

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 8 March 2018	<b>Decision Taker:</b> Strategic Director of Housing and Modernisation
<b>Report title:</b>		Gateway 2 - Contract Award Construction of new build units at Nunhead Lane	
<b>Ward(s) or groups affected:</b>		Peckham Rye Ward	
<b>From:</b>		Director of Asset Management	

## **RECOMMENDATION(S)**

The Strategic Director of Housing & Modernisation:

1. Approves the award of a works contract for 35-41 Nunhead Lane, SE15 to PA Finlay and Company Limited for a contract sum of £2,164,558 and an additional contingency amount of £216,456 for a period of 52 weeks from the site possession commencing 9 July 2018.
2. Notes the projects' associated on costs of £418, 849 as detailed in paragraph 58.

## **BACKGROUND INFORMATION**

3. Planning permission was granted on 19 July 2017 for 12 social rent units.
4. The planned procurement strategy was the subject of a Gateway 1 report which was approved by the Strategic Director of Housing and Modernisation on 19 September 2016.
5. The Gateway 1 report approved procuring a works contract by undertaking a tender exercise using the councils Approved List (EXOR).
6. The procurement strategy relates to the council's 11,000 new homes programme.
7. The tenders sought for a JCT Design & Build Contract 2011 based on Southwark's Employers Requirements and the Stage 4 scheme design.
8. The works contract will be for a fixed period of 52 weeks from date of the transfer of site possession from the council to the contractor.

## **Procurement project plan (Key Decision)**

9. See table below:

<b>Activity</b>	<b>Completed by/Complete by:</b>
Briefed relevant cabinet member over £100K	23/05/16
Approval of Gateway 1: Procurement Strategy Report	06/06/16
Add scheme to forward plan	19/02/18
Invitation to tender	16/10/17
Closing date for return of tenders	04/12/17
Completion of evaluation of tenders	14/12/17
DCRB Review Gateway 2:	05/02/18
Notification of forthcoming decision	12/03/18
Approval of Gateway 2:Contract Award Report	22/03/18
Scrutiny Call – in period and notification of implementation of Gateway 2 decision	30/03/18
Contract award	30/03/18
Add to Contract Register	03/04/18
Contract start	09/07/18
Publication of award notice on Contracts Finder	03/04/18
Contract completion date	10/07/19
Contract completion date – if extension(s) exercised	N/A

## **KEY ISSUES FOR CONSIDERATION**

### **Description of procurement outcomes**

10. This procurement will deliver 12 new homes contributing to the council's objective of delivering 11,000 new homes by April 2043.

### **Key decisions**

11. This report deals with a key decision.

### **Policy implications**

12. These 12 new homes at 35-41 Nunhead Lane, SE15 are in line with the council's principles and visions for a new housing strategy which is aimed at increasing the availability, affordability and quality of homes in the borough. The new homes will play a key role in assisting the council to achieve its target of building 11,000 new homes by 2043.

### **Tender process**

13. The new homes delivery team procured this works contract via the council's approved list ensuring that opportunity has been given to local small and medium-sized contractors. A number of companies were approached in advance

of the tendering exercise to ensure that if they were invited they would submit a tender. In accordance with contract standing orders five contractors were invited to tender.

14. The Invitation to Tender was issued on the 16 October and the closing date for the tenders was originally set as the 27 November. Following the issue of Tender Addendum 5 the tender return date was extended to the 4 December 2017.
15. The tenders were reviewed on the 7 and 8 December. All firms invited to tender submitted a tender.

### **Tender evaluation**

16. Tenders were evaluated in accordance with the evaluation methodology, quality being evaluated by officers from the council and the employer's agent for the project and pricing contract sum analysis evaluated by the consultant quantity surveyor for the project.
17. The price and contract sum analysis were examined by Robson Low Francis (appointed as Quantity Surveyor for the project). Financial checks on each tenderer were completed by the council's Finance and Governance department.
18. As detailed in Gateway 1 and ITT documents tenders were evaluated on the basis of the Most Economic Advantageous Tender (MEAT) was adopted using a weighted model of 70/30 price quality.
19. Tenderers were required to provide information to support their quality submission that demonstrated their ability to fulfil the requirements of the contract, the questions asked were focused around the following:
  - a. Experience - 8%
  - b. Community Engagement – 4%
  - c. Quality, Innovation and Value for Money - 6%
  - d. Constraints and Delivery - 8%
  - e. Defects, Quality and Future Maintenance -4%
20. The questions within the quality assessment were weighted and are detailed in the tender evaluation assessment criteria included within the tender documents.
21. Tenderers were required to provide as part of their Form of Tender a contract sum and a contract sum analysis, which was scrutinised by the Employers Agent.
22. All five tenderers submitted responses to the questions. Four tenders met the minimum quality threshold that was set in the evaluation methodology with one firm not meeting this requirement. The result of the scoring of the tenderers is available in the closed version of this report.
23. The lowest tendered total price submission was awarded the full 70%. Each of the remaining Tenderers were awarded points on a pro rata basis as detailed in the closed version of this report.
24. The formula used for the price score is below:

$$\text{Price score} = 70\% \left( \text{bidders form of tender price} \right)$$

Form of Tender Price of the lowest bid

25. The form of tender price of the lowest bid is PA Finlay who submitted a contract sum of £2,164,558. The tender price excludes the Employers Agent's estimated additional contingency sum.
26. Each tenderers price and quality scores were combined to provide a total score out of 100%. Full details of the tenderers total scores are available in the closed version of this report.
27. PA Finlay scored the highest score. It is recommended that the council award this contract to PA Finlay.

**Plans for the transition from the old to the new contract**

28. Not applicable

**Plans for monitoring and management of the contract**

29. The project clienting, including the management and administration of the contractor appointment will be run and resourced through the New Homes Delivery Team in the Asset Management Division of the Housing & Modernisation Department. Performance of the consultant team will be subject to constant scrutiny and monthly formal review including reviews on cost, quality and programme. The officer client team will use a number of mechanisms for monitoring and controlling the financial and programme performance of the contract, including,
  - Strategic cost plan, which will be regularly reviewed and updated
  - Monthly site meetings and monthly progress reports
  - Monthly financial statements by the contractor and verification by the Employers Agent
  - Monthly appraisals of progress against programme
  - Tracking and chasing actions on critical issues
  - Periodic project team 'look ahead' workshops covering key phases of work and risks
  - Risk and issues log
30. Payment will be made monthly on the basis of a valuation that has been verified and agreed by the Employers Agent.
31. Internal governance arrangements for the programme were reported to cabinet in December 2014. These confirmed that ultimate responsibility for the overall programme resides with the Delivery Programme Board, chaired by the Strategic Director of Housing and Modernisation.

**Identified risks for the new contract**

32. The below table highlights the risk that have been identified for the new contract and the approach to mitigate them.

	<b>RISK</b>	<b>RISK LEVEL</b>	<b>MITIGATION ACTION</b>
1	Contractor has inadequate	Low	The New Homes Delivery Team will

	resources and management arrangements to mobilise and deliver the contract		monitor the contract and regularly review performance.
2.	Contractor risk of insolvency	Medium	The New Homes Delivery Team has undertaken a credit check and are satisfied that the credit scoring is satisfactory. The Finance department have also undertaken financial checks and are satisfied with the financial standing of the company. A performance bond / guarantee for this project will be sought.
3.	Project cost overruns	Low	The contract sum is inclusive subject to any provisional sums and future variations. All surveys have been carried out which should help mitigate against there being any unforeseen site conditions or abnormal. Any future variations will be fully scrutinised, justified and costed by the Employer's Agent prior to instruction. Value engineering will take place where necessary to ensure that the budget is achieved.
4.	Project delivery delays resulting from discharge of planning conditions and liaison with third party organisations.	Medium	The new homes delivery team will assist where possible with liaison with third parties to help mitigate delays, particularly any which may result from the discharge of planning conditions or necessary approvals from within the council. Reliance on utility companies remains a risk, particularly in relation to the relocation of the electrical substation. However the tender process tested the contractors experience in delivering construction projects, relying on successful liaison with third party organisations.
5.	Project delivery delays (general)	Medium	Liquidated ascertained damages sums have been included as part of the contract and will be claimable should the project overrun without any justification. Any extension of times will be fully scrutinised, justified and costed by the Employers Agent prior to agreement. Project progress will be monitored and slow progress will be addressed in the monthly project meetings.
6.	Contractor seeking further negotiations on contractual terms prior to entering into contract.	Low	A standard JCT works contract is being utilised, with the council's amendments to the terms clearly set out from the start of the tender process. The tender documents and clarifications during the tender process have been robust and

			clearly define the terms of the contract.
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33. A performance bond/guarantee will be provided for this contract and is included in the tender price

**Other considerations (For Housing Department works contracts only)**

34. Southwark council has standard specifications in a number of areas of work and these will be used as appropriate. This will include using Southwark Housing Design Standards.

**Community impact statement**

35. Southwark is a borough with high levels of deprivation, low income levels and high levels of housing need. Southwark’s housing Strategy 2009-16 identified that there is a shortage of affordable housing in the borough, particularly of larger homes. Households from black and ethnic minority communities tend to be over-represented among those living in overcrowded, poor quality housing.
36. Cabinet agreed a new vision for Southwark through its 2013 to 2043 housing strategy which included a principle to use every tool at our disposal to increase the supply of all kinds of homes across Southwark.
37. The proposals to increase the supply of affordable, good quality homes will benefit households in need from all Southwark communities, and will increase the housing options available for older people and people with disabilities.
38. Those households in the vicinity of the new developments may experience inconvenience and disruption in the short term, whilst works are taking place but such communities will benefit in the longer term from the provision of new homes. Particularly as 50% of these homes will be let to existing tenants from the local area subject to an agreed local lettings policy.
39. Local residents will continue to be consulted at each stage of the development proposals as outlined in the Charter of Principles agreed by cabinet in November 2014.

**Social Value considerations**

40. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well being of the local area can be secured. The social value considerations included in the tender (as outlined in the Gateway 1 report) are set out in the following paragraphs in relation to the tender responses, evaluation and commitments to be delivered under the proposed contract.
41. The council has requested the necessary information from tenderers (using the council’s standard documentation in relation to blacklisting), and PA Finlay the winning tenderer has confirmed that they will adhere to the policy.
42. The contract conditions also include an express condition requiring compliance with the blacklist regulations, and include a provision to allow the contract to be terminated for breach of these requirements.

### **Economic considerations**

43. The design briefs for the new homes will be developed in consultation with the 'user client' officers and make it clear that the council is seeking developments that are not only attractive and functional in their design but also durable and easy to maintain with low running costs.
44. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, contractors engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. The 11,000 new homes programme is a strategically important undertaking for the council and its benefits are expected to be realised in a number of ways, including the recruitment of qualified staff, retention of staff and an improved service delivery to the council. Due to the nature of the professional service being sought those employed will be paid in excess of the LLW. PA Finlay has agreed to pay the LLW.

### **Social considerations**

45. The new housing will provide high quality affordable housing for local people in need of accommodation. 50% of these homes will be made available to existing tenants in the local area based on an agreed local lettings policy. The remainder will be made available to other households in need of accommodation from the council's housing register.
46. The new homes will be let at social rent levels.
47. Apprenticeship and work placement opportunities will be sought from suppliers as expected by the council linked to the value of the contract. It is anticipated that at least 1 apprenticeship opportunities will result from this contact. This will be secured within this contract. The facilitation of the apprentice opportunities will be coordinated with the council's Local Economy Team.
48. The appointed contractor will be participating in a local employment and training initiative in line with Southwark Economic Wellbeing Strategy 2012-20. The initiative will generally conform to any Local Government policy including requirements set-out by the Homes and Community Agency and/or Greater London Authority that generally will encompass the Contractor, wherever possible, being encouraged to employ local subcontractors and labour and shall involve the training and employment of local people. Such employment and training will be relevant to the needs of the local community.

### **Environmental/Sustainability considerations**

49. By investing in high quality and well designed buildings and estates the Council aim to achieve positive impacts which will benefit the environment and increase the stock of environmentally friendly buildings within the borough.
50. As part of the design development process, there will be a requirement for environmental assessments to be completed, with a view to identifying what impact would be caused by any proposed development.
51. The councils approach to procurement of design, development and construction process will ensure a requirement to maintain and improve the sustainability of each tendered project.

52. A low energy, efficient and cost effective building engineering services design that keeps running costs to a minimum will be an essential component of the project brief. Key considerations will include;
- Consideration of whole life-cycle costs
  - Sustainable sourcing
  - Incorporation of environmentally benign heating and lighting provision
  - Provision of facilities and equipment to encourage the re-use and recycling of materials including, where practical, water recycling.
  - Ensuring projects achieve Code of Sustainable Homes criteria or any successor requirement.

### **Market considerations**

53. The market for construction related consultancy services is good. Of the five firms from the Council's Works Approved list invited to tender, five confirmed their willingness to tender and five subsequently provided a bid. This level of response is considered to be good.

### **Staffing implications**

54. There are no specific staffing implications to this report.

### **Financial implications**

55. The value of the contract arising from the procurement described in this report is £2,164,558 which forms part of a wider programme. The project will also have associated on costs of £418,849, which together with a contingency sum of £216,456 gives a total scheme cost of £2,799,863
56. The costs of delivery of new Council rented homes can be funded 30% from Right to Buy (RTB) receipts allocated for new build and 70% from developer contributions under section 106, the latter subject to Planning Committee approving allocations to the relevant schemes. Any homes for sale element of schemes would need to be funded from eventual sales receipts but would require cash flow from wider HIP resources during construction.
57. The following tables show the breakdown of the total scheme cost.

<b>Total Scheme Cost Breakdown</b>
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Works	£2,164,558
Consultancy Fees	£286,127
Surveys	£21,930
Site Security	£12,840
Planning Payments	£11,370
Internal Fee (4%)	£86,582
Contingency (10%)	£216,456
<b>Total</b>	<b>£2,799,863</b>

58. The contract value is considered to represent value for money. The build cost per square metre equates to approximately £2,073 per m<sup>2</sup> which is considered value for money and compares favourably with other projects within the 11,000 new homes programme. The sum is noted in the tender report as being under the Quantity Surveyor Robinson Low Francis's pre-tender cost estimate of £264,000.
59. The tender report provided by Robinson Low Francis stated that PA Finlay provided a low provisional sum of £24,000. This was viewed as being £90,000 short of the estimates provided by RLF. As such, the contingency for the scheme has been set at 10%

#### **Investment implications**

60. The costs of this contract will be charged to the respective project cost programmed in the capital allocation for new homes delivery budgeted within the council's Housing Investment Programme.

#### **Second stage appraisal (for construction contracts over £250,000 only)**

61. A MINT check has been undertaken, details of which are included in the closed version of this report.

#### **Legal Implications**

62. Please refer to paragraph 67 of this report for the legal concurrent.

#### **Consultation**

63. Local residents will be consulted at each stage of the development of each project as outlined in the Charter of Principles agreed by Cabinet in November 2014.

#### **Other implications or issues**

64. Not applicable.

#### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

**Director of Law & Democracy**

- 65. The Director of Law and Democracy notes the contents of this report which seeks the approval of the Strategic Director of Housing and Modernisation to the award of a works contract for the New Homes Delivery programme at 35-42 Nunhead Lane to PA Finlay and Co.
- 66. As the value of the contract is below the EU threshold for public procurement, the contract was procured in accordance with the council's Contract Standing Orders (CSOs). As required under paragraph 4.3 of the CSOs, 5 tenderers were invited from the Council's works Approved List.
- 67. Paragraph 59 of this report confirms that the contract is considered to represent value for money and paragraph 57 confirms how this project will be funded.

**Strategic Director of Finance and Governance (H&M17/102)**

- 68. The report is requesting delegated approval from the Director of Housing and Modernisation to award the new build works contract for 35-41 Nunhead Lane to PA Finlay in the sum of £2,164,588. .
- 69. The report identifies the total costs of works including fees and contingency to be £2,799,863. The financial implications section of the report states how the scheme will be funded, with the intention being a combination of retained Right To Buy receipts and S106 affordable housing funds. Any other costs connected with this contract are to be contained within the existing department revenue budgets.
- 70. There is an estimated resource shortfall for the Housing Investment programme for 2017/18 and also over the life of the whole programme. There is also likely to be further demand on the capital programme as a consequence of local or national demands for resources following the Grenfell fire. It is, therefore, important that the cost of these works is carefully monitored and that accurate forecasting is in place.
- 71. Any variation or extension to the contact beyond the scope of this report will require further approval.in line with the Council's procurement protocols.

**PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS**

Under the powers delegated to me in accordance with the Council's Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report.



Signature .....

**Michael Scorer, Strategic Director of Housing and Modernisation**

19 March 2018

Date.....

**PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:**

- 1) All key decisions taken by officers
- 2) Any non-key decisions which are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available.

<b>1. DECISION(S)</b>
As set out in the recommendations of the report.

<b>2. REASONS FOR DECISION</b>
As set out in the report.

<b>3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION</b>
Not applicable.

<b>4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION</b>
Not applicable.

<b>5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST</b>
<i>If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.</i>
Not applicable.

<b>6. DECLARATION ON CONFLICTS OF INTERESTS</b>
<b>I declare that I was informed of no conflicts of interests.*</b>
<b>or</b>
<del><b>I declare that I was informed of the conflicts of interests set out in Part B4.*</b></del>
(* - Please delete as appropriate)

## BACKGROUND DOCUMENTS

Background documents	Held At	Contact
GW1 Contractor Procurement – Under OJEU	160 Tooley Street, SE1	Tim Bostridge

## APPENDICES

No	Title
N/A	N/A

## AUDIT TRAIL

<b>Lead Officer</b>	Dave Markham, Direct of Asset Management	
<b>Report Author</b>	Thandi Gonzales, Project Co-ordinator	
<b>Version</b>	Final	
<b>Dated</b>	8 March 2018	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
<b>Cabinet</b>	N/a	N/a
<b>Date final report sent to Constitutional Team</b>		19 March 2018

## BACKGROUND DOCUMENT – CONTRACT REGISTER UPDATE - GATEWAY 2

Contract Name	Works Contract for the New Homes Delivery programme –35-41 Nunhead Lane, SE15
Contract Description	Works Contract for the New Homes Delivery programme – 35-41 Nunhead Lane, SE15, construction of 12 social rented homes.
Contract Type	Works
Lead Contract Officer (name)	David Markham
Lead Contract Officer (phone number)	0207 525 7201
Department	Housing & Modernisation
Division	Asset Management
Procurement Route	Tender from Council Approved Works List
EU CPV Code (if appropriate)	N/A
Departmental/Corporate	Departmental
Fixed Price or Call Off	Fixed Price
Supplier(s) Name(s)	PA Finlay
Contract Total Value	£2,164,558
Contract Annual Value	N/A
Contract Start Date	09/07/18
Initial Term End Date	10/07/19
No. of Remaining Contract extensions	N/A
Contract Review Date	N/A
Revised End Date	N/A
SME/ VCSE (If either or both include Company Registration number and/or registered charity number)	N/A
Comments	
London Living Wage	Not fixed

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