

CONTRACT AWARD REPORT FOR THE SELECTION OF A CONTRACTOR FOR THE MAIN WORKS FOR MARIAN COURT Key Decision No. CED S069	
CABINET PROCUREMENT AND INSOURCING COMMITTEE MEETING DATE 7 MARCH 2022	CLASSIFICATION: Open with EXEMPT APPENDIX 1-3 By Virtue of Paragraph(s) 3, Part 1 of schedule 12A of the Local Government Act 1972 appendix 1-3 is exempt because it contains information relating to the financial or business affairs of any particular person (including the authority holding the information) and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
WARD(S) AFFECTED Homerton Ward	
CABINET MEMBER Guy Nicholson, Deputy Mayor for Housing Supply, Planning, Culture and Inclusive Economy	
KEY DECISION Yes REASON Spending/or saving	
GROUP DIRECTOR Ajman Ali, Group Director for Neighbourhoods and Housing	

1. CABINET MEMBER'S INTRODUCTION

- 1.1 At its meeting in July 2011 the Council's Cabinet agreed to the Estate Regeneration Programme. The Cabinet report outlined the Council's approach to the development of a strategy for the delivery of high quality new build housing and improved living standards across a number of housing estates in the borough. The Programme was updated and approved by Cabinet in March 2014 and again in October 2015. A further update was more recently provided and approved by Cabinet in April 2019.

- 1.2 In approving the Programme, the Cabinet also agreed a portfolio as opposed to a site-by-site approach to the regeneration of its housing estates. This approach enables the Council to combine the development of schemes which have potential to generate a surplus with those that require a net investment. The value created by the outright sale units to be delivered at Marian Court will help to fund the delivery of new social rented and shared ownership homes on the Marian Court site.
- 1.3 Cabinet considered and approved the procurement strategy for Marian Court in November 2017. The project constitutes the final phase of the Bridge House and Marian Court estate regeneration. Through our self-funded, self-delivery model we have already built 115 high quality homes for social rent, shared ownership and Hackney Living Rent in the first two phases - with the second phase at Bridge House successfully completed in 2020.
- 1.4 Across all our new developments we are committed to maximising the number of genuinely affordable council homes. Marian Court comprises 160 new homes, including 32 much needed homes for social rent, 59 for shared ownership and 69 for outright sale. The Council's Estate Regeneration team is taking forward the delivery of Marian Court, and the completed scheme will be managed in-house by Housing Services.

2. GROUP DIRECTOR'S INTRODUCTION

- 2.1 On 18 January 2021 Cabinet Procurement Committee (CPC), now known as the Cabinet Procurement and Insourcing Committee (CPIC), agreed to grant delegated authority to the Group Director, Chief Executive's Directorate to enter into a JCT Design and Build contract for Marian Court with bidder C. One of the conditions of this delegation was that vacant possession of the site was achieved.
- 2.2 At the time of writing, one resident still remains at Marian Court. While they have accepted the tenancy of an alternative property, they have not yet moved, and there is a risk that if vacant possession is not gained in March, we will be unable to enter contract with the successful bidder under the delegated authority approved in January 2021, and the contractor will further raise their tender price or withdraw from the project after 31 March 2022.
- 2.3 To secure the current tender price and to protect the Council from further abortive costs, this report seeks authority to enter into contract with the preferred contractor to undertake the main works for the development, as set out in Exempt Appendix 3.
- 2.4 In line with the provisions of the Contract Standing Orders, the award of contract is presented to the Cabinet Procurement and Insourcing Committee

for consideration and approval. The recommendation is made on the basis of both cost and quality.

3. RECOMMENDATION(S)

Cabinet Procurement and Insourcing Committee is recommended to:

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

4. RELATED DECISIONS

- 4.1 At its meeting in July 2011 the Council's Cabinet agreed the Estate Regeneration Strategy 2011-2019. The Cabinet report outlined the Council's approach to the development of a strategy for the delivery of high quality new build housing and improved living standards across a number of housing estates in the borough.
- 4.2 The Programme was updated and approved by Cabinet in March 2014 and again in October 2015 and April 2019.
- 4.3 Outline planning permission (ref.2012/1731) was granted for the whole of the Bridge House and Marian Court Estate on 7 November 2012.
- 4.4 At its meeting on 18 July 2016 the Council's Cabinet agreed to the Sales and Marketing Framework, authorising the Director of Regeneration to implement the Sales and Marketing Framework in relation to shared ownership and outright sale disposals for both the Estate Regeneration and Housing Supply Programmes, and authorising the Director of Strategic Property and the Director of Regeneration to dispose of leasehold and freehold interests in the shared ownership and outright sale homes developed or to be developed as part of those Programmes.
- 4.5 The Council's Cabinet Procurement Committee (CPC) approved the business case for the selection of a contractor for the construction of mixed tenure housing at Marian Court on 6 November 2017, that is, to undertake procurement for this works contract via the OJEU process.

- 4.6 On 28 November 2019 the Hackney Procurement Board (HPB) approved the Business Case and commencement of the procurement process for the demolition of three existing blocks at Marian Court.
- 4.7 A demolition contract was awarded by HPB on 9 June 2020 and demolition works at Marian Court are now underway.
- 4.8 A detailed planning application for the Marian Court site was submitted on 10 January 2018. This application sought to increase the amount of housing to be delivered in comparison to the masterplan and the Overarching Estate Regeneration Programme Unilateral Undertaking (UU) agreed by the Planning Sub-Committee in April 2014, seeking permission for 160 new homes. This represents an increase of 41 homes, including 16 additional social rent homes, 8 shared ownership homes, and 17 outright sale homes.
- 4.9 Planning Sub-Committee resolved to grant planning permission for the proposed Marian Court scheme on 6 June 2018. The proposal was subsequently referred to the GLA for review, and written approval was received on 6 July 2020. The Planning Decision Notice was issued on 22 July 2020.
- 4.10 Approval to appropriate the land at Marian Court for planning purposes will be sought from Cabinet upon completion of the demolition works.

5. REASONS FOR DECISION/OPTIONS APPRAISAL

- 5.1 This report outlines the process that has been followed in selecting a preferred contractor for the main works for Marian Court.
- 5.2 The redevelopment of Marian Court represents an opportunity to deliver increased numbers of residential units in order to maximise the use of the land and to enable the renewal of an existing housing estate which has deteriorated, is costly to run due to energy inefficiencies, and would be prohibitively expensive to bring up to the Decent Homes Standard. It will also re-configure and provide improved amenity space, public realm and new community and commercial space.
- 5.3 The main works contract for Marian Court requires the successful contractor to deliver:
- 32 social rented homes;
 - 59 shared ownership homes;
 - 69 outright sale homes;
 - a new community facility;
 - 1,017 sqm of commercial space including retail and workspace; and
 - associated public realm and landscape works including improved facilities for play and recreation.

- 5.4 Most of the homes at Marian Court have been successfully decanted, with one remaining resident still to move. Alternative accommodation has been agreed with the resident and the tenancy documents have now been signed.
- 5.5 A demolition contract for Marian Court was awarded by the Hackney Procurement Board in June 2020, and the two vacant buildings have now been demolished.
- 5.6 The Council will act as developer for the outright sale and shared ownership homes, marketing and disposing of them in line with the Council's approved Sales and Marketing Framework.
- 5.7 With 69 outright sale properties and 59 shared ownership properties at Marian Court, the expected sales income for Marian Court poses a financial risk to the scheme, programme, and Housing Revenue Account (HRA), associated with an unexpected and sustained downturn of the market.
- 5.8 To minimise the sales risk associated with the simultaneous release of a large number of homes for outright sale, it is intended to phase the release of these units subject to the confirmed construction programme.
- 5.9 A market review and marketing strategy will be produced for each sales phase, with authority to proceed to market properties delegated to the Group Director, Chief Executive's directorate and Group Director of Finance and Corporate Resources.
- 5.10 Should sales not achieve the forecast values, or reservations be slower than expected, alternative strategies (as set out in the Risk Section below and not included in the Council's Sales and Marketing Framework) will need to be considered to maintain the viability of the scheme, the wider Estate Regeneration Programme and HRA, some of which may require Cabinet approval.
- 5.11 A pre-tender cost plan was prepared for the Council by its external Quantity Surveyor (QS), setting out the estimated costs of construction, based on the pre-tender stage estimate and designs developed to RIBA Stage 3+. The pre-tender costs pertaining to the works are set out in Exempt Appendix 1.
- 5.12 It is proposed that the Council will enter into a JCT Design and Build Standard Form of Contract 2016 with the preferred bidder, with Hackney Council amendments.

6. ALTERNATIVE OPTIONS (CONSIDERED AND REJECTED)

- 6.1 At the Cabinet meeting in July 2011, and subsequently in March 2014, October

2015 and April 2019, the Council agreed an extensive programme of redevelopment and regeneration across a number of its estates.

- 6.2 The approved approach provides the opportunity to combine development of schemes which have the potential to generate a surplus with those that require a net investment. Based on current assumptions regarding values and costs, this approach allows the Estate Regeneration Programme to be self-funding.
- 6.3 The Council owns and manages thousands of homes in the borough, and as such, has an in-depth understanding of, and expertise in the affordable housing sector. In addition, the Council's Regeneration function has already successfully delivered new build housing across a number of sites. Accordingly, the Council's recent approach to regeneration seeks to utilise its expertise, understanding and financial capacity to build and retain new affordable housing and outright sale homes directly through its in-house Sales and Marketing Team.
- 6.4 The option to 'do nothing' i.e. not to award the main works contract for Marian Court was considered and rejected. The Marian Court project forms a crucial part of the Marian Court and Bridge House estate regeneration scheme in Homerton, and must therefore be completed.
- 6.5 This final phase of the regeneration will not only provide new and genuinely affordable housing and help alleviate the shortage of housing in the borough, but will also deliver a large amount of workspace, retail space and a new community facility. In addition, the proposed scheme will landscape and remodel the terrain of the site, creating new, attractive and accessible pedestrian and cycle routes from Link Street and Homerton High Street to Ponsford Street. New active frontages to ground floor commercial spaces along Homerton High Street and Ponsford Street will substantially improve the pedestrian experience along those busy roads.
- 6.6 Procuring a contractor/developer and contracting with them through the Council's hybrid Development Agreement was initially considered as an option for the delivery of this scheme.
- 6.7 The Development Agreement approach has been used for schemes of this size in the past, as the Council was building up its in-house capacity and expertise. It was also favoured as it reduced the risk of financial exposure with regards to the sale of homes on the open market, placing this instead with the contractor/developer partner.
- 6.8 However, tenders received using the Development Agreement approach on other regeneration schemes highlighted that developers are not factoring in future price increases to their bids, or are pricing excessively for potential sales risk. It was therefore not deemed beneficial from a financial perspective to use

a Development Agreement for this scheme.

- 6.9 Procuring through a Framework was considered. However, this was rejected due to concern about narrowing the market. The decision was taken to use the EU restricted procurement route in order to give the widest range of suitable contractors the opportunity to tender, and also provide a framework in which best value can be obtained in terms of both price and quality. An open (single stage) tender process was also rejected, as it was felt that the burden placed on bidders via this route would limit the response.
- 6.10 A competitive procedure with negotiation as provided for in the Regulations was initially rejected, as more preparatory work and additional market testing would have been required, delaying the start of the procurement. However, as intended and set out in the business case agreed by CPC in 2017, following receipt of tender returns which significantly exceeded cost estimates, the Council initiated a negotiated process with all participating contractors to explore the potential of cost savings ahead of a re-tender. The negotiation was concluded with a re-tender of the scheme in July 2020, inviting bidders to submit their Best and Final Offer (BAFO) tenders for the delivery of the main works at Marian Court.
- 6.11 The procurement strategy agreed by CPC in November 2017 had intended to procure demolition and construction for Marian Court under a single contract. However, due to delays in the procurement process and in achieving vacant possession and planning consent, the decision to procure the demolition for the scheme separately and thereby minimise project delays was taken, and a contract was awarded to a specialist demolition contractor by the Hackney Procurement Board in June 2020.

This approach has:

- allowed for necessary site investigations and surveys to take place early, to ensure swift design and construction progress when the main works commence;
- de-risked the project through establishing the extent of underground contamination and removing any obstructions identified; and
- provided greater certainty with regards to both cost and programme, thereby reducing main contractor on-costs and risk allowances.

7. PROJECT PROGRESS

7.1 Developments since the Business Case approval

Decant and leasehold buybacks

7.1.1 The decant process for all secure tenants at Marian Court was completed in

May 2019, and leasehold property buybacks under the Compulsory Purchase Orders made for Marian Court were concluded in February 2020. One household in temporary accommodation is currently still living at Marian Court. They have entered into a tenancy agreement for an alternative property, and officers are working to support the household to move at the earliest opportunity. However, in order to mitigate against any further delay to the project, it is recommended to now award the main works contract as set out at Exempt Appendix 3.

Procurement strategy and process

7.1.2 At its meeting in November 2017, CPC approved the procurement strategy for Marian Court, which proposed the selection of a contractor to be carried out via the publication of an Official Journal of the European Union Notice through the Restricted Procedure in accordance with the EU Directive and EU Treaty and the Public Contracts Regulations. It was intended to procure a single contractor to deliver the demolition and construction of the new development.

7.1.3 In April 2018 the procurement process commenced with the issue of a pre-qualification questionnaire and the draft tender documents for the works contract, inviting contractors to submit an expression of interest. Nine responses were received and assessed, and the five highest scoring bidders were shortlisted and invited to participate in the tender.

7.1.4 The Invitation to Tender (ITT) was published on 17 July 2018, with tenders due to be submitted by 7 November 2018. Two bidders withdrew during the tender period and three tenders were received.

7.1.5 All three offers exceeded the pre-tender estimate by approximately 20% and included significant risk allowances or provisional prices for unknown ground conditions. On evaluation, it was concluded that none of the three tenders complied with the Council's financial criteria set out for the contract - an all inclusive fixed price within the cost estimate.

7.1.6 As a consequence and in accordance with the Public Contracts Regulations 2015, the Council moved to initiate a Negotiated Procedure Without Prior Publication, a negotiation with all contractors that had participated in the tender process, to explore the potential for cost savings through design or specification changes prior to a re-tender of the scheme to the original bidders.

7.1.7 Negotiations commenced on 20 March 2019 and the Negotiated Procedure was concluded on 27 July 2020, when participating bidders were invited to submit their Best and Final Offer (BAFO) tenders based on a revised ITT, including specification changes agreed during the negotiation period.

7.1.8 As a result of the delay in achieving vacant possession, and not completing the

demolition of Marian Court, the tender period to award the contract could not be met by the extended expiry date of 26 October 2021. Tenderers were therefore asked to further extend their Tenders to 31 January and again to 31 March 2022. Only two responses were received, from Bidders A and C. No Form of Tender was submitted; nor response received from Bidder B.

7.1.9 Tables 1, 2 and 3 below illustrate the change in price scores, and the impact on the overall scores, as a result of the delay to awarding the contract and the need to extend the form of tender period. These prices are valid until 31 March, 2022.

7.1.10 The outcome of this process was that Bidder C remains the highest scoring tenderer based on their combined quality and cost score, consistent with the initial evaluation which informed the recommendation to CPC in January 2021.

Table 1: Summary of tender evaluations from BAFO submissions (as at January 2021 and valid to April 2021) as at Exempt Appendix 1

Bidder	A	B	C
Cost (70%)	69.75%	59.66%	70.00%
Quality (30%)	20.80%	17.80%	25.10%
Total	90.55%	77.46%	95.10%
Position	2	3	1

Table 2: Summary of tender evaluation from April 2021 submissions (valid to October 2021) as at Exempt Appendix 2

Bidder	A	B	C
Cost (70%)	70.00%	65.32%	68.05%
Quality (30%)	20.80%	17.80%	25.10%
Total	90.80%	83.12%	95.15%
Position	2	3	1

Table 3: Revised scores, as at January 2022 (valid to March 31, 2022) as set out in Exempt Appendix 3

Bidder	A	B	C
Cost (70%)	70.00%	68.61 %	69.53 %
Quality (30%)	20.80%	20.80%	25.10%
Total	90.80%	86.71%	94.63%
Position	2	3	1

7.1.11 Due to the extended procurement timescale for Marian Court and complexities associated with achieving vacant possession and securing planning consent, it was decided to tender the demolition works to a specialist contractor separately, rather than including these within the main works contract, as originally intended. This approach has allowed the demolition works to be delivered in parallel to the conclusion of the main works tender process, thereby minimising programme delays and reducing risks associated with the main works contract.

7.1.12 On 28 November 2019 the demolition business case was agreed by the Hackney Procurement Board, and the demolition contract was awarded on 8 June 2020. Demolition started on 01 September 2020 with an expected completion date of 28 February 2021. Demolition of the final block is on hold awaiting vacant possession.

Scheme Design Changes

7.1.13 A number of design and specification changes were included within the BAFO ITT to future proof designs ahead of imminent changes to building regulations Part B and Part L, and facilitate cost savings identified during the negotiations with bidders. These are summarised below:

- *Value Engineering*

A number of specification changes identified during the Negotiated Procedure aimed at reducing project build cost were included within the BAFO ITT.

- *Energy strategy*

The scheme, as tendered in 2018, proposed the residential heating and hot water to be provided through a Combined Heat and Power unit (CHP) with backup boilers. Since that time a number of policy changes have occurred, and changes to Building

Regulations are expected imminently, resulting in changes to sustainability targets and technology. It was concluded that alternative (non fossil fuel based) heating strategies would need to be explored. Following an options appraisal, an amended specification for a more sustainable energy strategy using communal air source heat pumps was included within the BAFO ITT.

- *Sprinklers*

The scheme, as tendered in 2018, included sprinklers in those parts of the proposal with floor levels above 18 metres. As part of the BAFO ITT, bidders have been requested to include sprinklers to all blocks with a top floor height of more than 11 metres in line with forthcoming changes to Building Regulations.

7.1.14 In addition to the above measures included within the BAFO tender, the option to undertake a significant re-design for further elements of the project and seek planning consent for an amended scheme ahead of a re-tender was considered. However, following an impact and benefit analysis of this proposal, taking into consideration additional fees, expected savings, risks and associated programme delays, it was concluded that the benefits of proceeding with the project without these design changes outweighed those achievable through a re-design. The re-design option was therefore rejected.

Other changes included in BAFO ITT

7.1.15 Due to the extended procurement timeline, the BAFO ITT was also amended to incorporate changes to the Council's templates, contracts and processes, for example the handover requirements for regeneration projects.

7.1.16 The Form of Contract will now be the JCT Design & Build 2016 with bespoke LBH amendments, as opposed to the 2011 version of the contract as previously tendered.

Planning consent and amendments

7.1.17 Planning Sub-Committee resolved to grant planning permission for the Marian Court scheme on 6 June 2018. The proposal was subsequently referred to the GLA for review and written approval was received on 6 July 2020. Following this, the Planning Decision Notice was issued on 22 July 2020.

7.1.18 Once a contractor has been appointed and the specified energy strategy has been designed to the required level of detail, amendments to the Marian Court planning consent will be sought for additional plant enclosures at rooftop level and the new strategy's performance and carbon emission reduction achieved.

7.1.19 The discharge of pre-commencement planning conditions, which is required ahead of the start of the structural demolition process, has been delayed due to

the recent cyberattack on the Council.

Sales and Marketing

7.1.20 Due to current market conditions, sales value increases are not assumed within the current financial appraisal. However, there is potential for the market to strengthen before outright sale homes at Marian Court are released, which could reduce the current projected deficit.

Stakeholder Consultation

7.1.21 New and returning residents of Bridge House and Marian Court have been updated on the regeneration projects regularly via newsletters, the last of which was distributed in January 2022. In addition, the demolition contractor for Marian Court has issued regular newsletters to nearby residents to update on their progress.

7.1.22 A resident representative from the original Bridge House and Marian Court Steering Group participated with officers in the tender evaluation process for both the initial tender in 2018 and the recent BAFO tender.

Project Risks

7.1.23 Key risks associated with the award of the main works contract for the project are outlined below.

Risk	Likelihood	Impact	Overall	Action(s) to avoid or mitigate risk
	L – Low; M – Medium; H - High			
Financial / Programme: Contractor going into liquidation during construction	L	H	M	Initial finance checks on all participating bidders have been carried out as part of the tender process. Requirements for Performance Bond and Parent Company Guarantees have been included within the contract particulars. Since the start of the Covid-19 outbreak, the Procurement team has set up new procedures to monitor suppliers' financial viability, and Business Continuity Planning information is being requested from all suppliers. A contract with the recommended bidder will only be entered into if the Procurement team is satisfied that it has a robust Business Continuity Plan.

<p>Financial / Programme: Brexit leading to increased project costs and delay due to labour and material shortages</p>	M	H	H	<p>A fixed price (exemption: provisional sum for connections and diversions) for most elements of the tender has been secured. A very detailed programme has been provided by the preferred bidder.</p>
<p>Programme: Covid-19 leading to programme delays</p>	L	M	M	<p>Construction sites were not required to stop operations during the lockdowns in 2020 or 2021. Tenderers have been required to consider current guidance on socially distanced site operations as part of their construction programmes. The preferred bidder's programme is very detailed, and current Covid guidelines have also been considered for the contractor's site set-up as part of their quality response.</p>
<p>Financial: Projected market values are not achieved due to a downward movement in the overall or local housing market</p>	M	M	M	<p>Sales valuations, provided by an independent surveyor and used for the financial appraisal, have been reviewed and endorsed by the Council's Sales and Marketing team.</p> <p>Value increases are not assumed within the current financial appraisal, but due to the expected length of the construction programme there is potential for the market to strengthen before outright sale homes at Marian Court are released, which could reduce the current projected deficit.</p> <p>The scheme's 69 outright sale properties are valued at £44m, exposing the scheme, programme and HRA to financial risk. In addition, the 59 shared ownership properties are currently valued at £34m, with forecast first tranche equity sales of £8.5m.</p> <p>To spread this sales risk it is intended to phase the release of the outright sale units.</p> <p>A market review and marketing strategy will be produced for each sales phase, with authority to proceed to market properties delegated to the Group Director, Chief Executive's directorate and Group Director of Finance and Corporate Resources.</p> <p>If, due to market conditions, the Council is unable to sell all of the outright sale homes to individual purchasers in line with the Sales & Marketing</p>

				<p>Strategy, there are a number of options that could be explored to minimize the financial impact:</p> <ul style="list-style-type: none"> • Convert some of the outright sale homes to shared ownership (subject to demand) • Convert some of the outright sale homes to social rent (on an interim or longer term basis). • Sell some units to an individual investor or private rented sector operator.
<p>Financial / Reputational: Quality of scheme does not meet expectations resulting in reputational damage or increased cost to the Council</p>	L	H	M	<p>Detailed tender documentation has been provided to bidders, to ensure that the proposals are delivered as designed and specified.</p> <p>The preferred bidder has confirmed they will retain the Council's pre-contract design team. This team has produced a high quality design proposal and understands the Council's vision for the project. Their retention will ensure continuity of project knowledge and help to ensure the quality of the design is carried through into delivery.</p> <p>During the delivery stage, the Council's Employer's Agent team, including Site Inspectors and Clerk of Works will carry out regular site inspections to ensure work is completed in line with the tender specification documents. Due to the planned change of energy strategy, the appointment of a specialist Clerk of Works is intended to safeguard the correct delivery of the revised M&E designs to the Council's specification.</p> <p>Stringent KPIs, monitoring the quality of delivery, have been included within the contract (see 9.2).</p>
<p>Financial / Programme: Delays to the demolition process lead to delays in the agreed start date for the main works contract</p>	L	M	L	<p>Tenders were received on 26 November 2020 and bidders are required to retain prices for a minimum of six months, they have subsequently been asked to extend the tender window several times as a result of not being able to gain vacant possession of the site, (and thereby complete the demolition and satisfy the conditional approval set out in the report to CPC in January 2021).</p> <p>Considering recent delays, and complexities in the sequencing of this work, it is intended to award the main works contract as soon as possible, as the structural demolition of Marian Court is underway and</p>

				<p>largely completed. Further delay to awarding the main contract will result in further costs to the project.</p> <p>The approach outlined in this report is intended to limit the risk of delays to a start on site required to be agreed as part of the main works contract, and also enables a seamless handover of site management responsibilities between demolition and main works contractor.</p>
<p>Reputational / Financial: Unable to meet the commitment to the GLA for a start on site during 2021/2022 due to delays in awarding the contract for the main works, resulting in reputational damage and potentially loss of grant funding</p>	H	M	H	<p>It is intended to award the contract to the preferred bidder as soon as possible. Officers are keeping the GLA informed with regard to the start on site date in relation to the GLA's Building Council Homes for Londoners programme.</p>
<p>Financial / Programme: Planning consent for the energy strategy amendments is delayed, leading to programme delays and additional project cost</p>	M	M	M	<p>In accordance with advice from the project EA, to avoid high risk allowances as part of the tender bids and delays to the tender programme, the Council has retained this risk.</p> <p>Initial engagement with the local planning authority is intended to be sought ahead of the full design of the strategy, to limit delays and risk, followed by an amendment application once the design has been completed.</p> <p>A planning consultant is being commissioned to lead the Council's liaison with the local planning authority.</p>
<p>Programme / Financial: Site connections/diversions are more complex and costly than anticipated, resulting in a contract variation and programme delays</p>	M	M	M	<p>Utility consultations were carried out for the initial tender, providing quotes to bidders.</p> <p>Ahead of the BAFO tender a utility consultant was commissioned by the Council to re-consult with all key utility providers. Their findings have formed the basis for the provisional sums included within the contract sum analysis. These costs are confirmed in the revised tender returns February 2022 from both bidders.</p> <p>Necessary consultation with utility providers during</p>

				the design development phase (re-design energy strategy) has been considered within the preferred bidder's delivery programme.
Programme/ Financial: Complex site or construction issues lead to increased cost and project delays	L	M	M	<p>Detailed tender documentation including extensive survey and site investigation information has been provided to bidders.</p> <p>A fixed price (exemption:provisional sum for connections and diversions) for most elements of the tender has been secured.</p> <p>The recommended bidder has demonstrated a thorough understanding of project risks, complexities and constraints as part of their tender submission, and in particular their risk assessment and programme.</p>

7.2 Whole Life Costing/Budgets:

7.2.1 The cost of the Marian Court scheme will be funded from sales receipts of the outright sale properties, the first tranche equity sales of the shared ownership properties, and the future rental income from the social rented, shared ownership and commercial properties, together with subsidy via GLA grant. In line with the Estate Regeneration Programme's portfolio approach, the scheme's deficit will be funded from the surpluses generated by other schemes within the Programme.

7.2.2 Following the termination of the initial tender process and ahead of the issue of the BAFO Invitation to Tender, a revised pre-tender cost plan was prepared. The proposed works and contract sum remain within the revised cost estimate.

8 SAVINGS

8.1 Marian Court Phase 3 & 4 will deliver new, high quality, mixed tenure homes and contribute to the regeneration of the Borough. This will provide better value for money for Hackney residents, and provide the basis for the Council to continue delivering a high quality and cost-effective housing management service.

8.2 The new homes at Marian Court Phase 3 & 4 will also contribute to alleviating the current pressure on the Council's housing register and temporary accommodation costs, as 32 homes for social rent will be delivered.

9. SUSTAINABILITY ISSUES

9.1 Procuring Green

- 9.1.1 The Marian Court scheme will provide high quality housing, workspace, retail and community space, as well as new and improved landscaping and public realm, enhancing the ecological value and biodiversity of the site. The scheme also aligns with Hackney's Transport Strategy and TfL's Healthy Streets Indicators, aiming to prioritise walking and cycling, providing safe environments with opportunities for play, shade and shelter, and opportunities to rest in a clean environment.
- 9.1.2 The development will be car-free with substantial provision of cycle parking, a car club space and electric vehicle charging points. In addition, the project will be delivering new and upgraded, attractive pedestrian and cycle routes across the site.
- 9.1.3 The scheme will deliver homes which meet current regulatory requirements relating to sustainability, including Building Regulations and the London Mayor's Housing Supplementary Planning Guidance.
- 9.1.4 During the demolition and enabling works, the soil on the site will be tested for contamination and remediated appropriately.
- 9.1.5 The recycling of construction waste and the development of a Site Waste Management Plan are mandatory. The contractor will be obligated to minimise construction related disruption, for example dust nuisance, to residents and neighbouring buildings.
- 9.1.6 The energy strategy for the Marian Court scheme has recently been revised in order to move away from the originally proposed fossil fuel powered Combined Heat and Power (CHP) plant. Hot water and heating at Marian Court are now intended to be generated by more sustainable communal air source heat pumps, located at roof level of the new buildings.

9.2 Procuring for a Better Society

- 9.2.1 The appointed contractor will be required to provide local training and employment opportunities, for which a number of Key Performance Indicators (KPIs) have been established. KPIs will be monitored regularly at site meetings. The contractor and Employer's Agent (EA) will provide information that will form the basis of each score, which will be documented at each meeting. The contractor will undertake to use reasonable endeavours to source materials from local suppliers and manufacturers, and has been encouraged to use small and medium sized businesses in its supply chain.
- 9.2.2 The appointed main works contractor will provide a draft Employment and

Skills Plan to the Council for approval prior to works commencing on site. They will also prepare and implement an active programme for recruitment in order to achieve a local labour target of 30%. Under the terms of the tender process the contractor must employ at least one apprentice per £2m of construction contract value, which reflects the Unilateral Undertaking requirement.

9.2.3 The Council's Sustainable Procurement Strategy (SPS), adopted in November 2018 and after the tender process for Marian Court had commenced, sets out a target of one apprentice per £1m of contract value for services delivered to the Council. While the evaluation criteria for the BAFO ITT had to remain consistent with the original ITT, and could not be adapted to the newly set target, the potential to satisfy the latter was tested with bidders through a clarification question. However, bidders considered the target to be either challenging or unsustainable for the successful delivery of this project due to:

- a high proportion of the overall construction being manufactured off site (precast concrete cladding, balconies, stairs, windows, lifts etc.);
- a proportion of temporary access works (hoisting/craneage) not providing opportunity for apprenticeships.

9.2.4 Bidders also highlighted the impact of COVID-19 guidance on site operations, limiting the number of staff on site and thereby putting the SPS target further out of reach.

9.2.5 Based on advice received from the project Employer's Agent (EA), the element of labour for a residential/mixed use construction contract forms around 30% of the contract sum, with the remainder covering the cost of construction materials and equipment, as well as overheads and profit. In view of this, the main works contractor's commitment to employ one apprentice per £2m of contract value, meets and exceeds the SPS target of one apprentice per £1m of services delivered to the Council.

9.2.6 The appointed contractor will be required to provide the Council with a local labour return for the scheme every three months during the construction phase; and must notify the Council of all vacancies for employees, self-employed, sub-contractors and any other form or type of employment or service arising from construction of the development to our Hackney Works team. The Council will endeavour to find suitable candidates to put forward for the roles within five working days unless otherwise agreed in advance. After such time vacancies can be filled through alternative channels.

9.2.7 The preferred bidder has committed to paying all of its staff and sub-contractors the London Living Wage, for the term of the contract.

9.2.8 As part of the Marian Court Unilateral Undertaking; a sum of £88,861 will be paid as a planning obligation to Hackney Works as a contribution towards the

cost of training and supporting out of work residents into jobs during the construction/demolition phase of the development; and a sum of £44,295 will be paid as a contribution towards end use jobs provided through the operation of the commercial floorspace.

9.2.9 Secured through a planning condition, a minimum of 10% of the overall workspace delivered at Marian Court will be rented to occupiers at affordable rates.

9.3 Procuring Fair Delivery

9.3.1 Tender documents issued to each bidder were identical, giving them equal opportunity to review and respond. Throughout the tender process bidders submitted clarification questions. Where a clarification was not commercially sensitive, the clarification and the Council's response was anonymised and issued to all bidders.

9.3.2 Each bidder was asked to comply with the Council's requirements with regards to the specification, local labour, employment and skills, and Fair Payment Charter. The successful bidder has agreed to the Council's targets in these areas, including payment of the London Living Wage to all employees - a commitment also extended to their sub-contractor supply chain - and cooperation with Hackney Works to promote diversity in their workforce.

9.3.3 The preferred bidder has also committed to ensuring stringent health and safety protocols on site and socially distanced site operations in particular, and provided detailed floor plans of a proposed, socially distanced welfare set-up.

9.3.4 KPIs have been agreed with the contractor and will be scored at agreed intervals during the construction period. More information on KPIs can be found in section 9.2 below.

9.4 Equality Impact Assessment and Equality Issues:

9.4.1 The shortage of affordable housing is a significant issue within Hackney, with 3,000 households living in temporary accommodation and nearly 13,000 on the housing waiting list. Marian Court will provide more than 50% affordable housing - made up of 32 social rented and 59 shared ownership homes - and will therefore contribute towards meeting some of this housing need.

9.4.2 The Estate Regeneration Programme proposes to build new mixed communities that are better integrated with their surrounding areas and have well designed homes, improved community facilities, and safer, more attractive environments; enhancing the quality of life of many residents, which supports the borough in meeting its Public Sector Equality Duty.

9.4.3 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. Within the new development, 32 larger homes (3 or more bedrooms) to be delivered at Marian Court will provide family accommodation, and 16 of the new homes will conform to the M4(3) standards for wheelchair user dwellings.

9.4.4 All of the shared ownership and outright sale homes will be marketed in line with Hackney's Sales and Marketing Strategy, which gives priority to those who live and/or work in the borough. The minimum share percentage for shared ownership homes has been reviewed and approved by Cabinet to maximise affordability.

10. PROCUREMENT PROCESS & EVALUATION

10.1 Initial Tender Process (2018)

10.1.1 The procurement route initially undertaken for the Marian Court main works contract was via an OJEU Restricted Procedure tender process. This comprised:

- (i) Selection Questionnaire
- (ii) Invitation to Tender

10.1.2 The Evaluation Panel for the tender process comprised:

- Project Manager Regeneration (LBH)
- Strategic Design Manager (LBH)
- Employer's Agent (EA) and Principal Designer (acting on behalf of the Council)
- Quantity Surveyor/Cost Consultant
- Resident Representative (for selected quality criterion)

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

(i) Selection Questionnaire (SQ)

10.1.4 The SQ was published on the Council's e-tendering portal, Pro-Contract on 19 April 2018, inviting interested contractors to express an interest in tendering for the Marian Court works contract, by responding to the SQ.

10.1.5 Nine responses were received and evaluated.

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

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

10.1.7 On the conclusion of the evaluation of the SQ submissions, the five highest scoring bidders were shortlisted and invited to participate in the tender.

(ii) Invitation to Tender

10.1.8 The Invitation to Tender (ITT) documents were published on the e-tendering portal, Pro-Contract on 17 July 2018. Contractors were required to submit bids by 7 November 2018.

10.1.9 Three out of the five contractors shortlisted submitted tender responses.

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

Tender Evaluation

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

Quality Evaluation - 30%

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

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

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

10.1.14 The quality evaluation did not progress further as the commercial tender report had concluded that none of the bids was compliant in terms of financial viability.

Price Evaluation - 70%

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

10.1.16 The prices were also assessed against the pre-tender estimates that had been prepared by the project QS.

10.1.17 All of the tenders received exceeded the pre-tender cost plan by approximately 20% and were thereby not compliant with the ITT on the basis of financial viability and project budget.

10.1.18 In addition, two out of the three bids received included provisional allowances related to ground conditions, utility connections and diversions, and did not comply with the requirement for an all inclusive fixed price for the delivery of the scheme.

10.1.19 On conclusion of the price evaluation, on 20 March 2019 the Council informed bidders of its intention to abandon the procurement process (in accordance with regulation 55 of the Public Contracts Regulations 2015), and (in accordance with Regulation 32(2)(a) of the Public Contracts Regulations 2015) to commence a Negotiated Procedure Without Prior Publication, allowing the Council to negotiate with contractors who had submitted a tender.

10.2 Negotiated Procedure

10.2.1 All three contractors confirmed their interest to participate in a negotiation, and on 21 March 2019 the Council wrote to the bidders informing them of the next steps in the negotiation, as well as the main issues and project areas for discussion and review.

Negotiation

10.2.2 Contractors submitted revised proposals on 4 April 2019, followed by a first round of individual negotiation meetings on 8 and 9 April.

10.2.3 Following review of the proposals, the Council wrote to the bidders on 17 April informing them of which value engineering options were acceptable, and

inviting them to prepare revised proposals.

10.2.4 All three participating bidders issued revised proposals on 3 May 2019.

10.2.5 During this negotiation process it became apparent that the value engineering changes which would be required to achieve the desired cost savings were those which significantly changed the cladding materials and the façade appearance of Marian Court.

10.2.6 Due to the significant design and planning risks associated with the above changes, on 12 June 2019 the Council informed bidders of its decision to:

- Pause the Negotiated Procedure;
- Commission a redesign of the external envelope of the Marian Court scheme;
- Seek planning permission for the design changes; and
- Procure and commence demolition works and ground testing in parallel and under a separate contract, in order to de-risk the site.

10.2.7 A second round of meetings was held on 24 June 2019, to discuss this approach with the bidders. At these meetings all three of the contractors confirmed their interest to participate in a separate tender exercise for the demolition works at Marian Court.

Re-design

10.2.8 A detailed scope for the re-design was defined, and a fee proposal and programme for the changes were sought from the project architect and the project EA.

10.2.9 Following an impact and benefit analysis of the re-design proposal, which took into consideration additional fees, expected savings, risks and associated programme delays, it was concluded that the benefits of proceeding with the project without these design changes outweighed the benefits achievable through a re-design. This is because a redesign would have resulted in further significant project delays, and due to rising build costs, a large part of the savings generated would likely have been absorbed by build cost inflation. Based on these considerations, the re-design option was rejected.

Invitation to submit Best and Final Offer (BAFO) Tender

10.2.10 On 17 April 2020 the Council therefore wrote to the bidders to inform them of its intention to abandon the option of a re-design, to recommence the Negotiated Procedure and invite contractors' BAFO tenders for the main construction works at Marian Court, with only minor amendments including:

- A limited value engineering materials rationalisation and re-specification;

- The inclusion of additional sprinklers in response to changing building safety guidance and regulations; and
- Changes to the energy strategy.

10.2.11 The BAFO Invitation to Tender was published on Pro-Contract on 27 July 2020.

10.2.12 Three tenders were received on 26 October 2020.

10.2.13 The Evaluation Panel for the BAFO tender process consisted of the same evaluators as that for the original ITT (see 8.1.2), and BAFO tenders were awarded in accordance with the original Invitation to Tender award criteria.

Quality Evaluation - 30%

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

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

10.2.15 Site visits undertaken as part of the original evaluation were taken into account at BAFO stage.

10.2.16 Quality responses were evaluated by the panel and scored based on the tender evaluation methodology set out in the BAFO ITT. The moderation of quality scores was concluded at a moderation meeting on 26 November 2020.

Price Evaluation - 70%

10.2.17 Quotes for utility connections and diversions could not be updated ahead of the tender issue due to:

- Long lead-in times which would have significantly delayed the tender process; and/or
- unknown project energy loads pending the detailed design of the new energy strategy, which will be delivered by the winning contractor's design team.

10.2.18 As recommended by the project Employer's Agent, bidders were therefore

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

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

10.2.20 A summary of the quality and price scores from January 2021 for each tender, and the respective total overall scores are set out in the table below, illustrating that Bidder C was the most economically advantageous tender (MEAT) for the revised design and specification at Marian Court:

10.2.21 Revised scores, following the most recent extension by contractors are illustrated in the last table below, and reflect the price fluctuations valid until March 31, 2022, which have resulted from the delay to award the contract following CPC conditional approval in January 2021.

Table 1: Summary of tender evaluations from BAFO submissions (as at January 2021 and valid to April 2021) as set out in Exempt Appendix 1

Bidder	A	B	C
Cost (70%)	69.75%	59.66%	70.00%
Quality (30%)	20.80%	17.80%	25.10%
Total	90.55%	77.46%	95.10%
Position	2	3	1

Table 2: Summary of tender evaluation from April 2021 submissions (valid to October 2021) as set out in Exempt Appendix 2

Bidder	A	B	C
Cost (70%)	70.00%	65.32%	68.05%
Quality (30%)	20.80%	17.80%	25.10%
Total	90.80%	83.12%	95.15%
Position	2	3	1

Table 3: Revised scores, following the most recent extension by contractors to

March 31, 2022 Exempt Appendix 3

Bidder	A	B	C
Cost (70%)	70.00%	68.61 %	69.53 %
Quality (30%)	20.80%	17.80%	25.10%
Total	90.80%	86.71%	94.63%
Position	2	3	1

10.2.22 On the basis of the above scores, Bidder C is still the most economically advantageous tender (MEAT) for the revised design and specification. It is therefore recommended that Bidder C is awarded the contract for the main works at Marian Court.

10.3 Recommendation:

10.3.1 The preferred bidder was selected using the award criteria and scoring methodology set out in the BAFO ITT. Their approach was accepted by CPC in January 2021 and the contract award was delegated with conditions. The recommendations in 3.1 and 3.2 are to enter into a JCT Design and Build contract 2016 as set out in Exempt Appendix 3. This protects the Council against further abortive costs.

10.3.2 Bidder C still achieves the highest score overall in terms of quality and price combined. Their responses to the tender demonstrated an excellent understanding of the project's constraints and risks, a good approach to health and safety, minimising disruption, communicating well with stakeholders, and providing employment and skills opportunities. As such their bid is still deemed to be the most economically advantageous tender.

10.3.3 The requirement for a performance bond and parent company guarantee are included in the contract to mitigate the risk of Bidder C failing to perform contractual obligations or becoming insolvent. This is a typical requirement for new build development projects.

10.3.4 A full analysis of the bids is included in Exempt Appendix 3.

10.3.5 It is recommended that the contract for Marian Court is awarded to Bidder C

10.3.6 This will minimise the risk of further delays to a start on site required to be agreed as part of the main works contract, and will also enable a seamless handover of site management responsibilities between the demolition and main works contractors

11. CONTRACT MANAGEMENT ARRANGEMENTS

11.1 Resources and Project Management (Roles and Responsibilities):

11.1.1 The necessary resources and skills to ensure that the project will be successfully managed have been identified and are either available within the Council or have been procured externally.

11.1.2 The project will be managed by a Project Manager in Regeneration who will be overseen by the Estate Regeneration Head of Service. The project delivery team is:

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

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

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

11.1.5 It is anticipated that enabling/investigative works will start on site in May 2022. The timeline below sets out the key milestones and dates, and is subject to the discharge of pre-commencement planning conditions.

Key milestones and dates	
Report to CPIC seeking approval to Award Contract for main works	7 March 2022
Decision and standstill letter issued	8 March 2022
Standstill period	8-22 March 2022
Proposed contract signing	28 March 2022
Proposed start on site (construction)	June 2022
Practical Completion	December 2025

11.2 Key Performance Indicators

11.2.1 The key performance indicators (KPIs) that have been included in the tender documentation and on which the contractor will be assessed are as follows:

KPI Subject	Measurement	Monitoring Method and Info Responsibility	Metric
Programme	Total days early or delayed	Contractor to update programme monthly and provide reasons for delays. EA to assess contractor report and provide own final monthly view.	Nr. of Days
	Monthly days early or delayed	As above	Nr. of Days
	Days not yet subject to a valid EoT Claim	EA to report monthly	Nr. of Days
	Accuracy, timeliness and quality of contractor's programme / delay reporting	EA to assess monthly	Qualitative Assessment / 5
Cost	Divergence between Original Cumulative Forecast and Last Valuation	Contractor to make applications. EA to report monthly.	£ difference on Total Gross Value
	Divergence between last Monthly Forecast and Last Valuation	As above	£ difference on Monthly Gross Value
	Divergence between Application and Agreed Valuation (or Pay Less Notice amount)	EA to value and report monthly.	£ difference on Total Gross Value
Change Control	Contractor Proposed Changes – Quality and timeliness of	EA to assess monthly	Qualitative Assessment / 5

	design, time and cost information.		
	Employer Proposed Changes – Responsiveness of design and cost information (including detail and breakdowns)	EA to assess monthly	Qualitative Assessment / 5
	Employer Proposed Changes – Accuracy of Final Cost	EA to assess monthly	Qualitative Assessment / 5
	Completion and completeness of Change Request form (min 2 weeks prior to consent deadline)	EA to assess monthly	Qualitative Assessment / 5
Quality of Construction	Resident satisfaction with homes	LBH to draft and carry out post completion survey	TBA Satisfaction Scores 1 – 10
	Assessment of Site Inspector Report (seriousness of quality concerns identified).	EA to assess monthly	Qualitative Assessment / 5
	Assessment of Contractor response to remediating Site Inspector concerns.	EA to assess monthly	Qualitative Assessment / 5
	Defects – Total Number Reported	Contractor and LBH to provide information to EA for monitoring and report monthly from practical completion.	Nr. of defects
	Defects – Number remedied within timeframes	As above	Nr. of defects
	Defects – Number remedied beyond timeframes	As above	Nr. of defects
	Defects – Number of defects that have recurred after initial visit	As above	Nr. of defects
Health Safety &	Number of Near Miss Accidents	Contractor to report monthly.	Nr. of near misses
	Number of RIDDOR reportable Accidents	Contractor to report monthly.	Nr. of RIDDOR reports
	Qualitative Assessment of Contractor H&S approach including site assessment by PD and response to H&S concerns including accidents and near misses.	Contractor to provide own H&S assessments and information. EA and PD to assess.	Qualitative Assessment / 5
Design	Timeliness of General Design Information Release to allow sufficient time for Employer review.	Contractor to report days early or delay from Information Release Schedule Targets. EA to check and report.	Qualitative Assessment / 5
Artist's Commission	Quality and timeliness of information and communication with Muf Architecture as	Contractor and Muf Architecture to report. EA to assess.	Qualitative Assessment / 5

	suppliers of Artist's Commission elements.		
Employment	Number of Apprentices	Contractor to report monthly.	Nr. of operatives
	% if Local Labour	Contractor to report monthly.	% of operatives
	Confirmation of London Living Wage	Contractor to report monthly on checks and confirm London Living Wage compliance.	Yes / No
	Quality of engagement and communication with Hackney Works	Contractor and Hackney Works (through LBH Project Officer) to report. EA to assess.	Qualitative Assessment / 5
Community Engagement	Number of verbal or written complaints received from residents.	Contractor to report monthly.	Nr. of complaints
	Assessment of the quality and timeliness of response to residents.	Contractor to report monthly. EA to assess.	Qualitative Assessment / 5
	Assessment of compliance with contractor's own Community Engagement targets as set out in Qualitative Bid Submission	Contractor to report monthly. EA to assess.	Qualitative Assessment / 5
Environmental	Waste volume diverted from landfill	Contractor to report monthly as per tipping certificates against own target given in Qualitative Bid Submission.	% diverted.

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

12.1 On 6 November 2017 Cabinet Procurement Committee agreed a Business Case in respect of a tender process for the appointment of a contractor to undertake the works at the Marian Court development. Therefore in accordance with Contract Standing Order 2.7.10 the decision to award the contract will now be with Cabinet Procurement and Insourcing Committee.

12.2 Details of the procurement process undertaken by officers are set out in this Report. Cabinet Procurement and Insourcing Committee should note that the initial procurement, the finances of the tender recommended for acceptance are detailed in the Exempt Appendices. Due to building requirements and design developments, the value of the procurement increased by 20% above the provision previously set aside (and established as the contract budget) to fund Marian Court construction costs. This additional cost has been factored into the scheme's and the programme's financial appraisals and they still remain viable, but the programme contingency has reduced.

12.3 The construction market has been affected by supply and labour shortages due to Brexit and Covid, and the delivery of the scheme has been impacted by

unrelated delays and so the tender price represents value for money and therefore is supported.

13. COMMENTS OF THE DIRECTOR OF LEGAL AND GOVERNANCE

- 13.1 On 6 November 2017 Cabinet Procurement Committee agreed a Business Case in respect of a tender process for the appointment of a contractor to undertake the works at the Marian Court development. Therefore in accordance with Contract Standing Order 2.7.10 the decision to award the contract will be with Cabinet Procurement and Insourcing Committee.
- 13.2 Details of the procurement process undertaken by officers are set out in this report. Cabinet Procurement and Insourcing Committee should note that the initial procurement exercise did not result in the receipt of acceptable bids from tenderers and therefore officers subsequently used the Negotiated Procedure without prior publication to seek further bids.
- 13.3 It is proposed to award the main works contract to Bidder C. Subject to approval, it is then proposed to enter into a JCT Design and Build contract 2016 with the appointed contractor, as set out in Exempt Appendix 3.

14. COMMENTS OF THE PROCUREMENT CATEGORY LEAD

- 14.1 This report provides the Cabinet Procurement and Insourcing Committee with the outcome of the procurement exercise undertaken to secure a contractor for the construction of a development that will deliver 160 new residential properties in the borough. In spite of the challenges encountered during the tendering process, officers have deployed a meticulous approach in selecting a contractor that will not only effectively deliver the development, but also work with the Council to deliver wider community benefits for the people of Hackney.
- 14.2 The proposed award is supported on the basis that the recommended contractor has submitted the most economically advantageous tender for the revised design and specification put to the market through the negotiated procurement procedure. As detailed in the report, Bidder C has also demonstrated a clear understanding of Council's commitment to the delivery of sustainability and social value outcomes, and submitted a proposal which meets the Council's expectations in this regard.

APPENDICES

- Exempt Appendix 1 - [Marian Court Phase 3 & 4 Tender Report \(December 2020\)](#)
Exempt Appendix 2 - [Marian Court Phase 3 & 4 Tender Report \(September 2021\)](#)
Exempt Appendix 3 - [Marian Court Phase 3 & 4 Tender Report \(February 2022\)](#)

EXEMPT

By Virtue of Paragraph(s) 3, Part 1 of schedule 12A of the Local Government Act 1972 this report and/or appendix is exempt because it contains information relating to the financial or business affairs of any particular person (including the authority holding the information) and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

BACKGROUND PAPERS

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

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