, and minimise disruption.

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

5.5.1 In order to consider options for this procurement, the project team carefully considered some key decisions relating to contract types, and the context of wider housing strategy. This report will initially consider these, and then explore the various specific options that were developed as a result.

5.5.2 **Framework or Term Contract.** Consideration was given to using framework contracts, term contracts or a mixture of both. Framework contracts allow the appointment of several contractors, and key

performance indicators (KPIs) and pricing can be used to determine which contractor gets any individual project let under the contract. Therefore they allow performance to be competitively incentivised. However, they can only be let for four years. Term Contracts have the advantage of being up to 10 years long, but a single contractor is appointed, so while the contract may have KPIs, there is no direct competition between contractors. Where the Council lets several Term Contracts covering similar works, these would be defined in scope (usually geographically), and a contractor would be awarded all arising works in that area. The preferred option makes maximum use of framework contracts, though in areas where the volume of work was insufficient to have several contractors, term contracts are proposed.

**5.5.3 One Off Procurement.** The use of one off procurement exercises for all projects was rejected as the significant amount of work in carrying out public procurement exercises, meant that this would not offer value for money. It would lead to a wide variety of contractors making contract management more complex. It would also give rise to a wide variety of prices for similar work, due to different tendering times. This offers poor cost certainty and may cause challenges from leaseholder groups. One-off procurement exercises will only be used for unusual items of specialist work which fall outside of the longer term contractual arrangements.

**5.5.4 Design and Build or Traditional.** Another important characteristic considered was where design responsibilities lie. In Design and Build contracts, the contractor has the responsibility for design, whereas in traditional contracts they do not and usually the client appoints an architect or surveyor to carry out this function. This is highly skilled work, which requires a lot of staff resources, and includes applying for statutory consents (planning and building control), designing construction details, and often producing these quickly while works are on site. It requires accepting responsibility for design defects and any delays in producing details while on site, thus increasing the level of risk to the council. However, it has the advantage of allowing a high degree of control over the works. Under design and build it is possible for the client to determine the scope of works, the specification and to sign off on the quality. The preferred option is to use design and build contracts, though the use of traditional contracts is examined in more detail in Option 4, and suggested as a potential longer term ambition.

**5.5.5 Problem Solving Contract Mechanism.** In traditional contracts where issues arise, the process set out for resolving them is quite codified and escalation of issues is adversarial, with both sides essentially 'in dispute' which is resolved through formal conciliation and arbitration procedures. In Partnering, the emphasis is on both sides meeting to resolve the issue in the interest of the contract's intended outcomes. While the process is less defined, it is more suited to long term

contracts, as an issue on one project does not need to affect other projects, though lessons learnt can be applied. On an adversarial approach, an issue on one project could bring others to a stop. It is important to note that all contracts will encounter issues, and it is important to ensure that the contract sets out effective steps to handle these. Partnering contracts are still relatively new in the construction industry and their success relies on staff being appropriately trained in their use.

5.5.6 This appraisal looks at five potential options for delivering the capital works, four of which were rejected and one which is the preferred approach.

**Option 1 - Let multiple 10 year Term Contracts**

5.5.7 Consideration was given to using longer partnering contracts for all works part of this procurement exercise. This option is set out in Table 6 below. It would involve two separate maintenance and repair contracts; one in the north and one in the south of the borough, and a third to cover lift replacement works. Term Contracts have the advantage of being up to 10 years long, however, they need to be stand alone contracts and not part of a framework. While Term Contracts have key performance indicators (KPIs), there would be no competition between contractors, and there would be more limited potential to allow one contractor step to complete works where one is underperforming.

5.5.8 This option does allow separation of capital works from servicing and repair works, which allows the contracts to target contractors with specialist capabilities, and ensures independence decisions of capital and revenue works.

5.5.9 In general the limited flexibilities in these contracts is considered a disadvantage which does not outweigh the benefits of the contract term being 10 years. For these reasons, it was concluded that this option is not as good as others identified, and, therefore, rejected.

Table 6.

	<b>Contract Type</b>	<b>Works type</b>
i	Term Contract (4 years with potential extension up to 10 years)	Lift Servicing and Repair to the North of the Borough

ii	Term Contract (4 years with potential extension up to 10 years)	Lift Servicing and Repair to the South of the Borough
iii	Term Contract (4 years with potential extension up to 10 years)	Lift Replacement Contract to the whole borough.

**Option 2 – Letting one new Term Contract**

5.5.10 The option of letting a single term contract to replace the current contract was considered. However, this was quickly discounted because of the lack of an alternative contractor should they not perform, and also the lack of recent capital investment has meant that there is likely to be too much work for a single contractor to undertake. It was concluded that this option is not as good as others identified, and, therefore, rejected.

**Option 3 - Insourcing the entire contract**

5.5.11 The lift service is one of the most demanding and technically challenging services in housing. It is estimated that the maintenance and repair would require 12-15 full time operatives (based on the contractors' current provisions), and they would require very specialist qualifications and be available on an out of hours basis. Additional technical resources would be required for the lift installation works. There is very limited time available to scale up to recruit such a team and it is not clear this would be possible.

5.5.12 The specialist nature of lift parts would also require the council to put in place new supply chains sufficient to cover the wide range of brands and types of lifts in the borough. This is likely to be prohibitive and presents a very significant risk to successful lift service management.

5.5.13 A further barrier is that it is not possible to consult with leaseholders on the appointment of the DLO. This would mean that works subject to a Section 20 notice (above £250/unit) would not be fully rechargeable without additional procurement work, or a dispensation from the First Tier Tribunal (which is unlikely to be forthcoming). This would be too significant a financial loss to the council.

5.5.14 This option would also mean that the council would take full responsibility for design work and for health and safety of operatives which is a very significant risk.

#### **Option 4 - Insourcing the Servicing, but letting a separate contract on the repairs and lift installation works**

- 5.5.15 The regular lift servicing work is of an amount below the Section 20 leasehold consultation threshold, presents a steady workstream and does not require out of hours attendance. Consideration was given to in-sourcing this element only, and letting the remaining work to external contractors.
- 5.5.16 There would still be a requirement on the council to hire 4-5 operatives to attend to this lift servicing. This would still be a recruitment challenge but a more manageable one. There would be challenges should there be peaks in absence e.g. through annual leave or sickness.
- 5.5.17 The council would still have to manage the additional health and safety risks, and potentially insurance costs, of having these operatives work on the lifts.
- 5.5.18 This option does mean having two different organisations working on the lifts; the council doing servicing and an external contractor doing the call out repairs, and also any repairs which were observed as necessary during the servicing. This is not an ideal situation as it can lead to contractual conflict over separation of responsibilities, and the negative impacts on one service provider of the other not completing their works properly. There is a risk that this could ultimately lead to the external contract not being attractive to the market, and leading to the tender failing to identify a suitable contractor.
- 5.5.19 As the risk of not having a repair contractor in place for June 2022, is a very significant risk, this option was not selected.

#### **Option 5 - Framework of 3-5 Contractors for all works**

- 5.5.20 The preferred option involves letting a framework contract of 4 years duration and including 3-5 contractors. Within these contractors, two initially would carry out repair and servicing works to the north and south of the borough. Where either of these contractors fail to perform, the council could remove them, and award the works to the next contractor on the framework. Lift renewal projects could be mini-tendered between all contractors on the framework allowing for competitive pricing.
- 5.5.21 This option allows the council to manage the risk of under performance by having back up contractors available. It also allows a clear

separation of revenue and capital works, such that a contractors performance against these can be assessed separately.

5.5.22 The disadvantage of this option is that framework agreements can only last for 4 years, however, as discussed in Option 1, the advantages of enabling competitive pricing between contractors on the framework and having back up in the case of underperformances, is considered to outweigh the benefits of a longer term contract which does not permit these mechanisms.

5.5.23 It is proposed that the separation of the borough into north and south is done by Area Manager patch, e.g. with one contractor serving three areas, and the other serving four. This alignment with our housing management structure should ensure that there are no complications arising to the housing management team from having two contractors.

## **5.6 Success Criteria/Key Drivers/Indicators**

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

- Improved lift reliability
- Increased capital investment
- Specifications accepted as deliverables by all parties;
- Improved contract management (client and supplier);
- Improved performance measurements that are relevant, meaningful and measurable and include sustainability/ social value;
- Ensure the contracts deliver social value to the local community;
- Ensure works contribute to the Council's wider sustainability ambitions;
- Improves resident satisfaction - in line with the Housing Asset Management Strategy 2019-2027;
- Ensuring our homes are maintained to the required standards;
- Continuous improvement in terms of quality, collaboration and associated costs;
- Flexibility to adapt to changing building and compliance standards
- Ensuring the scope of the contracts includes for maintenance of new build properties,
- Compliance with statutory requirements to ensure resident safety
- Focus on value over cost; investing in good quality products that last longer, and investing in products that minimise ongoing maintenance;

## **5.7 Whole Life Costing/Budgets**

- 5.7.1 The capital programme for housing covers the investment in HRA stock and assets managed by Housing Services and set out in this document, along with the investment in HRA hostels and housing grants managed by Housing Needs and Private Sector Housing.
- 5.7.2 The estimated revenue cost of servicing and repairs each year is £1m - £2m. Note that increased investment in the maintenance of lifts has advantages in prolonging their expected lifespan. This figures includes for replacement of major parts.
- 5.7.3 The capital cost to renew a lift varies depending on the height of the lift. It is estimated that replacing all lifts over a 20 year period would cost £3.2m per year. This figure would be lower if lifts can last longer. Due to the lack of recent capital works it is expected that there are a large number of lifts requiring replacement or major replacement of parts within the life of this proposed contract and for that reason a contract value estimate is allowed at up to £4m/year. Note that on a 4 year framework contract, this is the period in which capital works orders may be raised, and therefore spend is expected to be incurred over a period of up to 5 years.

## **5.8 Policy Context**

- 5.8.1 The proposed procurement strategy supports the Hackney Sustainable Community Strategy 2018-2028, which sets our ambition on: how to empower local communities and target diminishing resources at our most vulnerable residents; how we can make sure that economic growth benefits everyone; and how we can ensure that people from different backgrounds can continue to afford to live and work in Hackney and be able to take advantage of the opportunities that London's status as the world's greatest city brings. The strategy also supports the Sustainable Procurement Strategy 2018-2022, which was developed on these priorities, and aims at ensuring not only that our contracts deliver added social value benefits at little or no extra cost, but also that we put in place a contract management tool that allows for efficient monitoring and reporting on the delivery of our objectives and derived benefits. This report approach is outlined in section 6.
- 5.8.2 This report is aligned with the objectives of the Housing Asset Management Strategy 2019-2027, which has been identified in section 5.1 as a main reason for how this decision is being proposed, as well as a factor in this procurement exercise timeline.

## **5.9 Consultation/Stakeholders**



5.9.1 The project timeline in section 7.2 includes the process for consultation with leaseholders accordant with the requirements of the Commonhold and Leasehold Reform Act 2002 (CLARA) requirements.

5.9.2 As part of the detailed development work of this procurement exercise an outline consultation plan has identified the following groups who will be consulted with:

- Tenants and Leaseholders;
- Tenancy Management Organisations (TMOs);
- Resident Liaison Group, and Area Panels;
- Elected representatives;
- Staff across the housing service who are affected by these contracts;
- Industry via a Meet the Buyer event;

5.9.3 There will be TUPE terms and these will be examined in detail as part of the development of new contract terms, and included as appropriate.

5.9.4 **Resident Focus Groups.** Initial meetings are being arranged with internal consultation staff and senior management in tenancy and leasehold services to establish some resident focus groups, which will inform key areas of the contract provisions, with particular focus on those which most affect residents which include:

- Establishing priorities for social value work delivered as part of the contracts.
- Developing the consultation requirements which will be expected of contractors as part of carrying out their works.
- Contributing to the communications protocols especially around lift breakdowns.
- Commenting on the level of survey work to be required as part of project development, particularly where replacement lifts are proposed, so that there is confidence that the necessary evidence is available to inform such decisions.
- Contributing to resident satisfaction survey methods to form the basis of associated KPIs under the contract.

5.9.5 The contracts will also embed the consultation principles of the Housing Asset Management Strategy 2019-2027 into all contracts. This strategy sets out seven defined work stages for all capital projects, and notes the resident engagement actions for each stage. These processes will be owned by Hackney Council staff, ensuring they have full oversight of project development, and officers are currently starting to develop the detail documents and procedures so that these aims are fully implemented for the new contracts.

## 5.10 Risk Assessment/Management

5.10.1 All tenderers, including SMEs, will be robustly evaluated, and must be able to demonstrate rigorous compliance with H&S (Health & Safety) procedures, GDPR (General Data Protection Regulation), DBS (Disclosure and Barring Service) checking of operatives, financial checks and other requirements of public procurement tendering exercises, in order to mitigate any risk associated with their capacity to undertake the proposed contracts. In addition, all tenderers will be required to demonstrate a wide range of expertise, have adequate supply chains in place to deliver a variety of works, have access to skilled Resident Liaison Officers, and have effective procedures in place to ensure successful working with residents.

5.10.2 A detailed Risk Register will be produced for this procurement exercise and it will be updated monthly at the Project Board Meetings. Some of the key risks identified at an early stage of the project together with the proposed mitigating actions are highlighted in Table 10 and the overall rating at this stage has been deemed as high risk.

Table 10. Key risks identified at early stage

Risk	Likeli- hood	Im- pact	Ove- rall	Action to avoid or mitigate risk
	L - Low; M – Medium; H - High			
The scope and scale of the proposed contracts is too large or too small for the market to deliver	M	M	M	<p>The proposed framework is proposed to have 3-5 contractors. The decision on exactly how many will need to be informed by:</p> <ul style="list-style-type: none"> <li>- more detailed analysis of likely spend</li> <li>- market engagement</li> <li>- assessing the likelihood of underperformance / company dissolution requiring a back up contractor to be called up</li> </ul> <p>Informal discussions as part of interim contract work have indicated that there is market appetite for contracts of the scale proposed.</p> <p>To get a better understanding of industry perspectives, a <i>Meet the Buyer</i> event will be organised, where the proposed tendering approach will be presented to interested parties.</p>

				A report to understand the size and type of contracts that similar organisations are using will also be undertaken to inform this procurement.
The proposed contracts costs will increase considerably over the existing contracts	M	M	M	Two possible options to be considered in the light of some understanding as to what level of cost change there was and possibly why it occurred (e.g. uncertainty of future material costs due to Brexit). First option - proceed and acknowledge the ability to deliver against the service requirements; Second option - retendering with appropriate alterations will be considered, if the return indicates that altered terms, or a different time for tender would generate substantial reductions. This would impact on service delivery.
The risks associated with the impact of Brexit: availability of labour and skilled workforce, and the uncertainty of future material costs	H	M	H	The Contractors would need to address the labour issues through local employment and training of apprentices; and the uncertainty of future material costs through ensuring appropriate supply chains are in place. While there are UK producers of lift parts, they are specialist and often unavoidably are sourced in continental Europe.
The business case is rejected	M	M	M	Ensure the business case is comprehensive, non-ambiguous.
Delay in procurement process	M	H	M	The project team will work to the project timetable which has contingencies for delays. The timetable will be regularly monitored and reviewed.  Existing delivery programmes to be progressed so that in the case of no contractor for a few months, there are no blocks in immediate need of key works.

Failure by contractors to comply with contractual obligations	M	H	H	Default strategies will be included within the contracts to ensure quality and consistency of work. The inclusion of performance standards will allow for performance monitoring. The Council will be able to terminate the contracts should the contractors repeatedly perform below standards.
Overrun budget	M	M	M	Work programmes, budgets and orders given to the contractors are continuously managed and formally monitored.
Lack of contract management resources within Property and Asset Management	M	H	M	There is a dedicated lift management team in place. All contract management staff will receive training. A review of the team structure and staffing levels will be undertaken to ensure we have the appropriate resources in place.

### **5.11 Market Testing (Lessons Learnt/Benchmarking)**

5.11.1 A Meet the Buyer event will be organised to gauge market interest. This will present the outcome of this procurement strategy and explore in particular the interest and capacity of SMEs to deliver the works identified as being suitable.

5.11.2 A review of the current contract is underway to understand the strengths and weaknesses, and especially the factors leading to the early termination by the service provider. New ways of working will be tested using the interim contract.

5.11.3 A market testing review of current market rates will be carried out and compared to the current contract prices. This is to test for reasonable market rates and also to estimate the contract costs in more detail.

5.11.4 An important factor for contractors in tendering for contracts is that they can be confident in the estimated value of the works. Its particularly important in long term contracts where the volume of works is not specified, and where there is no minimum works volume guarantee. The Housing Asset Management Strategy 2019-2027 has set out the long term HRA (Housing Revenue Account) business plan and forward plan for investment. This will ensure that contractors can have more confidence in the future volume of work.

## **5.12 Savings**

5.12.1 There are no direct savings to be achieved from the tendering of these contracts, however the tender evaluation will ensure value for money is achieved from the delivery of the capital works, as well as considering the quality of the works delivered. Any reductions in the contracts, component cost or budget requirement of specific building or lift will be reinvested into other properties in line with the “hierarchy of needs” identified in the Housing Asset Management Strategy 2019-2027.

## **6. SUSTAINABILITY ISSUES**

6.1 Sustainable development is at the heart of the Borough’s Community Strategy 2018-2028, and for Hackney it is about achieving balanced, sustainable communities and neighbourhoods which celebrate diversity, share in London’s growing prosperity and enable a good quality of life for all. Hackney Sustainable Procurement Strategy 2018-2022, which forms part of the wider procurement strategy, was developed to support these priorities and, as a London Borough, we understand the importance of working with our neighbours and contributing to regional and national sustainability goals to realise local benefits.

6.2 Sustainable procurement is about taking account of the impacts of our purchased goods, services and works on people and communities whilst still delivering value to these communities. There is now clear evidence that embedding social value into procurement unlocks additional value, does not cost more and, ultimately, leads to better community outcomes. Maximising social value is one of the objectives of the Housing Asset Management Strategy 2019-2027. It is a process that takes account of the economic, social and environmental impacts, and during the tender process of this procurement exercise, each of these categories will be evaluated by the responses given to a series of prescribed quality questions by all contractors. Performance will be measured during the life of the contracts, as detailed in section 7.5.

6.3 In line with approaches being trialled on other capital works contracts in Property and Asset Management, it is proposed that social value delivery on this contract will be measured using a third party evaluation model. As part of the procurement process, tenderers will select from, and include in the bids a set of localised social value benefits offered via these online portals by local suppliers. This will form part of the tender evaluation and later one of the contract KPIs.

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

6.4.1 As part of the selection process all contractors shall be asked to provide evidence that they comply with the Equality Act 2010. Contractors will be asked to demonstrate the following:

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

6.4.2 The lift service is essential to maintaining the accessibility of homes, buildings and estates to those with limited mobility, including elderly residents, parents with small children etc.

## **6.5 Environmental Issues**

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

6.5.2 As part of the tender process, contractors' awareness of environmental issues in relation to the delivery of service will be demonstrated via SQ (Selection Questionnaire) and ITT (Invitation to Tender) and will later form the basis of relevant KPI's (Key Performance Indicators) and PI's (Performance Indicators) on the contracts, in order to ensure that environmental issues are being actively addressed. A few examples are highlighted below:

- robust efforts to minimise miles travelled for materials delivery; consideration for products which have not been transported over long distances and work with suppliers to limit the frequency of delivered purchased goods to reduce the carbon emissions and particulates from vehicle exhaust;
- measures to ensure vehicles are low carbon
- disposal of electronic waste in a responsible manner
- disposal to landfill as a last resort option;

6.5.3 There is limited capacity to effect wider sustainability improvements via the works directly. Lift machinery is very specialist and few options are available. Proper maintenance and optimised running times, will ensure the longevity of the lifts.

6.5.4 Contractors will be required to demonstrate their plans for carbon reduction for example plans to move to an electric fleet in full, waste reduction, recycling and refabrication of parts.

## **6.6 Economic Issues**

6.6.1 The new contracts will seek to promote local employment and training, as part of the quality evaluation of tender submissions. In addition, tenderers will be required in the submission process to demonstrate how they will recruit and retain local staff during the life of the contracts.

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

6.6.3 The preferred option involves letting the works as a framework, which means that individual contract values are likely to be somewhat lower than the current contract. This has the benefit of being more available to SME contractors, especially those who may specialise in repair or servicing but not full installation works.

## **7. PROPOSED PROCUREMENT ARRANGEMENTS**

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

7.1.1 The Public Contracts Regulations 2015 require that public contracts achieve 'best value', a notice of the proposed tender must be published in the Find a Tender and Contracts Finder, via the online London Tenders Portal. The combined contracts value per annum exceeds the UK threshold of £4,733,252 for works contracts.

7.1.2 An advert will also be published on the London Tenders Portal to ensure that the best coverage to attract the correct suppliers.

7.1.3 The restricted procedure is preferred due to the large number of suitable contractors in the market as this allows a shortlisting phase

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

7.2.1 The Strategic Director of Housing Services is the Project Sponsor and the Lead Officer is the Head of Property and Asset Management who will manage the full project life cycle in line with the project management methodology that is used within the Council.

7.2.2 A Project Board consisting of the Director of Housing Services, Director Neighbourhoods and Housing Finance, Head of Finance

(Neighbourhoods and Housing), Head of Procurement (Finance and Corporate Resources), Head of Building Maintenance, Head of Property and Asset Management, Project Manager (Housing Transformation), and Design Manager (Property and Asset Management) has been established to oversee capital works procurement and this lift contract will be added to the role of the Board. Additional relevant officers will join the project board at key stages, for example, the Head of Leasehold Services for the Section 20 stages. This will ensure key project milestones are achieved and all stakeholders have an opportunity to contribute to the procurement process. The Lead Officer will ensure that the project is appraised regularly through the exception highlight and risk reports. The procurement team will provide procurement support for the tender process.

Table 11. Key milestones

<b>Key Milestones</b>	<b>Contracts</b>
	<b>Framework</b>
CPC Meeting and Approval	April 2021
S20 Notice of Intent to Leaseholders	May - July 2021
Develop contract documents and tender evaluation documents	February - July 2021
Publish Find a Tender Notice	August 2021
Procurement stage 1 – SQQ commences	August - September 2021
Procurement stage 2 – ITT commences	October - November 2021
CPC and Member call off	December - February 2022
Leasehold Notice of Proposal	February - April 2022
Sign Contracts and Mobilisation	May 2022
Contract Start	June 2022



- 7.2.3 Property and Asset Management has dedicated lift contract management staff. As part of this contract development work a review will be undertaken to assess if additional staff, or support staff availability is required.
- 7.2.4 In order to put the contracts in place, a number of smaller procurement exercises will need to be carried out. These include training resources, procuring some specialist external advice, procuring the use of an industry standard rates and pricing, and procuring the use of contracts. Their value will not require these to go to CPC, and decisions will be made at the appropriate level. The budget for the capital work relating to these contracts has been approved in the HRA Business Plan section of the Housing Asset Management Strategy 2019-2027.

### **7.3 Contract Documents: Proposed contract type**

- 7.3.1 In the preparation of recent capital contracts consideration will be given to a range of contracts available to ensure suitability for the proposed contracts. This was supported by specialist legal and surveying advice, and included a review of the contract types used by similar organisations. This review concluded that the most appropriate contracts were the suite of alliancing contracts, which were previously known as partnering contracts. To allow for alignment of contract management approaches within the Property and Asset Management teams and to ensure that the work on contract development to date can be used as part of these contracts for program efficiency, it is proposed that this suite of contracts is also used for the new lift contract.
- 7.3.2 The contracts will be a Framework Alliancing Contract (FAC), with each contractor having both a Project Partnering Contract (PPC) for lift renewals and a Term Alliancing Contract (TAC) for repair and servicing works.
- 7.3.3 All contracts will be Design and Build.
- 7.3.4 Selection questions and the invitation to tender (ITT) will be drafted and issued to suppliers as per indicative timeline defined in section 7.2. The specifications will be updated and re-drafted following consultation with all relevant stakeholders. Updated standard of terms and conditions for the new contracts will be agreed with legal services and all required documentation will be published on the London Tenders Portal together with the Find a Tender Notice in line with Public Contracts Regulations 2015.
- 7.3.5 The selection criteria described in the Find a Tender Notice will include experience of similar work, the necessary health and safety

accreditation, names of technical referees, appropriate financial appraisals and appropriate quality assurance and environmental certification.

## **7.4 Contract Management**

- 7.4.1 The contracts will be managed and monitored by Property and Asset Management. The contracts will set out the management expectations and mechanism for collaborative relationship between the council and the appointed contractor. The contract specification and conditions will set out the frequencies of operational tasks, strategic meetings and the route for problem resolution. Performance will be measured against KPIs, as outlined in paragraph 7.5, as part of the contract terms and conditions.
- 7.4.2 The Property and Asset Management team have implemented a wider range of improved contract management procedures in the past few years. These are focussed on several key areas including internal governance, payments, processes, project management and clerk of works inspections. It is proposed that all of these procedures will be carried forward to the new contracts, and developed where indicated. The contract provisions will include references to these procedures so that tendering contractors are fully aware of the expectations on them under these procedures, and are able to account for these in their programme and pricing proposals.
- 7.4.3 On all contracts Hackney Council will use a clerk of works to inspect and sign off that the quality of the works is in line with the specifications. This process will be used on this contract, with the inspections carried out by a specialist lift clerk of works.
- 7.4.4 The contract types proposed include provisions for termination of the contract by the client in the event of poor performance. There are no penalty clauses, in line with contract law. There are no identified liquidated or ascertained damages that can be nominated into the contracts. Under framework contracts, works are being allocated based on pricing and performance under the KPIs, thus incentivising good performance.
- 7.4.5 Within the projects called off under long term agreements, it is the contractor's responsibility to prepare the programme for the works. As mentioned in lessons learned (Section 5.2) the proposed pricing arrangements will transfer pricing the risk of delay to the contractor. This will involve asking contractors to price preliminary costs (site set up and welfare facilities, site management costs and central office staff costs) within the rates for works items. | This means that costs relating to the length of programmes are at the contractor's risk, which is

appropriate given they determine the programmes. Note that where the client causes delays (for example due to late instructions of works), the client will be liable for delay costs.

## **7.5 Key Performance Indicators**

7.5.1 The current contract management performance indicators will be revised and customised KPIs will be defined and monitored to ensure they are relevant, meaningful and measurable. A list of the proposed contract management performance indicators general themes are listed below:

- Performance against programme for works on site
- Finance performance indicator for cost certainty
- Attendance to call outs and trappings
- First time fix on repairs
- Completion of Servicing Programmes
- Health and Safety
- Local employment and economic social value
- Environmental Sustainability of Operations (e.g. Vehicles, Waste Management)
- Customer Satisfaction
- Defects Handling

7.5.2 The specific KPI definitions and targets will be developed specifically for each of the contracts proposed in the preferred option under this strategy (Section 5.4).

7.5.3 Defined failures to meet KPI requirements will constitute a ground for reallocation of work within the proposed framework. The works within the framework lots will be allocated to ensure fairness, transparency, and supporting competitiveness, whilst allowing the flexibility to directly award the works to the next supplier; i.e. the best performing contractor is not able to deliver, and ensuring the other contractors remain motivated to work with the Council.

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

8.1 The budget for lift servicing, maintenance and replacement totals £3.2m and is included annually in the HRA business plan. The contract framework is a replacement for an existing terminated contract and therefore there is resource allocated for this contract award.

## **9 COMMENTS OF THE DIRECTOR OF LEGAL & GOVERNANCE**

9.1 This procurement has been assessed as High Risk; therefore this Business Case falls to Cabinet Procurement Committee for approval pursuant to Contract Standing Order 2.5.3.

9.2 This procurement has a total contract value in excess of the current Works threshold under the Public Contracts Regulations 2015; therefore the tender must be published in UK Find A Tender and Contracts Finder.

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

- 10.1 The Framework will be advertised within Find a Tender and Contracts Finder which will ensure compliance with the Public Contract Regulations.
- 10.2 A standstill period will apply to the framework and the use of the restricted procedure to test capability and capacity and ensure that SME's only fill out the full tender response if they are shortlisted thus reducing potential costs.
- 10.3 The works thresholds apply, as the Framework is a mix of servicing and works and the largest element is works.
- 10.4 The proposed form of contract is in line with industry standards.
- 10.5 The mobilisation period is very short to allow for the framework and TUPE transfers from the interim provider so it is essential that there is no slippage to programme. Contractors' ability to mobilise will be tested during the procurement phase.
- 10.6 Due to the interim contract, market conditions and the short delivery timescales this has been deemed as a high risk project and risk mitigations are being put in place to reduce the risk levels and these will be continually monitored.

## **APPENDICES**

There are no appendices.

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