

CABINET PROCUREMENT & INSOURCING COMMITTEE

BUSINESS CASE (INSOURCING OR OUTSOURCING DECISION)

Title of Report	Procurement of a design and build contractor for the development of mixed tenure housing at Frampton Park Estate, E9
Key Decision No.	CHE S306
CPIC Meeting Date	4 March 2024
Classification	Open (with Exempt Appendix) By Virtue of Paragraph(s) 3. Part 1 of schedule 12A of the Local Government Act 1972, appendix 1 is exempt because they contain information relating to the financial or business affairs of any particular person (including the authority holding the information) and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
Ward(s) Affected	Victoria Ward
Cabinet Member	Deputy Mayor Nicholson, Deputy Mayor for Delivery, Inclusive Economy & Regeneration
Key Decision	Yes <hr/> Reason Spending
Group Director	Rickardo Hyatt, Group Director of Climate, Homes and Economy
Contract Value, <u>both</u> Inclusive of VAT and Exclusive of VAT (for the duration of the contract including extensions)	EXEMPT
Contract Duration (including extensions e.g. 2 yrs + 1 yr + 1 yr)	12 months (PCSA) plus 18 months build contract (estimated)

1. Cabinet Member's Introduction

- 1.1. Since 2011, when Hackney's in-house, not-for-profit house building programme was reaffirmed by Cabinet, the Council has met austerity head on and responded to government under-investment to fund and build much needed new Council homes for social rent. This innovative cross-subsidy model, enabling the building of new Council homes has subsequently been adopted by Councils across the UK.
- 1.2. At its meeting in February 2016, the Council's Cabinet approved the Housing Supply Programme (HSP). The Cabinet report outlined how the Council will make best use of its land by building new social rented and low cost home ownership homes on a range of unused or under-occupied sites across the borough, subsidised by homes built for outright sale, in the absence of any government funding to build Council housing for social rent.
- 1.3. Despite the challenges caused by Brexit and the coronavirus pandemic, by May 2022 the Council had started, completed or received planning permission for 1,984 new homes. You can visit the completed schemes and see these often award-winning new Council homes at King Edward's Road, Colville, Aikin Court, Bridge House, St Leonard's Court, Frampton Park, Tower Court and in Clapton Park, hundreds of families across Hackney have benefited from this investment.
- 1.4. The first phase of new Council-built homes at Frampton Park was completed in 2021 as part of the Estate Regeneration Programme. These new homes are within Taylor Court, Chatto Court and Wilmott Court and include 16 homes for social rent.
- 1.5. During the latter part of 2022, the Housing Supply Programme delivered new homes at Mandeville Street and Daubeney Road, and completed the refurbishment of 16 homes for Hackney Living Rent at Gooch House. Construction work is underway for new homes at Wimbourne Street and Buckland Street, with other HSP schemes progressing to the main contractor procurement stage.
- 1.6. On the Frampton Park estate the Council has planning permission to deliver 69 new homes across two sites. These are the old and unused Frampton Park Community Hall site (Phase 1, due to deliver 51 homes) and the Tradescant House Garages site (Phase 2, due to deliver 18 homes). Unfortunately, build costs have risen significantly in recent years, which means that the cost of delivering new homes is much higher than it was when the plans were initially developed. In addition, new building regulatory requirements in relation to environmental sustainability and fire safety now apply, which will need to be incorporated into the designs.
- 1.7. Due to a number of particular construction challenges in relation to delivering new homes on the Tradescant House Garages site (Phase 2),

the Council is currently proposing to prioritise the delivery of new homes on the Frampton Park Community Hall site (Phase 1) site only, with Tradescant House being seen as a later phase.

- 1.8. The Frampton Park Community Hall site has planning permission to deliver 51 new homes and an initial design review suggests that there is potential to increase this number to 55. This will have a positive impact on addressing housing needs on the Frampton Park Estate.
- 1.9. I commend this report to the Cabinet Procurement and Insourcing Committee.

2. **Group Director's Introduction**

- 2.1. The Council has operated a successful regeneration and house building programme for more than a decade. Since April 2011, we have completed 1,515 new and refurbished homes. These include 522 for social rent, 24 for Hackney Living Rent, 154 for shared ownership, and 815 outright sale homes, in order to help pay for the affordable housing and other social infrastructure.
- 2.2. As well as providing high quality additional and upgraded homes, we have invested in new and improved community, public and work spaces on our housing estates - making sure the benefits of these projects are felt by both existing and new residents. Furthermore, the Council has worked closely with construction partners to maximise the training and employment opportunities for residents, and support for local businesses and community groups.
- 2.3. This report seeks approval to commence the procurement process for a principal contractor for the development of mixed tenure housing on the Frampton Park Estate in Victoria Ward.
- 2.4. This process will ensure that the Council selects a suitable contractor on the basis of cost and quality, utilising a two-stage procurement process with a Pre Construction Services Agreement. This approach will allow the Council to harness the contractor's expertise and access to supply chains, which will support further design updates to ensure regulatory compliance and secure further cost savings through value engineering.

3. **Recommendations**

Cabinet Procurement and Insourcing Committee is recommended to:

- 3.1. **Agree to the use of a two-stage tender with a Pre-Construction Services Agreement (PCSA) via the Find a Tender Restricted Procedure, for the selection of a main contractor to deliver a mixed**

housing development of up to 55 new homes on the Frampton Park Estate.

3.2. Delegate authority to the Group Director, Climate Homes and Economy, in consultation with the Group Director of Finance and the Director of Legal, Democratic and Electoral Services to:

- a) Enter a Pre-Construction Services Agreement (PCSA), which may include but is not limited to work relating to design, value engineering, surveys, utilities, demolition and enabling works.**
- b) Enter a main building contract and if appropriate any preceding or parallel demolition or enabling works contract with the preferred contractor or one or more suitable specialist early works contractors, upon satisfactory completion of the Pre-Construction Services Agreement (PCSA stage).**
- c) Should a position representing acceptable performance and/or value for money not be reached by the preferred contractor at any point during or upon conclusion of the Pre Construction Services Agreement (PCSA) stage, to enter into the contracts described at (a) and (b) above, as appropriate, with the reserve bidder appointed during the first stage of the two stage tender.**

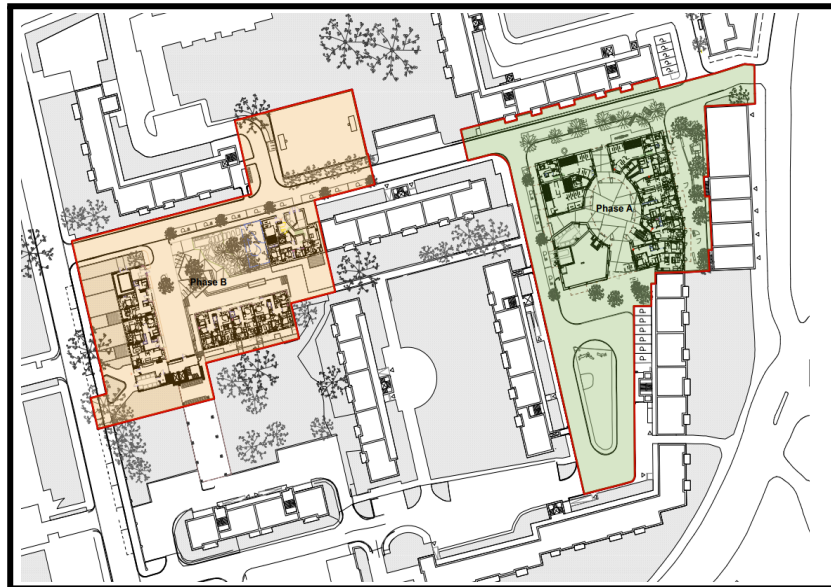
4. Related Decisions

- 4.1. At its meeting of 29 February 2016, the Council's Cabinet approved the Housing Supply Programme.
- 4.2. At its meeting on 18 July 2016, the Council's Cabinet approved the Sales and Marketing Strategy for shared ownership and outright sales disposals within the Estate Regeneration Programme (ERP) and the Housing Supply Programme (HSP). The Sales and Marketing Strategy authorises the Director of Regeneration (now the Strategic Director - Economy and New Homes) to implement the Sales and Marketing Framework.
- 4.3. The strategy also gives authority to both the Director of Strategic Property and Strategic Director of Regeneration (now Economy, Regeneration and New Homes), to dispose of leasehold and freehold interests in shared ownership homes and outright sale homes (developed, or to be developed) as part of the HSP and ERP.
- 4.4. In July 2021, CPIC gave approval for the Council to go out to tender for the main build contractor for the new homes on the Frampton Park Estate (please see previous report). However, the procurement was put on hold due to the impact of increased build costs on the financial viability of the project.

5. Options Appraisal And Business Case (Reasons For Decision)

Overview of the Frampton Park Estate project

- 5.1. The Frampton Park project is a mixed tenure housing development that forms part of the Housing Supply Programme. It is located in the Victoria Ward in the London Borough of Hackney. This report outlines the proposed process for procuring a principal build contractor to deliver this new housing, along with associated landscaping and public realm works.
- 5.2. The Council was granted planning permission in June 2022 for the delivery of new homes on two sites. The Frampton Park Community Hall site constitutes Phase 1 of the redevelopment, with the Tradescant House Garages site constituting Phase 2. The locations are shown on the plan below, with the Phase 1 site in green and the Phase 2 site in yellow.



- 5.3. The Frampton Park Community Hall site is located above an existing residential block known as Woolridge Way, and is bounded to the west by Petiver Close and to the east by Well Street. It currently comprises a community hall, garage block and Council cleaning depot. The Council has planning permission to deliver 51 new, mixed tenure homes on this site.
- 5.4. The Tradescant House Garages site is located further to the east, along the unnamed estate road that joins the two sites. This site includes a disused underground parking structure and garages as well as the undercroft of Tradescant House. The Council has planning permission to deliver 18 new homes on this site: five Hidden Homes for social rent within

the undercroft of Tradescant House and 13 homes for outright sale in the Bookend Building to be appended to the side of the existing Tullis House.

- 5.5. When the scheme previously went to CPIC in July 2021, the complexity of Phase 2 was such that it made the cost of the scheme unviable. Nevertheless, it was agreed that the scheme would go out to tender as a single stage procurement, using the Find a Tender competitive Procedure with Negotiation, to test the market, with the view that additional value engineering could be undertaken if required. However, tender returns subsequently received for other Hackney housing schemes later that year came in significantly over budget and in early 2022, the procurement of a contractor to build the new homes on Frampton Park was put on hold while options to improve the financial viability of the scheme were explored.
- 5.6. A significant amount of work has taken place over the past two years to improve the financial viability of the scheme. In October 2022, AECOM were appointed to review the scheme and their final report in March 2023 made a number of recommendations to secure design efficiencies and reduce costs.
- 5.7. For Phase 1 (Atrium Building), these included recommendations relating to staircase design, facade detailing and curved balustrading, as well as the size of the atrium space and units, which were generally oversized compared to London Plan requirements.
- 5.8. For Phase 2, it was noted that the Bookend Building is less efficient in its layout than the Atrium Building. In addition, the footprint of the building is too small to accommodate the revised fire safety requirements. It was therefore agreed with the Assistant Director of Housing Regeneration and Delivery that Phase 2 would be put on hold, enabling a focus on delivering Phase 1, and achieving approval to proceed with Phase 1 via internal Gateway processes and CPIC.
- 5.9. East Architects were therefore instructed to explore how the original design of the Atrium Building could be adapted to meet new regulatory requirements and to propose design amendments to improve the viability of the project. The build costs and valuations relating to each proposed design were updated, taking into account predicted interest rates, sales price forecasts and tender/build cost inflation forecasts. This approach, including the current focus on Phase 1, was ratified at the internal Gateway 2A meeting for the scheme in January 2024.
- 5.10. The proposed option takes into account enhanced regulatory requirements around building safety, by incorporating two lifts and two staircases to all floors within the design. It proposes amending the atrium space within the Atrium Building to a 'stretched lozenge' shape, which rationalises the atrium shape, increasing its size and making the flat layouts more efficient, thereby improving the financial viability. A proposed additional floor section at fourth floor level allows the

incorporation of four additional homes, with an updated, planning compliant tender mix. It is proposed that additional design updates to allow the scheme to be resubmitted to Planning will be included within the requirements of the Pre Construction Services Agreement.

- 5.11. The estimated costs for the construction of this option have been provided by AECOM and can be found in **Exempt Appendix 1** under Option 2B.
- 5.12. The Council will meet the full development costs of the scheme and act as developer for the social rent, shared ownership and outright sale homes. Further design work will be required under a Pre Construction Services Agreement (PCSA) to further develop the Phase 1 scheme to respond to updated regulatory requirements and to secure further savings through value engineering.
- 5.13. This report seeks agreement from CPIC to commence the procurement of a main build contractor for this scheme, via a two stage procurement process with a Pre Construction Services Agreement (PCSA). The form of contract for the PCSA will be the Joint Contracts Tribunal (JCT) Preconstruction Services Agreement (General Contractor) 2016 with London Borough of Hackney amendments. The form of contract for the main build works will be a Joint Contracts Tribunal (JCT) Design and Build Contract 2016 with London Borough of Hackney amendments. The details of the procurement process are set out in 5.21-5.27.
- 5.14. The outsourcing route is recommended because the Council does not have the ability to carry out works to build new homes in house.
- 5.15. **Benefits Realisation and Lessons Learnt**
- 5.16. This section is not applicable as this procurement does not relate to an existing outsourced service.
- 5.17. **Strategic Context**
- 5.18. The Housing Supply Programme (HSP) was agreed by Cabinet at its meeting on 29 February 2016.
- 5.19. The HSP seeks to make best use of Council land by building new social rented and low-cost home ownership homes on a range of unused or under-occupied sites across the borough. The Frampton Park HSP scheme is part of this programme
- 5.20. The HSP supports the Council's Sustainable Community Strategy (SCS) 2018-2028. The SCS has five priorities and the proposed Frampton Park scheme will contribute these in the following ways:
 - **Priority 1: A borough where everyone can enjoy a good quality of life and the whole community can benefit from growth.** The

proposals for Frampton Park are for the provision of 55 new homes, with a planning compliant tenure mix. New community spaces have been designed in consultation with the community to ensure that they meet their needs.

- **Priority 2: A Borough where residents and local businesses fulfil their potential and everyone enjoys the benefits of increased local prosperity and contributes to community life.** The Council's commitment to fair delivery will apply to this procurement. In accordance with the Sustainable Procurement Strategy, the successful tenderer will be required to offer wages and benefits that meet relevant industry benchmarks and nationally required standards, and to ensure pay rates are at least equivalent to the London Living Wage. They will also be required to offer jobs, training and apprenticeship opportunities for local people, with requirements enshrined within the planning Unilateral Undertaking.
- **Priority 3: A greener and environmentally sustainable community which is prepared for the future.** The development will provide environmental benefits. These include the use of air source heat pumps, which have a low carbon footprint. In addition, the scheme is car free except for two wheelchair parking spaces and five adaptable spaces.
- **Priority 4: An open, cohesive, safer and supportive community.** Provision of improved landscaping and play areas, as well as employment and training opportunities, are in line with this priority.
- **Priority 5: A borough with healthy, active and independent residents.** The proposed improvements to the public realm will help create a healthy and safer neighbourhood which is pedestrian, cyclist and child friendly, in line with Hackney Council's Child Friendly Places Supplementary Planning Document (SPD).

5.21. **Preferred Option**

- 5.22. The pre-tender estimate for the Phase 1 works is above the UK Public Procurement Threshold for Works of £5,372,609 and is subject to the Public Contracts Regulations 2015. This means that the opportunity must be advertised on Find a Tender or procured from a suitable framework contract.
- 5.23. At the CPIC meeting in July 2021, it was agreed that the full Frampton Park scheme of 69 new homes would be tendered on the basis of a single stage JCT design and build contract, via Find a Tender, using the Competitive Procedure with Negotiation. At the time, this was considered the most appropriate procurement route due to the opportunity this route presented to pre-select from a range of tenders and negotiate with

tenderers to realise cost savings. In addition, the single stage process offered programme efficiencies when compared with a two stage process. However, as set out at 5.5, the procurement process was aborted in early 2022 due to high tender returns being received on other Council schemes and the acknowledgement that the scheme was not financially viable in the circumstances.

5.24. The current proposed approach to progress the delivery of new homes on the Frampton Park Estate proposes a different procurement route to that agreed in 2021, in order to respond to the current market conditions, regulatory environment, and the associated design changes. Consequently, a contractor is now sought for Phase 1 via a two-stage route. Phase 1 is the Atrium Building that will be constructed on the site of the Frampton Park Community Hall. The Council currently has planning permission to deliver 51 new homes on this site. To improve viability and ensure compliance with new regulations, further changes are proposed for the Atrium Building:

- Design review to be undertaken to ensure regulatory compliance and secure further cost savings through value engineering.
- Atrium shape to be adjusted to improve buildability and reduce the overall area of the homes.
- Tenure mix of the Atrium Building to be adjusted to one that is planning compliant for a stand alone project. A minimum of 50% affordable homes will be delivered on the scheme.
- Floor plate of the excised fourth floor to be extended to provide four additional homes.
- Non material amendment (NMA) and S73 planning application to be submitted to adjust the planning permission to account for the changes outlined above.

5.25. The procurement strategy has been reviewed by the project team and Procurement team, in the light of the significant amendments required to the project, as set out at Section 5.24 above. The preferred option is to procure a main contractor through a two stage design and build process, encompassing the award of contract for the Pre Construction Services Agreement (PCSA) as the first stage, and a tender submission for the Build - Main Works as the second stage. The second stage Build - Main Works would be awarded following an assessment/evaluation of the contractors' proposals at that stage. A break clause will be used in the event the Council chooses to terminate the appointment of the first stage contractor. This approach will allow the Council to harness the technical expertise of the contractor to further develop the scheme, improving buildability and potentially securing programme efficiencies. Contractor supply chain access will provide greater cost certainty alongside the opportunity for cost savings.

- 5.26. The opportunity will be tendered through Find a Tender, using a PCR 2015 compliant restricted procedure, to allow the Council to pre-select from a wide range of potential bidders.
- 5.27. During the first stage of the process, contractors will complete a standard selection questionnaire covering their due diligence, probity, capability, capacity and experience. A maximum of five bidders will be shortlisted and invited to submit tenders. In the second phase of tendering, contractors will submit a price for the works required under the PCSA, alongside their quality responses to the methodology questions. In addition to this, the bidder will submit their schedule of rates, including their percentages for overhead and profits for the build, to be used when finalising the fixed price for the complete works. They will also provide their methodology and programme at this stage. It is proposed that the JCT PCSA Contract 2016, with LBH amendments, will be the form of contract at PCSA stage, with the main works contract delivered under the JCT Design and Build Contract 2016, also with LBH amendments.
- 5.28. Soft market testing has been carried out to test the proposed procurement approach. Eight contractors responded to the Council's soft market testing questionnaire and confirmed that they would bid for the Frampton Park scheme if it is tendered on the basis of a two stage tender with PCSA, using the Find a Tender Restricted Procedure. Three soft market testing meetings were held in December 2023 and three in January 2024, with one further soft market testing meeting to be held at the time of writing. All the contractors who attended confirmed that they considered a two stage procurement process to be the most suitable for this scheme, recognising the design amendments required and that building will be considered high risk under the Building Safety Act 2022. A summary of the soft market testing feedback is available at 5.60.
- 5.29. Delegated authority has been requested due to the pressures in market volatility, including continued and steady increases in construction costs and the necessity of taking an agile approach to procurement in order to secure best value for the Council and ensure delivery of much needed affordable homes. The delegation of authority will allow the project team to take swift action to procure an alternative contractor if, during the PCSA period, it becomes clear that the anticipated costs for the main works contract will not be financially viable. The delegation of authority will ensure that the costs for the main works contract can be agreed in a timely fashion, reducing the risk that programme delays due to going back to CPIC lead to the contractor increasing their price for the works. The project team is committed to ensuring that CPIC is kept up-to-date and will provide a briefing note to CPIC for information once the main works contract has been agreed. Ongoing updates will also be provided at the Capital Asset Steering Board, and quarterly Housing Lead Member briefing sessions.

5.30. **Alternative Options (Considered and Rejected)**

- 5.31. As noted in 5.22, the pre-tender estimate for the Phase 1 works is above the UK Public Procurement Threshold for Works of £5,372,609 and is subject to the Public Contracts Regulations 2015. This means that the opportunity must be advertised on Find a Tender or procured from a suitable framework contract.
- 5.32. The option to procure a contractor via a single stage route has been considered and rejected. The single stage route is considered unsuitable due to the additional design work needed to bring the scheme up to current regulatory standards and the value engineering required to bring the scheme to a financially viable position. The two stage process allows the Council to benefit from contractor buildability knowledge and access to supply chains during the PCSA period, giving greater cost certainty at the end of the PCSA period.
- 5.33. The option to procure a contractor via a framework has been considered and rejected, because the use of a framework reduces competition, limiting the pool of potential contractors to which the Council has access. It also presents a risk of receiving insufficient bids for the scheme.
- 5.34. The following procedures available via Find a Tender have also been considered and rejected:
- **Open Procedure:** The Invitation to Tender issued and any supplier may submit a tender. This is not considered suitable for the Frampton Park scheme. It may result in the Council receiving a large number of tenders, lengthening the assessment process without adding value. Conversely, this approach may put off some contractors who would otherwise bid for the scheme, as soft market testing has indicated that contractors tend to prefer to be part of a smaller bidding pool.
 - **Competitive Dialogue Procedure:** Any supplier may submit a request to participate by providing the information for qualitative selection. Following assessment, suppliers invited may participate in the dialogue and final tenders are invited once the dialogue process is complete. This is generally used where a client cannot specify their requirements or cannot assess without dialogue what the market can offer in terms of technical, financial or legal solutions. This is not appropriate to the Frampton Park scheme as it is not a complicated scheme and the design updates and value engineering will be covered within the Pre Construction Services Agreement.
 - **Competitive Procedure with Negotiation:** Any supplier may submit a request to participate by providing the information for qualitative selection. Following assessment, invited suppliers may submit an initial tender which shall be the basis for the subsequent negotiations. The Council will negotiate with tenderers the initial and all subsequent tenders submitted by them, except for the final

tender, to improve their content. This can be a time-consuming process and it is not considered necessary for the Frampton Park scheme.

- 5.35. The option to not appoint a reserve bidder has been considered and rejected, as having a reserve bidder enables the Council to retain some competitive tension with the preferred bidder; and, provides a procurement-compliant alternative to the preferred bidder in the event that the design/price is not in line with the Council's budget and expectations for the project.

Success Criteria / Key Drivers / Indicators

- 5.36. The Frampton Park development will deliver much needed affordable housing for social rent and shared ownership, as well as homes for outright sale.

- 5.37. Success will be measured by:

- Delivery of quality new homes and landscaping that improve the neighbourhood and promote mixed communities.
- Adaptation to climate change through the incorporation of air source heat pumps for heating of homes and hot water, alongside Sustainable Urban Drainage System measures (SUDS).
- Practical completion of the proposed homes and landscaping work achieved by the agreed practical completion date.
- Maximisation of the capital receipt generated by the sale of the leases for the shared ownership and outright sale homes, which in turn will help to pay for the social rented homes.
- Delivery of affordable homes that respond to local needs.
- Ensuring that build costs represent value for money whilst maintaining quality.
- Delivery of employment, training and social value benefits to the local community.
- Successful integration of the new development to the benefit of those living on the estate and working in the area.
- Resident satisfaction.

5.38. **Whole Life Costing/Budgets**

- 5.39. The Council's Housing Regeneration and Delivery service has, in consultation with Housing Services and other relevant departments, produced a standardised New Build Housing Design Specification for new build homes and landscaping, which takes into account whole life costs of new build properties. The Frampton Park scheme has been designed to

Version 5, but Version 6 has recently been published and the Frampton Park scheme will be updated as far as possible to align with this version.

- 5.40. The New Build Housing Design Specification will form part of the Employer's Requirements for this project alongside the full set of tender drawings, design team specifications and contract particulars.
- 5.41. The Council will take on the management and maintenance of the new homes once complete. In approving the design specification, Housing Services has considered both the requirements and the costs of future maintenance and management.
- 5.42. The Cabinet approval for the Housing Supply Programme requires the programme, as a whole, to break even. The Frampton Park scheme currently represents a deficit scheme, however additional funding for the scheme is being sought from various sources and additional value engineering is to be carried out under the Pre Construction Services Agreement (PCSA). It is anticipated that the value of the PCSA agreement will be approximately 2% of the estimated cost for the main works contract. The estimated cost for the main works contract can be seen in Option 2B within **Exempt Appendix 1**. One of the outputs from the PCSA period will be a buildable design that is compliant with planning and regulatory requirements, so costs will not be abortive.
- 5.43. **Policy Context**
- 5.44. The provision of genuinely affordable housing is a key objective of the Council. A Cabinet report in October 2015 presented an update on the delivery of the Estate Regeneration Programme and introduced an outline proposal for the new Housing Supply Programme (HSP). This new, Council-led initiative was introduced to contribute to meeting the commitments of the 2014 Mayoral manifesto, including building new affordable homes for local people, with a focus on social rent and shared ownership.
- 5.45. In February 2016, Cabinet approved the HSP, which aims to deliver high quality, affordable homes on Council-owned sites. It is currently due to deliver over 600 new homes, with at least half for social rent and shared ownership.
- 5.46. The HSP supports the Council's Sustainable Community Strategy (SCS) 2018-2028, further details of which were provided in 5.20.
- 5.47. Hackney's Local Plan 33 (LP33) also seeks to maximise opportunities to supply genuinely affordable housing on new developments, subject to viability and site context.

5.48. **Consultation/Stakeholders**

5.49. Extensive consultation has previously been undertaken with local stakeholders, including Ward Councillors and local residents. These were in the form of public engagement events and meetings at various stages of the project prior to planning submission. Statutory consultation was undertaken as part of the planning application, and the full scheme was presented at Planning Sub-Committee in October 2021.

5.50. Recently, consultation with stakeholders has been limited, but the TRA and local Councillors have been kept up-to-date with regard to the planned way forward for the scheme, including through newsletter updates.

5.51. Key stakeholders include:

- Local residents.
- Frampton Park Tenants' and Residents' Association.
- Community hall users.
- Victoria Ward Councillors.
- Internal LBH staff with responsibility for halls or for managing the estate.

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

5.53. **Risk Assessment/Management**

5.54. The cost of the construction works represents a major element of the overall project expenditure. The form of procurement proposed provides access to a large pool of contractors. A standard selection questionnaire will be used to shortlist the bidders who will be invited to submit tenders.

5.55. A value engineering exercise will be undertaken during the PCSA period to improve the financial performance of the scheme.

5.56. The project risk register for the Frampton Park scheme is currently being updated.

5.57. This project has been assessed as **high risk**. Individual risks relating to the project are set out in the table below, alongside mitigations.

Risk	Likelihood	Impact	Overall	Action to avoid/mitigate risk
Inability to deliver the project within the required LBH Gateway	High ▾	High ▾	High ▾	- Project has been reviewed by external consultants (AECOM and Inner Circle) and their

parameters of a positive NPV position.				<p>recommendations acted on, leading to a potential design option for a more efficient scheme.</p> <ul style="list-style-type: none"> - Additional funding is being sought from the GLA - Two stage procurement with PCSA recommended to allow access to contractor design and buildability knowledge and supply chains. - Additional grant funding sources will also be explored including the Brownfield Land Release Fund 2, round 3.
Potential financial impact of economic conditions including inflation, Brexit, Covid-19, impact of war in the Ukraine, and a short supply of labour and trades in the market.	High ▾	High ▾	High ▾	<ul style="list-style-type: none"> - Market engagement taking place with contractors, including through soft market testing. - Updated valuations have been provided for the scheme, alongside updated costs. - Two stage procurement with PCSA will give access to contractor supply chains.
Potential for compromised sales values in the Atrium building due to typology, associated tenure strategy and cooling property market.	Medi... ▾	Medium ▾	Medium ▾	<ul style="list-style-type: none"> - Scheme has been reviewed by external development adviser and a robust Sales and Marketing Strategy will be in place, led by Hackney's Sales Team. - Regular updates on the market are provided through the programme-wide development adviser contract.
Resident opposition to the development.	Medi... ▾	Medium ▾	Medium ▾	<ul style="list-style-type: none"> - Residents are kept informed via TRA meetings and newsletters. - Further engagement to be arranged with residents once delivery route has been agreed.
Rejection of planning amendments.	Low ▾	High ▾	Medium ▾	<ul style="list-style-type: none"> - Informal engagement regularly takes place with Planning colleagues to ensure awareness of current challenges and likely required scheme amendments. - Formal engagement with Planning via pre-application process.

Gateway approval not granted by Building Safety Regulator (BSR)	Medi... ▾	High ▾	High ▾	- Expertise on BSR Gateway requirements provided on a programme-wide basis via contract with calfordseaden.
Build costs come back higher than anticipated after PCSA	Medi... ▾	High ▾	High ▾	- Quantity Surveyor to be appointed as part of wider EA appointment for the scheme, subject to successful Gateway 2A. QS to regularly monitor build costs and engage with preferred contractor through an open book process, to ensure clarity on costs. - After the PCSA stage, the Council is not bound to the preferred contractor who carried out services under the PCSA and can go out to tender separately for the second stage if required.

5.58. **Insurance**

5.59. The successful tenderer will be required to hold the following levels of insurance and these have been discussed with the Insurance Team:

PCSA Stage

- Professional indemnity insurance - £10m for any one claim or series of claims arising from one event but excluding pollution and contamination.
- Employer's liability insurance - £10m for any one occurrence or series of occurrences.
- Public liability insurance - £10m for any one occurrence or series of occurrences.

Main Contract Stage

- Contractor's all risk insurance - £10m (any one occurrence or series of occurrences).
- Professional indemnity insurance - £10m for any one claim or series of claims arising from one event.
- Employer's liability insurance - £10m for any one occurrence or series of occurrences.
- Public liability insurance - £10m for any one occurrence or series of occurrences.

5.60. **Market Testing (Lessons Learnt/Benchmarking)**

- 5.61. The Frampton Park scheme will be suitable for medium-sized contractors. There is an adequate supply of such contractors working in the London area, ensuring sufficient competition.
- 5.62. Soft market testing is currently underway to test the proposed procurement approach for Frampton Park Phase 1 and initial feedback supports the proposed approach. Eight contractors have responded to the Council's soft market testing questionnaire and confirmed that they will bid for the Frampton Park scheme if it is tendered on the basis of a two stage tender with PCSA, using a restricted procedure. Four of the eight have added comments stating that they consider a two stage process to be the most suitable procurement route. Contractors have indicated that they would prefer to tender on the basis of limited competition.
- 5.63. Three soft market testing meetings were held in December 2023, with three further meetings held in January 2024. All contractors confirmed that they consider a two stage procurement approach to be the most suitable for the scheme, given the design amendments required and the building being over 18m high and therefore considered high risk under the Building Safety Act 2022. Contractors who responded did not outline any concerns about the proposed redesign approach to incorporate regulatory changes and additional value engineering, and the expected route to Building Safety Gateway 1.
- 5.64. Some contractors noted that their bidding resources are limited and that the timing of the procurement will influence whether they are able to bid. This will be taken into consideration when issuing the tender, with the Housing Regeneration and Delivery team coordinating the issue of tender opportunities across the division to ensure they do not all go out at the same time.
- 5.65. There have also been lessons learnt from another HR&D scheme that has been tendered through a two stage procurement. These relate to choosing an alternative contractor following the PCSA, after concerns that value for money was not being offered by the incumbent contractor. Not being able to procure a new contractor quickly due to the need to produce a business case and seek CPIC approval for a new procurement strategy, has had programme and financial repercussions. For this reason, delegated authority is being sought to award the contract to the reserve bidder should a position representing acceptable performance and/or value for money as set out in the ITT not be reached by the preferred contractor at any point during or upon conclusion of the PCSA stage. This approach will minimise potential disruption to the programme and will ensure the contractor demonstrates to the council at agreed stages that they are satisfying the conditions that form part of the PCSA.

5.66. **Savings**

- 5.67. The Frampton Park project will deliver new, high quality mixed tenure homes and associated landscaping and public realm works and will contribute to the regeneration of the borough. Value for money will be enhanced by reduced maintenance and management costs and it is anticipated that utility costs for residents will be reduced, due to the efficiency of the building.
- 5.68. The provision of new social rented homes at Frampton Park will allow existing Frampton Park Estate residents who are in the urgent housing need band to have 'first dibs' on new properties that will meet their needs. This will free up housing on the estate, with any remaining homes then available to residents on the Council's housing register.
- 5.69. The provision of additional new social rent homes, will also mean that households who would otherwise be living in temporary accommodation will instead have a secure home, and that the Council's temporary accommodation budget will not incur costs for those households.

6. Income Generation

- 6.1. Ongoing rents from the new social rented homes and the rents on unsold shares of the shared ownership homes will contribute towards future management and maintenance of the homes and public realm. In addition, the value of outright sale homes will cross-subsidise the cost of building the homes for social rent.

7. Sustainability Issues and Opportunities, Social Value Benefits

7.1. Procuring Green

- 7.1.2 The Council is committed to delivering procurement of works in accordance with the Sustainable Procurement Strategy, which engages with fair, sustainable practice that seeks to benefit the local community and minimise any negative environmental impacts of goods, services and works contracts procured.
- 7.1.3 The scheme will deliver environmental improvements including new place space and improved public realm, including a pedestrianised play street. The scheme encourages sustainable transport and is car free apart from two wheelchair parking spaces and five adaptable spaces. Sustainable transport is encouraged through improved pedestrian routes and the provision of secure cycle parking to all new residents, as well as through provision of visitor cycle parking spaces.

- 7.1.4 Sustainability is a fundamental part of the scheme and is in line with the Council's Zero Carbon commitment. The scheme will provide high quality, energy efficient homes that meet current regulatory requirements. An Energy and Sustainability Assessment has been produced, which summarises the proposed energy strategy for the scheme. The new homes have been designed with air source heat pumps to achieve the required energy levels in accordance with current London Plan energy targets. The scheme will include use of Sustainable Urban Drainage (SUDS) rainwater harvesting and green roofs.
- 7.1.5 During the demolition and enabling works, the soil on the site will be tested for contamination and remediated appropriately.
- 7.1.6 The main contractor will be obligated to minimise construction-related disruption to residents and neighbouring buildings. They will be required to discharge and comply with the construction-related planning conditions relating to the development. These include providing a Demolition & Construction Management Plan and sustainable drainage particulars. Both must be signed off by Hackney Council in its role as Local Planning Authority. The contractor must also ensure that noise generated by plant and equipment be at least 5DB below pre-existing background levels as determined by BS4142. Finally, a draft Construction Logistics Plan has been prepared for the site.
- 7.1.7 Quality performance indicators covering environmental issues will be included in the contract to ensure adherence to green procurement practices. These will include 'waste volume diverted from landfill' and initiatives undertaken to minimise waste arising from deliveries to site'.

7.2. **Procuring for a Better Society**

- 7.2.1 The appointed contractor will be required to provide local training and employment opportunities, for which Key Performance Indicators (KPIs) have been established as below:
- Number of apprentices.
 - Number of paid work placements.
 - % local labour.
 - Confirmation of London Living Wage.
 - Quality of engagement, reporting and communication with Hackney Works.
- 7.2.2 The contractor and Employer's Agent will provide the information that provides the basis of each score and the KPIs will be monitored at site meetings.
- 7.2.3 The contractor will be required to use reasonable endeavours to source materials from local suppliers and manufacturers and will be encouraged to

use small, medium, ethnically diverse and female led businesses within its supply chain.

7.2.4 Under the obligations of the Unilateral Undertaking for Frampton Park, the sum of £1,500 must be paid to the Council for each apprentice identified in the approved Employment and Skills Plan.

7.2.5 The contractor will be required to provide, under the obligations of the Unilateral Undertaking for Frampton Park, one full time apprenticeship (minimum 26 weeks) per £2m of contract spend. Local labour and apprentices aged 18 and over must be paid the current London Living Wage, which is £13.15 for 2023/24.

7.2.6 The contractor will be required to provide a quarterly local labour return and must notify the Council's Hackney Works Team of any vacancies for employees, self-employed labour, subcontractors and any other form or type of employment or service arising from the construction of the development. The contractor will be required to work with the Council's Inclusive Economy Officer and seek to create jobs that meet local skills gaps or roles in the green economy. The Council will monitor progress via the quarterly reporting cycle.

7.3. **Procuring Fair Delivery**

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

7.3.2 Tenderers will receive identical tender documents and each tenderer will be given the same opportunity to review and respond. Tenderers will be given the opportunity to submit clarification questions. Where a clarification is not commercially sensitive, the clarification and the Council's response will be anonymised and issued to all bidders.

7.3.2 The Council is committed to ensuring that workers' rights are preserved in the context of fair and prompt payment to subcontractors and bidders will be required to agree to the Council's targets around local labour, employment and skills. The contractor will be required to commit to stringent health and safety protocols on site and relevant KPIs will be scored during the construction period.

7.3.3 KPIs will include 'Assessment of the quality and timeliness of response to residents' and 'Assessment of compliance with contractor's own Community Engagement targets as set out in Qualitative Bid Submission'.

7.4. **Social Value**

7.4.1 The successful contractor will be required to provide the mandatory social value requirements set out in Section 7.2. They will also be encouraged to offer additional social value within the quality section of their bid.

7.5. Equality Impact Assessment and Equality Issues

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

7.5.2 The Council is committed to building new homes that are adaptable to the varying needs of occupiers over time and that will enable people to live independently in their homes for longer. The housing mix for the Frampton Park development has been considered in line with the housing needs for the estate. The development includes wheelchair adaptable homes.

8. Proposed Procurement Arrangements

8.1. Procurement Route

8.1.1 As noted in 5.22, the pre-tender estimate for the Phase 1 works is above the UK Public Procurement Threshold for Works of £5,336,937 and is subject to the Public Contracts Regulations 2015. In compliance with the Public Contracts Regulations 2015 (PCR 2015) a mandatory Find a Tender Contract Notice will be placed, as well as a notice in Contracts Finder, the Government's public sector tender notice portal.

8.1.2 Significant effort has been made to de-risk the project and site for development and make it an attractive opportunity for potential bidders. This includes completion of statutory and services surveys including but not limited to topographical report; daylight/sunlight assessment; CCTV drainage survey; ecology/biodiversity report; geotechnical/contamination survey report; air quality assessment; and acoustic survey.

8.1.3 The full scheme received planning permission in June 2022 and a five year implementation period has been agreed by Planning. It is anticipated that the consented scheme will be amended by Non-Material Amendment (NMA) and Section 73 submissions to take into account updates to the scheme, including tenure mix and design changes.

8.1.4 The procurement route via a PCSA and two stage tender will enable the scheme to be de-risked by ensuring design compliance with new and emerging regulations prior to the full construction contract being let.

Resources, Project Management and Key Milestones

<i>Key Milestones</i>

Business Case Report to CPIC	March 2024
[FTS] Advert placed through ProContract	April 2024
Closing date for EoI	May 2024
SQ evaluation	May 2024
Issue First Stage Tender	June 2024
Tender returns	July 2024
Tender Evaluation	August 2024
Award of contract (PCSA only)	Sept 2024
Standstill Period	10 days after tenderers are informed of the outcome
Report on award of PCSA reported to CPIC for information	October 2024
Finalise second stage	May-June 2025
Delegated authority report considered by Group Directors	July/August 2025
Award of contract (main works contract)	Sept 2025
Report on award of contract (2nd stage) reported to CPIC for information	Oct 2025
Mobilisation period	Sept 2025
Start on site / Contract start	Oct 2025

8.2. **Anticipated Contract Type**

8.3. The contracts will be a JCT 2016 Pre-Construction Services Agreement and a JCT 2016 Design and Build Contract, incorporating the London Borough of Hackney's schedule of contract amendments. The suite of documents will include the Hackney New Build Design Specification V6 as an appendix to the Employer's Requirements.

8.4. The recommended procurement route is the Find a Tender Restricted Procedure. This approach complies with the Public Contracts Regulations 2015.

8.5. At the first stage, bidders will be asked to return a quality response and a finance response. The quality criteria will include the following:

- Construction programme.
- Project delivery including site logistics, project team and key personnel.
- Proposed design team.
- Maintaining integrity of design.
- BIM expertise.
- Health and safety.
- Sustainability.
- Community engagement.
- Local employment, training and supply chain.

- London Living Wage compliance.
- 8.6. The finance criteria will include the following:
- Preliminaries, including project particulars and conditions of contract
 - Design and management fees, indicative of pre and post construction stages.
 - Overheads and profit.
 - Contractor financial assessment.
- 8.7. The quality:cost weighting for the submission will be 60:40 in favour of quality, and tenderers will be required to provide both a quality submission and a cost submission. This weighting reflects the fact that at PCSA stage the value of the contract is relatively low, but the required quality of the work to be undertaken within that contract is high. The risk of a high second stage cost will be mitigated through the open book approach to cost review during the PCSA period. This will allow the Council to utilise the expertise of their appointed Quantity Surveyor to scrutinise the contractor's costs and profit margins in relation to the works packages, to ensure that the Council gets best value.
- 8.8. The winning bidder will be appointed as the preferred bidder and will enter into a PCSA with the intention of entering into a JCT contract upon the successful completion of the PCSA. The second placed bidder will be appointed as the "reserve bidder". Should the preferred bidder not complete the design and development activities in line with the Council's requirements (as set out in the tender documents) and the ensuing PCSA, the Council will terminate Bidder A's appointment as preferred bidder and will enter into a PCSA with the reserve bidder in order to progress the project.
- 8.9. This report seeks authority to be delegated to the Group Director, Climate, Homes and Economy, in consultation with the Group Director of Finance and the Director of Legal, Democratic and Electoral Services, to appoint the reserve bidder, should a position representing acceptable performance and/or value for money not be reached by the preferred contractor at any point during or upon conclusion of the Pre Construction Services Agreement (PCSA) stage. The justification for the request for delegated authority is set out at 5.29 but in summary, it allows the project team to minimise disruption to the build programme, secure best value and ensure delivery of much needed affordable homes and to meet the associated manifesto commitments. Returning to CPIC for approval will add additional months to the process, which in the context of continued construction cost inflation, will ultimately represent an additional cost to the Council. The proposed approach will mitigate against the risk of unaffordable scheme costs at the conclusion of the PCSA and commencement of the second stage of the contract. Regular progress updates on the scheme will be provided to Members via the Capital Asset Steering Board. Tenders will be assessed by the Council's evaluation panel. The financial information submitted in the pricing document will be

assessed and benchmarked against the Build Cost Information Service (BCIS) in order to verify the details of the tender, interrogate the financial information submitted and examine the assumptions made.

8.10. The evaluation team will consist of the following:

- Project Manager.
- Project Officer.
- Head of Regeneration Strategic Design.
- Financial Adviser.
- Employer's Agent.

8.11. Advisers to the evaluation team will be the following:

- Procurement: Procurement Category Lead and Procurement Category Manager.
- Legal Services: Procurement and Property lawyers.

8.12. **Sub-division of contracts into Lots**

8.13. Due to the value and type of contract, it is not considered feasible to divide the contract into lots.

9. **Contract Management (and Mandatory Use of the Contract Management System) & Service Management for Insourcing**

9.1 The procurement opportunity will be advertised on Find a Tender, initially through the Expression of Interest process, following which five bidders will be invited to participate in the Invitation to Tender stage.

9.2 The project will be managed by the Project Manager and overseen by the Head of Housing Delivery - North. An Employer's Agent will be appointed as Contract Administrator. Risk, issues and lessons learnt logs will be maintained and regularly updated. Regular meetings with the Employer's Agent and other consultants will take place as required during the PCSA stage. Monthly site meetings with the contractor will take place following start on site. The Council will hold quarterly review meetings with appointed consultants.

9.3 Decisions and change control will be undertaken in line with agreed governance procedures and contract management policies. The Quantity Surveyor will carry out monthly valuations of the works completed on site and will certify the value of those works. Project success will depend on the contractor finishing on time, to budget, and to the required quality standards.

9.4 **Key Performance Indicators (including for Insourcing)**

The main KPIs for this project will be set to monitor the following:

- **Programme:** the programme KPIs will specify the agreed time to be taken to complete the build and measure the actual number of days taken to reach key milestones against the number of days agreed in the programme.
- **Cost:** the cost KPIs will set out expected spend against an agreed budget. This is another mechanism to check whether the build is taking place in line with the agreed timetable. The Employer's Agent will report on a monthly basis on the gross value of monthly payments and total payments to date against the agreed payments schedule.
- **Change Control:** the change control KPIs will ensure that any change requests are both appropriate and sought in a timely manner. A number of aspects of the change control process will be assessed by the Employer's Agent on a monthly basis and marked out of a maximum score of 5.
- **Quality of Construction:** the quality of construction KPIs provide a measure of the quality of the construction. The Employer's Agent and Clerk of Works will provide a monthly report with an assessment of quality out of 5.
- **Health and Safety:** the health and safety KPIs will monitor any safety issues related to the site. A monthly report will be prepared during the delivery stage, including details of the number of near misses, the number of RIDDOR incidents and a qualitative score out of 5.
- **Employment:** the employment KPIs measure the number of apprentices, the number of adult improvers and the percentage of local labour. They also include a confirmation that workers will be paid at least the London Living Wage. A monthly report will be prepared which captures the actual outputs for these measures, against the anticipated outputs.
- **Community Engagement:** the community engagement KPIs measure any dissatisfaction expressed by local residents regarding the build and will assess any positive engagement on the part of the contractor. The contractor will be required to be part of the Considerate Constructor Scheme.
- **Environmental:** the environmental KPIs measure any waste diverted from landfill and set the minimum standards required. The contractor reports monthly as per tipping certificates against their own target in their qualitative bid submission.

9.5 Resident satisfaction with the new homes will be assessed via post-occupancy evaluation surveys after a period of occupation of their new homes.

10 **Comments Of The Interim Group Director Finance**

- 10.1 The report recommends the use of a two-stage tender with Pre-Construction Services Agreement (PCSA) for the selection of a main construction contractor. At Gateway 2A, the estimated construction costs were over budget and the PCSA period will therefore need to be used to bring the costs down to an acceptable level, before actual construction works can commence. The position will be reviewed at Gateway 2B after the PCSA period has ended.
- 10.2 Soft market testing has been carried out by the team and a two stage with PCSA is the preferred tender route for most prospective bidders. The benefit of a PCSA in this circumstance is that the required design changes to make the building compliant with recent regulatory requirements can be worked through with the contractor. Working collaboratively and looking at value engineering and design changes to make the design more 'buildable' can also be worked through during the PCSA period, in the hope that the required cost savings can be achieved. On the flip side of this, the winning contractor at PCSA stage may not be highly incentivised to identify savings, so this will need to be managed carefully alongside our external Employer's Agent.
- 10.3 The report recommends a scoring weighting of 60/40 in favour of quality. This is a low price weighting compared to what is usually used when awarding construction contracts, which are often weighted in favour of price by at least 60%. The logic for this current split is that the actual work package costs should be similar between bidders, assuming an open book and close working relationship and that quality is more important to measure at PCSA stage. The risk of this is that a high cost contract is going to potentially be awarded based on a low price weighting. The difficulty of scoring PCSA's is that the main cost elements cannot actually be scored at this stage and therefore consideration needs to be given to alternative options should the final costs be above budget after the PCSA period has ended.
- 10.4 It should be noted that on previous council development projects, the 60/40 quality/price ratio has been used for similar two stage tenders with PCSA's.
- 10.5 The cost of the PCSA is estimated to be around 2% of the main works contract. Please see the costs for Option 2B in Appendix A for the estimated main works costs. Whilst this is at risk until construction starts, part of the spend will relate to design development, which won't need to be repeated if alternative delivery partners need to be sought after the PCSA period.

11. **VAT Implications on Land & Property Transactions**

- 11.1 The costs of the construction of the dwellings will be zero rated for VAT purposes. Any VAT incurred on the costs of the land (for example, demolition on the site) and the dwellings (i.e. architect fees, etc) will relate

to the supplies made. The property used for HRA lets will be non-business, and hence any VAT will be recoverable in full. The 125 year leases that will be granted in relation to outright sale and shared ownership homes will be zero rated and hence any VAT on attributable costs will be recoverable in full. Whilst the sale of shared ownership homes will be zero rated, there will be ongoing exempt rents so any VAT on the costs of maintenance etc going forwards will need to be managed in the Council's partial exemption calculation. Any leases that are not HRA or are for less than 21 years will be exempt from VAT and any VAT on attributable costs will need to be included in the Council's partial exemption calculation.

- 11.2 The costs of construction of the landscaping/public realm works, and improvements to the ball park will be liable to VAT at the standard rate. This VAT will relate to the supplies made from the various areas. Where landscaping is around the new homes, it may be related to those supplies and hence it may be possible to get the works zero rated, but on the basis that the landscaping and public realm is open space, any VAT incurred should be recoverable as it relates to a non-business supply. If any exempt supplies are made then VAT on attributable costs will need to be included in the partial exemption calculation.

12 **Comments Of The Acting Director, Legal, Democratic & Electoral Services**

- 12.1 This Report has been assessed as High Risk. Paragraph 2.18 of Contract Standing Orders states that all procurements with a risk assessment of "High Risk" will be overseen by Cabinet Procurement and Insourcing Committee, and therefore this Business Case Report is being presented to Cabinet Procurement and Insourcing Committee for approval.
- 12.2 The value of the works in this Report is above the current threshold of £5,372,609 under Regulation 5 of the Public Contracts Regulations 2015. Therefore it will be necessary to publish a high value notice in respect of the procurement of these works. It is proposed to use the Restricted Procedure under Regulation 28 of the Public Contracts Regulations to appoint a contractor for the performance of the works at Frampton Park Estate.
- 12.3 The proposals in this Report require the initial engagement of a contractor by the Council under a Pre-Construction Services Agreement (PCSA). The award of contract for the PCSA is proposed to be delegated to the Group Director, Climate Homes and Economy, in consultation with the Group Director of Finance and the Director of Legal, Democratic and Electoral Services. Paragraph 2.4 of the Cabinet Procedure Rules states that "If the Elected Mayor delegates functions to a Committee of the Cabinet, the Committee may delegate further to an officer, except where the Elected Mayor has said that they are not allowed to delegate further".

Cabinet Procurement and Insourcing Committee, as a committee of the Cabinet, is therefore permitted to delegate to an officer the decision to agree the award of the PCSA. The scope of the PCSA may include, but is not limited to, work relating to design, value engineering, surveys, utilities, demolition and enabling works.

- 12.4 In addition, authority is sought in this Report to delegate authority to the Group Director, Climate Homes and Economy, in consultation with the Group Director of Finance and the Director of Legal, Democratic and Electoral Services, to enter into a main building contract and if appropriate any preceding or parallel demolition or enabling works contract with the preferred contractor or one or more suitable specialist early works contractors, upon satisfactory completion of the PCSA stage.
- 12.5 The procurement process involves the appointment of the second placed bidder as a reserve bidder. In the event of the Council and the winning bidder not agreeing a final contract sum for the main works contract the Council would seek to appoint the reserve bidder under a PCSA and work with the reserve bidder to agree a final sum. This process will require the Council to follow a very specific process to ensure compliance with its obligations regarding transparency and contract award as set out in the procurement regulations.

13. **Comments Of The Procurement Category Lead**

- 13.1 This report presents a two stage works procurement and contracting model, consisting firstly of a Pre-construction Service Agreement (PCSA) to appoint a contractor for early engagement in developing the works programme. Award of this part of the contract is delegated to the Group Director, Climate Homes and Economy, in consultation with the Group Director of Finance and the Director of Legal, Democratic and Electoral Services. In addition, the report recommends the second stage 'main contract' award following completion of the PCSA is delegated to the Group Director, Climate Homes and Economy, in consultation with the Group Director of Finance and the Director of Legal, Democratic and Electoral Services.
- 13.2 In the event the second stage 'main contractor' appointment cannot be concluded with the PCSA appointed contractor, the Service seeks delegation to the Group Director, Climate Homes and Economy, in consultation with the Group Director of Finance and the Director of Legal, Democratic and Electoral Services, to appoint a reserve bidder following the same procurement strategy approved in this business case.
- 13.3 A fixed lump-sum price, design and build contract following an 'open book' exercise is proposed at the PCSA stage.
- 13.4 For the second part of the tender exercise the Council will develop and promote best practice through two stage open book tendering that

includes a performance management approach and a greater focus on local requirements.

- 13.5 This Business Case recommends a Public Contracts Regulations 2015 compliant Restricted Procedure inviting a minimum of five contractors to submit a tender.
- 13.6 The top ranked bid from a 60% / 40% Quality and Cost weighting split will be recommended to enter into a Pre Construction Services Agreement.
- 13.7 Requirements to meet the Council's policies on London Living Wage and apprentices will be included. In tendering, Social Value will be assured and KPI's measures incorporated.
- 13.8 This exercise will be conducted in conjunction with the Council's Construction and Environment procurement category manager, using the Council's e-tender facilities.

Exempt Appendices

Exempt Appendix 1: Atrium Building Cost Model Options Review DRAFT 120923

Exempt

By Virtue of Paragraph 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 documents

None

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