

CABINET PROCUREMENT & INSOURCING COMMITTEE

BUSINESS CASE (INSOURCING OR OUTSOURCING DECISION)

Business Case	
Title of Report	Procurement of a design and build contractor for the Development of Affordable Housing at Pedro Street E5
Key Decision No.	CHE S307
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	Kings Park Ward
Cabinet Member	Deputy Mayor Nicholson, Deputy Mayor for Delivery, Inclusive Economy & Regeneration
Key Decision	Yes 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)	10 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 already benefited from this investment.
- 1.4. 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.
- 1.5. The Council already has planning permission to deliver 26 new homes through the Pedro Street scheme, 100% of which are affordable. Works started on site in 2020 under a contract with Engie Regeneration. However, contamination was found on site and the Environment Agency notified, construction was halted while decontamination works were undertaken. Following the works associated with decontaminating the site and the subsequent monitoring of ground conditions, it was mutually agreed between the Council and Engie to terminate the contract.
- 1.6. Unfortunately, over the course of the decontamination works, build costs rose significantly and have continued to rise. This has meant that the cost of delivering new homes is now much higher than it was when the scheme was submitted to Planning. In addition, new building regulations and fire safety requirements now apply, which need to be incorporated into the designs.

- 1.7. The proposals laid out in this report demonstrate how the Council intends to mitigate the increased costs associated with building materials and labour inflation, and meet the new building regulations, through the main contractor procurement process. This will result in delivering much needed affordable Council housing that will have a positive impact on the local neighbourhood.
- 1.8. I commend this report to 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. Further, the Council has worked closely with our 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 affordable housing within the Clapton Park Estate at Pedro Street.
- 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 Pre-Construction Services Agreement. This approach will allow the Council to harness the contractor's expertise and their 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 procurement of a two-stage design and build contract with a Pre-Construction Services Agreement (PCSA) via the Find a Tender service using a Restricted Procedure, for the selection of a main contractor to deliver a housing regeneration scheme of up to 26 new homes in the Kings Park Ward. The exact number of homes to be delivered may change as a result of the design development exercise.**
- 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), or equally;**
 - c) Should a position representing acceptable performance and/or value for money not be reached with 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 (HSP).**
- 4.2. At its meeting on 18 July 2016 the Council's Cabinet approved the Sales and Marketing Strategy, authorising the Director of Regeneration (now Strategic Director Economy, Regeneration and New Homes) to implement the Sales and Marketing Framework in relation to shared ownership and outright sale disposals generated via both the HSP and Estate Regeneration Programme (ERP). Cabinet also authorised the Director of Strategic Property and the Director of Regeneration (now Strategic Director Economy, Regeneration and New Homes) 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.**

- 4.3. The Council's Planning Sub-committee resolved to grant planning permission for the Pedro Street development on 7 February 2018, subject to the completion of a Unilateral Undertaking, which has since been authorised.
- 4.4. At its meeting of 14 May 2019 the Hackney Procurement Board (HPB) approved the business case for mixed tenure housing at Pedro Street.
- 4.5. In February 2020, CPIC gave approval for the Council to go out to tender for the main build contractor for the new homes at Pedro Street (please see [previous report](#)).

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

- 5.1. The Pedro Street site is within the Clapton Park Estate, at the junction of Pedro Street and Rushmore Road. This was the site of an estate boiler house, which was decommissioned over 30 years ago. Pedro Street is one of a number of sites that form the Housing Supply Programme (HSP) within the Housing Regeneration and Delivery (HR&D) service. The programme is currently building new homes across the borough on underused brownfield land within existing housing estates.
- 5.2. In approving the programme, Cabinet agreed to a 'portfolio' as opposed to a site-by-site approach to financial viability and planning compliance. This approach enables the Council to combine the development of schemes which require a net investment with those that have the potential to generate a surplus. The new affordable homes at Pedro Street will contribute to the Council's target to build over 3,000 new homes for social rent, shared ownership and outright sale. The cost of these affordable homes will be subsidised by homes for outright sale on other sites within the HSP. This portfolio approach to tenure across the programme has been approved by the Local Planning Authority via an overarching Unilateral Undertaking for the programme.
- 5.3. The original Pedro Street project, designed by Ash Sakula Architects, comprised 26 new homes; 13 homes for social rent and 13 for shared ownership. The project team secured [planning permission](#) (Planning Reference: 2017/3512) in 2017 and a [Unilateral Undertaking](#) was signed in August 2018. The scheme is 100% affordable, and as such Pedro Street has always been a 'deficit' scheme, requiring cross-subsidy from other schemes within the programme.
- 5.4. The previous contractor, Engie, was selected via a Negotiated Process without Prior Publication using a Framework. This method was recommended at the time for obtaining the best value in terms of both price and quality. However, only two bids were received and both

exceeded the Council's pre-tender estimate. Engie were selected after a Negotiated Procedure.

- 5.5. In order to satisfy pre-commencement Planning Conditions, soil testing was carried out on site in July 2020 by Engie's sub contractor. Site investigations discovered fuel oil contamination in connection with the former boiler house across the site at levels that were higher than the pre-contract testing had indicated. Due to the delays caused by the contamination, the works associated with decontaminating the site and monitoring ground conditions thereafter, it was mutually agreed to terminate the contract with Engie.
- 5.6. Subsequent viability modelling has shown that the cost of delivering the scheme had increased significantly as a result of the significant construction cost inflation experienced over the last few years. Furthermore, Building Regulations have changed and the planning approved scheme is no longer compliant. Under the Building Safety Act 2022 (BSA), Pedro Street, as currently designed, is classified as a high risk building in that it is over seven storeys and 18m in height. In order to adhere to the new regulations the consented building would require a second staircase. This would have an adverse impact on the viability of the project as adding a second staircase would lead to a loss of habitable floor space, and increase construction costs. Furthermore, the new Building Safety Regulator (BSR) Gateways 2 and 3 would have a programme impact, potentially of several months.
- 5.7. The results of the monitoring of ground conditions since the completion of the decontamination works have shown that works have been successful and the site has been certified to be in a suitable condition to progress to the development phase. During this period a significant amount of work has taken place to improve the financial viability of the scheme.
- 5.8. The project team tested various options including: building a larger scheme; replacing the apartment building with a low rise scheme of 8 houses; and changing the tenure mix of some affordable homes into outright sale. The greatest challenge to viability was the need to adhere to the BSA. Early discussions with contractors and architects affirmed the viability challenges of delivering residential buildings above 18m, especially when the costs can not be mitigated by selling more homes, as is the case with a 100% affordable housing scheme such as Pedro Street. As a result, it is proposed that as part of the redesign work to be done via a two stage tender, a design which reduces the building to below 18m is explored, therefore taking it out of the BSA designated "high risk" category. This will result in a loss of a small number of units (likely to be four) but will enhance the deliverability of the scheme, by reducing build costs overall, and has improved programme implications, compared with taking forward a building in the "high risk" category (over 18 metres).
- 5.9. Results from soft market testing with a number of contractors and an architect have confirmed the preferred approach to tender the scheme via

a two-stage procurement with a Pre Construction Services Agreement (PCSA). This approach will enable the scheme to be designed in collaboration with a contractor, in order to bring forward a scheme which is compliant with the regulatory changes that have come into force (or are emerging) since the scheme's planning was approved; whilst also unlocking cost savings during the design phase; and improving the buildability of the scheme.

- 5.10. This report therefore seeks agreement from CPIC to commence the procurement of a main build contractor for this scheme, via a two stage procurement process with a 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 5.18.
- 5.11. The Council will meet the full development costs of the scheme and act as developer for the social rent, and shared ownership homes. The outsourcing route is recommended because the Council does not have the ability to carry out works to build new homes in-house.
- 5.12. The estimated costs for the construction of the outlined option have been provided by Potter Raper and can be found in **exempt Appendix 1**.
- 5.13. **Benefits Realisation and Lessons Learnt**
- 5.14. This section is not applicable as this procurement does not relate to an existing outsourced service.
- 5.15. **Strategic Context**
- 5.16. The Housing Supply Programme (HSP) was agreed by Cabinet at its meeting on 29 February 2016.
- 5.17. 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 Pedro Street HSP scheme is part of this programme
- 5.18. The HSP supports the Council's Sustainable Community Strategy (SCS) 2018-2028. The SCS has five priorities and the proposed Pedro Street 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 Pedro Street are for the provision of over 20 new homes, 100% of which will be affordable. The scheme will bring into use a site that has been disused for over 30 years. The scheme

includes landscaping and public realm improvements connecting Gilpin Square to the development and a new bin store for existing residents of adjacent blocks.

- **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. There will also be a potential benefit to local businesses in Gilpin Square, in the form of new local residents and increased footfall in the square, as well as the placemaking enhancements that form part of the development.
- **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 photovoltaic panels, which have a low carbon footprint; rainwater harvesting in communal garden areas, and a biodiverse roof. In addition, the scheme is a car free development.
- **Priority 4: An open, cohesive, safer and supportive community.** Provision of improved landscaping, as well as employment and training opportunities, are in line with this priority. The scheme is tenure blind and social rent and shared ownership units share a core. The current scheme has a letter of comfort from the Metropolitan Police confirming the scheme can achieve SBD Gold Standard. Pedro Street will add to the sense of place by building on what is currently hoarded empty land, and will reduce the current risk of fly tipping and squatting on the land.
- **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 and cyclist friendly. The location of the building encourages walking and cycling and the scheme meets London cycle storage standards.

5.19. **Preferred Option**

5.20. The pre-tender estimate for the 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 agreement.

- 5.21. The procurement strategy has been reviewed in light of the changes required to deliver the scheme by improving viability and ensuring compliance with new regulations. These include:
- Revise the design of the scheme to take it below 18m.
 - Undertake a design review to ensure regulatory compliance and secure further cost savings through value engineering.
 - Submit a non material amendment (NMA) and S73 planning application to adjust the planning permission to account for the changes outlined above.
- 5.22. The procurement strategy has been reviewed by the project team and Procurement team, in the light of the significant amendments required to the project. 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.
- 5.23. The opportunity will be tendered through Find a Tender, using a restricted procedure, to allow the Council to pre-select from a wide range of potential tenderers.
- 5.24. 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 would 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.
- 5.25. Soft market testing has been carried out to test the proposed procurement approach for Pedro Street and initial feedback supports the proposed

approach. Five contractors have responded to the Council's soft market testing questionnaire, and all five have confirmed that they would bid for the Pedro Street scheme if it is tendered on the basis of a two stage tender with a PCSA. Three contractors added comments that they considered a two stage process to be the most suitable procurement route. In addition, six 'in person' soft market testing meetings were held between December 2023 and January 2024. All of these contractors confirmed that they consider a two-stage approach to be most suitable for this scheme, given the design amendments required. A summary of the soft market testing feedback is available at 5.60.

5.26. 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 main contractor is not meeting its obligations under the PCSA. 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.

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

5.28. As noted in 5.19, the pre-tender estimate for the 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 agreement.

5.29. 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.

5.30. 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. This

was evident in the previous main contractor procurement, which only secured two bids.

5.31. 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 Pedro Street 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 Pedro Street 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 Pedro Street scheme.

5.32. 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.

5.33. **Success Criteria / Key Drivers / Indicators**

5.34. The Pedro Street development will deliver much needed affordable housing for social rent and shared ownership.

5.35. 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 a new energy strategy, alongside Sustainable Urban Drainage System measures (SUDS).
- Practical completion of the proposed homes and landscaping work achieved by the agreed practical completion date.
- Delivery of affordable homes that respond to local need.
- 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 in the area.
- Resident satisfaction.

5.36. **Whole Life Costing/Budgets**

- 5.37. 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 Pedro Street scheme has been designed to Version 5, but Version 6 has recently been published and the Pedro Street scheme will be updated as far as possible to align with this version.
- 5.38. 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.
- 5.39. 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.
- 5.40. The tenants of the Council social rented properties will pay a rent calculated in accordance with formula rent principles, as well as a service charge calculated in line with the Council's standard methodology.
- 5.41. The owners of the Council shared ownership homes will be recharged through a service charge, a proportion of the management, cleaning and maintenance costs for any communal areas and shared elements of the Clapton Park Estate.
- 5.42. The Cabinet approval for the Housing Supply Programme requires projects to break even. The Pedro Street scheme does not currently break even as there are no outright sale units to subsidise the affordable homes. 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 3.9% of the estimated cost for the main works contract. The estimated cost for the main works contract can be seen in **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 can be seen 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 three public engagement events held prior to planning submission. Residents of adjacent blocks have been updated regularly by letter. Statutory consultation was undertaken as part of the planning application and the full scheme was presented at Planning Sub-Committee in January 2019.

5.50. Recently, consultation with stakeholders has been limited, but the local Councillors and the Tenant Management Organisation (TMO) have been kept up-to-date with regard to the planned way forward for the scheme, and residents through newsletter updates. Members of the project team will also take part in a community day event at the Pedro Club in February, to engage with residents about planned developments in Clapton Park Estate, including Pedro Street.

5.51. Key stakeholders include:

- Local residents.
- Clapton Park TMO.
- Pedro Club.
- Kings Park Ward Councillors.
- Internal LBH staff with responsibility 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 Pedro Street scheme is currently being updated.

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

Risk	Likelihood	Impact	Overall	Action to avoid/mitigate risk
Current market conditions challenge viability meaning inability to deliver the project within the required LBH Gateway parameters of a positive NPV position.	High ▾	High ▾	High ▾	<ul style="list-style-type: none">- Design review to be undertaken by contractor with architect.- 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 using RTB receipts for shared ownership.

<p>Quality of the scheme could be eroded through the retendering process that is required</p>	<p>Medium ▾</p>	<p>Medium ▾</p>	<p>Medium ▾</p>	<ul style="list-style-type: none"> - Suggestion that a two stage process is undertaken that allows for a controlled review of all elements of the construction. - Tender documents will need to ensure quality - possibility to restrict delivery architect to a Hackney specified shortlist. - Oversight from RSD Team, and appointment of a design guardian to be considered.
<p>Although the contamination has been remediated, there remains a latent risk that contamination will rebound from adjacent land</p>	<p>Medium ▾</p>	<p>High ▾</p>	<p>Medium ▾</p>	<ul style="list-style-type: none"> - Ongoing monitoring by environmental consultant will continue to ensure that we continue to hold up to date information about the condition of the land during the pre construction period.
<p>Rejection of planning amendments.</p>	<p>Low ▾</p>	<p>High ▾</p>	<p>Medium ▾</p>	<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.
<p>Build costs come back higher than anticipated after PCSA</p>	<p>Medium ▾</p>	<p>High ▾</p>	<p>High ▾</p>	<ul style="list-style-type: none"> - QS to be appointed as part of wider EA appointment for the scheme. - QS to regularly monitor build costs and engage with preferred contractor through an open book process, to ensure clarity on costs. - Work packages to be benchmarked during the PCSA

				<p>period to ensure best value for money.</p> <p>- Ensure there is a break clause after the PCSA stage so 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.</p>
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5.58. **Insurance**

5.59. The successful tender 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 Pedro Street scheme will be suitable for small to 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 being carried out to test the proposed procurement approach for Pedro Street and initial feedback supports the proposed approach. Five contractors have responded to the Council's soft market testing questionnaire and all five have confirmed that they would bid for the Pedro Street scheme if it is tendered on the basis of a two stage tender with PCSA. Three contractors added comments that they considered a two stage process to be the most suitable procurement route.
- 5.63. In addition, 5 'in person' soft market testing meetings were held between December 2023 and January 2024. All of these contractors confirmed that they consider a two-stage approach to be most suitable for this scheme, given the design amendments required. Furthermore, all those engaged supported the proposal to reduce the height of the scheme to below 18m as they agreed it was unviable to meet the requirements of the new BSA within the approved scheme.
- 5.64. Many of the contractors approached highlighted the fact that a scheme the size of Pedro Street suits the size of their business and would be very keen to bid. Targeting smaller contractors reduces the risk of competing with other Hackney schemes being tendered at a similar 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. Pedro Street will deliver new, high quality affordable 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 Pedro Street will provide homes for residents on the Council's housing register. This could

contribute to alleviating temporary accommodation costs associated with those households.

- 5.69. In reducing the size of the building, build costs will be reduced compared to the consented scheme. As a requisite of the PCSA the successful contractor will be required to provide suggestions for value engineering and improving buildability through the redesign and engage with their supply chains in order to achieve best value for money for the council.

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.

7. Sustainability Issues and Opportunities, Social Value Benefits

7.1. Procuring Green

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

- 7.1.2. The scheme has already addressed the environmental impact of the previous use of land through the demolition and the decontamination of the land in connection with the former boiler house. The scheme will further deliver environmental improvements including improved public realm. The scheme encourages sustainable transport and is car free apart from two wheelchair parking spaces if required by residents. Sustainable transport is encouraged through the provision of secure cycle parking to all new residents, as well as through provision of visitor cycle parking spaces.

- 7.1.3. 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. The new homes have been designed with photovoltaic panels to supplement energy supply on-site and the redesign will incorporate a new energy strategy to bring the scheme in line with Part L of the Building Regulations. The scheme will include use of Sustainable Urban Drainage (SUDS) rainwater harvesting and green roofs.

- 7.1.4. 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.

- 7.1.5. 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 Pedro Street, the contractor will be required to provide 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.

- 7.2.5. A sum of £9,923 has been paid as a contribution towards the cost of training and supporting out of work residents into jobs during the construction/demolition of the Development.

- 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. Contractor and its supply chain shall

use reasonable endeavours to ensure that at least 25% of the workforce employed on the Project shall be local labour. 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 commercial sensitive, the clarification and the Council's response will be anonymised and issued to all bidders.
- 7.3.3. 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 target 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.
- 7.3.4. 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 Pedro Street development has been considered in line with the housing needs in the area. The development includes wheelchair adaptable homes.

8. **Proposed Procurement Arrangements**

8.1. **Procurement Route**

- 8.1.1. As noted in 5.19, 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. 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 demolishing the boiler house and clearing the site, undertaking the land decontamination and putting into place regular land condition monitoring. Furthermore completion of statutory and services surveys including but not limited to topographical report; daylight/sunlight assessment; flood risk assessment; ecology/biodiversity report; geotechnical/contamination survey report; air quality assessment; and acoustic survey.
- 8.1.3. The full scheme received planning permission in August 2018 and has since been implemented. 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.

8.2. **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)	September 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-July 2025

Delegated authority report considered by Group Directors	July/August 2025
Award of contract (main works contract)	September 2025
Report on award of contract (2nd stage) reported to CPIC for information	October 2025
Mobilisation period	October-December 2025
Start on site / Contract start	December 2025

8.3. **Anticipated Contract Type**

8.4. 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.

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

8.6. 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.

8.7. 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.

8.8. The cost:quality weighting for the submission will be 40:60 in favour of quality, and tenderers will be required to provide both a cost submission and a quality 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 an 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.

- 8.9. 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.
- 8.10. 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 with 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 5.25 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.
- 8.11. 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.
- 8.12. The evaluation team will consist of the following:

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

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

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

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

8.15. 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)

9.5. 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.

9.6. 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 Employers 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 3.9% of the main works contract. 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 Pedro Street.
- 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 the reserve bidder in line with the client's requirements (as set out in the tender documents).
- 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: PEDRO STREET ELEMENTAL COST PLAN - NR. 2

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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