

<b>PROCUREMENT OF A DESIGN AND BUILD CONTRACTOR FOR COLVILLE ESTATE PHASE 2C</b>	
<b>CABINET PROCUREMENT AND INSOURCING COMMITTEE</b>  <b>MEETING DATE</b>  5 December 2022	<b>CLASSIFICATION:</b>  Open with Appendix 1 and Exempt Appendices 2 and 3  If exempt, the reason will be listed in the main body of this report.
<b>WARD(S) AFFECTED</b>  Hoxton East and Shoreditch	
<b>REASON</b>  Spending	
<b>CABINET MEMBER</b>  Cllr Guy Nicholson, Deputy Mayor for Delivery, Inclusive Economy and Regeneration	
<b>GROUP DIRECTOR</b>  Rickardo Hyatt, Group Director, Climate, Homes and Economy	

## **1. INTRODUCTION**

- 1.1. The Delegated Powers Report (DPR), approved on 26 August 2022, and attached as Appendix 1 to this Cover Report, sets out the procurement process undertaken to appoint the preferred contractor for the Pre-Construction Services Agreement (PCSA) for Colville Estate Phase 2C. This completes the first stage of the two stage procurement strategy set out in detail in the report to the July 2021 Cabinet Procurement and Insourcing Committee (CPIC), Key Decision CE R66.
- 1.2. Colville Estate Phase 2C is the second and final part of Phase 2 of the Colville Estate regeneration masterplan which secured outline Planning approval in 2012 (Planning Reference: 2011/0734). The development, once completed, will provide 93 much needed mixed tenure homes, and will support substantial improvements to the public realm on the estate. This phase will also provide a new community centre and low carbon energy centre, serving the whole of the Colville Estate and neighbouring Britannia masterplan development.
- 1.3. The Council is working towards entering into a Joint Contracts Tribunal (JCT) PCSA 2016 Contract with London Borough of Hackney agreed amendments with the preferred contractor. This report to CPIC is for information on progress with the procurement of a contractor to be appointed under a Design and Build Contract 2016 issued by the JCT and incorporating London Borough of Hackney's schedule of Contract Amendments in order to construct Colville Estate Phase 2C and associated work. There will be a further report to CPIC at completion of the second stage of the procurement process, before the Council enters into contract for the main works.
- 1.4. Since the DPR was approved in August 2022, the Local Planning Authority has issued the Decision Notice for the Section 73 Planning application for Colville Estate Phase 2C and the new Unilateral Undertaking for the whole estate on 12 September 2022.
- 1.5. To enable the Colville Phase 2C construction to proceed, three existing residential blocks will be demolished as part of the contractor's work. A confirmed Compulsory Purchase Order is in place for Phase 2C, and the buildings and land will vest in the Council as vacant possession has been secured. The Council is in the process of erecting hoarding to the vacant blocks in preparation for demolition.

## **2. RECOMMENDATIONS**

- 2.1. **That the Cabinet Procurement and Insourcing Committee note the contents of the report.**

## **3. FIRST STAGE OF THE TENDER PROCESS**

- 3.1. The first stage tender process is set out in the attached DPR, including details of the price and energy centre considerations, tender evaluation and moderation undertaken and the post tender clarifications. In accordance with the criteria contained in the Invitation to Tender (ITT) documents, the tendering contractors were required to submit a series of qualitative and quantitative documents. This enabled the Council to take account of both quality and price in order to ascertain the most economically advantageous tender.
- 3.2. The financial information submitted in the tender submission pricing document was assessed and benchmarked against the Build Cost Information Service (BCIS) indices by the Quantity Surveyor (QS) to verify the details of the tender, interrogate the financial figures submitted and examine the assumptions made.
- 3.3. The bidders were asked to identify possible cost savings and programme optimisation opportunities within their bids. Although this element and response were not scored, the details will be explored further with the successful contractor during the PCSA period to ensure that the project is delivered within the agreed budget and any potential efficiencies can be included.
- 3.4. Bidder B (see Exempt Appendix 2 - Colville Estate Phase 2C Tender Report) achieved the highest score overall and is the preferred tenderer, as their bid was deemed to be the Most Economically Advantageous Tender. The Tender Report recommended that the contract for the PCSA at Colville Estate Phase 2C be awarded to Bidder B.

#### **4. SECOND STAGE OF THE TENDER PROCESS**

- 4.1. During the second stage of the tender, the preferred contractor will enter into the PCSA, along with a Tendering Protocol, a draft of which was provided as part of the ITT. The Tendering Protocol requires the contractor to procure a minimum of 80% of the net build cost (trade packages) to a minimum of three sub-contractors on an open book basis, with the remaining 20% anticipated to be made up of services/statutory authorities' costs which cannot be procured competitively or through contractors' estimates.
- 4.2. The preferred contractor will assist in the design and development of the construction issue drawings, help to develop workable method statements and develop relationships with the supply chain to gather essential information for the scheme to be constructed. Once these elements are resolved during this stage of the process, the Council will enter into a detailed contract negotiation with the contractor to agree the final price, the contract conditions and the agreed programme.
- 4.3. Two-stage tendering will provide the Council with a delivery partner, with the benefit of pre-agreed Overheads and Profit and management costs for the scheme, while delivering at actual market costs. On this basis, neither the

Council nor the delivery partner should be at unnecessary risk of either over or under-pricing risk due to possible market fluctuations. By implementing the Tendering Protocol, the contractor is required to demonstrate that it has satisfactorily secured a competitive build cost for the scheme.

- 4.4. At conclusion of the second stage process under the PCSA, and subject to validation from the Quantity Surveyor that compliance with the obligations of the Tendering Protocol have been demonstrated, and value for money has been evidenced for the procurement of the trade packages, the Employer's Requirements (ERs) will be updated to reflect the agreed contractor proposals. At this point, the contractor will apply its Preliminaries, Design & Build Risk, Overheads and Profit from the first stage tender process to the agreed net build cost to form the costs for the lump sum building contract. Approval will be sought to enter into the JCT Design and Build Contract 2016 with Hackney approved amendments in line with the Key Decision CE R66.

## **5. CONSULTATION AND STAKEHOLDERS**

- 5.1. The Regeneration team meets regularly with Colville Estate Tenants and Residents Association, who are supported by Public Participation, Consultation and Research (PPCR), the Independent Tenant and Leaseholder Advisor for the Colville Estate. Steering Group meetings, chaired by a ward councillor, take place monthly to enable consultation and participation in the regeneration programme, including updating residents on progress with the Phase 2C development. As soon as the preferred contractor is appointed under the PCSA Contract, that is anticipated by the end of November 2022, a 'meet the contractor' event will be arranged on the estate, and regular meetings will be set up to discuss the contractor's proposals, including the Construction Management Plan.

## **6. CONTRACT MANAGEMENT**

- 6.1. 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.
- 6.2. The project will be managed by a Project Manager in Regeneration who will be overseen by the Interim Head of Estate Regeneration and Housing Supply Programme. The project delivery team is:
  - Project Sponsor – Interim Director, Regeneration;
  - Project Head of Service – Interim Head of Estate Regeneration and Housing Supply Programme;
  - Project Lead – Project Manager, Estate Regeneration Programme;
  - Design Advice – Regeneration Strategic Design Team;
  - Employer's Agent (EA); and
  - Cost Consultant/Quantity Surveyor (QS).

- 6.3. During the pre-construction and construction periods, the Colville Estate Phase 2C 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 EA. The EA and QS team will carry out monthly valuations of works completed on site and certify the value of these works. During the Pre-Construction Phase, the EA will attend contract Design Team Meetings, which will be programmed by the contractor, and are likely to take place at least monthly (or as required) in order to meet the contract programme.
- 6.4. The contractor's project manager and construction contract manager will report monthly to the Council's Project Manager on agreed Key Performance Indicators, with updates provided regularly to the Council's Director, Regeneration as project sponsor. The EA team 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.

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

- 7.1 The report recommends awarding the contract for pre-construction services to bidder B, who had the highest score overall.
- 7.2 The price element of the scoring was based on the required prelims, overheads and profit percentages against the net construction costs, using the Employer's Agents cost plan as a base. Bidder B submitted the mid priced bid of the five received, but had a superior quality score compared to the others.
- 7.3 Rapid cost inflation is currently being experienced within the construction market and is likely to continue during the PCSA period. We will need to work closely with the successful bidder to try and bring down costs where possible, utilising their experience and expertise to ensure the project is at an acceptable viability position before proceeding further. All options should be considered, including re-design of areas of high spend.
- 7.4 Another internal Gateway review will be held after the PCSA period has concluded, where Finance approval will be required before entering into the JCT contract.
- 7.5 The PCSA sum charged by bidder B seems reasonable at around 2% of total estimated works costs. This is in line with previous contracts that have gone through a similar process. This cost is at risk and will be payable even if we do not proceed past the PCSA period, however it will result in a RIBA stage 4 design, which LBH will own.

## **8. COMMENTS OF THE DIRECTOR OF LEGAL, DEMOCRATIC AND ELECTORAL SERVICES**

- 8.1 On 19th July 2021 Cabinet Procurement and Insourcing Committee agreed to delegate the approval of the Contract Award for this matter to the Group Director, Chief Executive's Directorate. Following reorganisation of the Council's senior leadership structure the relevant decision making powers then sat with the Group Director, Climate, Homes and Economy. Therefore the Delegated Powers Report was presented to the Group Director for approval.
- 8.2 Details of the procurement process undertaken by the Council to make the recommendation to award the works contract are set out in Appendix 1

## **APPENDICES**

**Open Appendix 1- Colville Estate Phase 2C Key Officer Decision (Award of Contract for Pre-Construction Services Agreement)**

**Exempt Appendix 1 - Colville Estate Phase 2C Tender Report**

**Exempt Appendix 2 - Colville Estate Phase 2C PCSA Contract**

## **EXEMPT**

By Virtue of Paragraph(s) 3 Part 1 of schedule 12A of the Local Government Act 1972 the appendices are 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**

None.

<b>Report Author</b>	Miranda Ferrier: 020 8356 3018 Project Manager, Regeneration <a href="mailto:miranda.ferrier@hackney.gov.uk">miranda.ferrier@hackney.gov.uk</a>
<b>Comments for and on behalf of the Group Director of Finance and Corporate Resources</b>	Adam Jauncey: 0208 356 7922 Group Accountant, Finance <a href="mailto:adam.jauncey@hackney.gov.uk">adam.jauncey@hackney.gov.uk</a>
<b>Comments for and on behalf of the Director of Legal, Democratic and Electoral Services</b>	Patrick Rodger: 020 8356 6187 Senior Lawyer, Legal Services <a href="mailto:patrick.rodger@hackney.gov.uk">patrick.rodger@hackney.gov.uk</a>
<b>Comments of Procurement Category Lead</b>	Divine Ihekwoaba Procurement Category Lead, Construction and Environment <a href="mailto:divine.ihekwoaba@hackney.gov.uk">divine.ihekwoaba@hackney.gov.uk</a>