

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 2 June 2020	<b>Decision Taker:</b> Strategic Director of Housing and Modernisation
<b>Report title:</b>		Gateway 2 Approval of the procurement for (Employers) for the New Homes Development Programme	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Director of New Homes	

## RECOMMENDATION(S)

The Strategic Director of Housing and Modernisation:

1. Approves Package 1, appointing Airey Miller Partnership from 1 June 2020 for the period noted in paragraph 12.
2. Approves Package 2, appointing Potter Raper Limited from 1 June 2020 for the period noted in paragraph 12.
3. Approves Package 3, appointing DJJH Consulting Limited from 1 June 2020 for the period noted in paragraph 12.
4. Notes that the actual fees will be reported to and signed off by the Director of New Homes.

## BACKGROUND INFORMATION

5. This planned procurement strategy was the subject of a Gateway 1 report which was approved by the Strategic Director of Housing and Modernisation on 05 November 2019
6. The award of these contracts is a non-key decision. The approval process to enter into these contracts sits with the Strategic Director of Housing and Modernisation in line with the contract standing orders.
7. This procurement strategy relates to a number of sites that form part of the council's New Homes Development Programme, which is part of the council's commitment to build 11,000 new homes by 2043 and to deliver 2,500 by 2022.
8. The Gateway 1 report proposed to continue procuring employers agent services using the Notting Hill Housing Consultants Framework 3 agreement.
9. The Notting Hill Housing Consultants Framework 3 agreement is due to expire on the 30 June 2021.
10. This Gateway 2 report relates to 14 phase 5 sites, which were packaged up into 3 separate tenders. The approval to the packaging of these schemes was delegated to the Director of New Homes in line with the Gateway 1 approval, and were packaged up on the basis of area, management responsibility, and size of scheme. These packages are set out below:

<b>Package 1</b>				
<b>Scheme Name</b>	<b>Location</b>	<b>No. of Units</b>	<b>Tenure</b>	
Ann Moss Way	Rotherhithe	16	Social Rent	
Creasy Estate	Bermondsey	24	Social Rent	
Pynfolds Estate	Bermondsey	8	Social Rent	
Sedan Way	Bermondsey	10	Social Rent	
Vauban Estate	Bermondsey	12	Social Rent	
<b>Total</b>		<b>70</b>		

<b>Package 2</b>				
<b>Scheme Name</b>	<b>Location</b>	<b>No. of Units</b>	<b>Tenure</b>	
Kingston Estate	Walworth	8	Social Rent	
Old Library Site	Bermondsey	4 + Community Space	Social Rent	
55-77 Fenwich Street	Bermondsey	10	Social Rent	
Lordship Lane Estate	Dulwich	12	Social Rent	
Astley Estate	Bermondsey	14	Social Rent	
<b>Total</b>		<b>48</b>		

<b>Package 3</b>				
<b>Scheme Name</b>	<b>Location</b>	<b>No. of Units</b>	<b>Tenure</b>	
Everline Lowe Estate	Bermondsey	19	Social Rent	
Priory Court & Reynolds Road	Peckham Rye	6	Social Rent	
Charles Mackenzie Estate	Bermondsey	10	Social Rent	
Longfield Estate	Bermondsey	7	Social Rent	
<b>Total</b>		<b>35</b>		

11. The tenders sought include the full range of Employer's Agent services including the Principal Designer role under the Construction (Design and Management) Regulations 2015, to enable each site to be developed from obtaining planning consent, securing a contractor and entering into the JCT Design & Build Contract 2016 through to issuing the final certificate.
12. The services provided by the employer's agents are not for a fixed period of time and depending on the size and complexity of each project this will vary, this is however estimated to be 2 to 3 years.

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

13. See table below:

<b>Activity</b>	<b>Completed by/Complete by:</b>
Approval of Gateway 1: Procurement Strategy Report	05 November 2019
Invitation to tender	24 February 2020
Closing date for return of tenders	13 March 2020
Completion of evaluation of tenders	03 April 2020
Forward Plan for Gateway 2 decision	01 March 2020
Briefed relevant cabinet member (over £100k)	01 May 2020
DCRB Review Gateway 2:	11 May 2020
Approval of Gateway 2: Contract Award Report	18 May 2020
Contract award	25 May 2020
Add to Contract Register	25 May 2020
Contract start	01 June 2020
Publication of award notice on Contracts Finder	01 June 2020
Contract completion date	01 June 2020

14. It should be noted that this report is proposing an award of contract whilst there are Covid-19 restrictions in place. The new homes development team are progressing with projects, where possible, in order to meet the targets for the councils housing delivery programme. This contract needs to be awarded with the timeframes stated above, so that each of these projects can progress and meet the delivery targets that have been set, We can not see any reason to delay the award, bidders are keen to know the outcome of this process and given the slow down generally in the construction industry, are likely to want to progress projects where they can.
15. Awarding this contract during Covid-19 restrictions will not have an impact on price and is likely to help consultancies keep their staff employed and guarantee future work. There is a risk of companies being more exposed to financial difficulties and/or going in to liquidation. Given the short time frame in which this crisis has developed, it will be quite difficult to identify any foreseeable problems at this stage, however as an additional precaution we will undertake credit checks and will engage with suppliers to ensure that they can mobilise and provide the adequate resources. This has been identified in the risk section.

## **KEY ISSUES FOR CONSIDERATION**

### **Description of procurement outcomes**

16. The procurement has enabled 3 firms to be selected who will help ensure that the 14 sites within phase 5 can be delivered, and for best value.

### **Key/Non Key decisions**

17. This report deals with a non key decision

## Policy implications

18. It will help deliver the council's 11,000 new homes programme by 2043 and to deliver 2,500 by 2022.

## Tender process

19. Contract Standing Orders require that as the contract values are over EU threshold for services an EU compliant procurement exercise should be undertaken. This has been achieved by carrying out an expression of interest and mini competitions through the Notting Hill Housing Consultants Framework 3 (Lot 2), which covers employers agents. This lot has 19 suppliers, who were all invited to express an interest in lots they would like to tender for and confirmation that they met a number of criteria in order to shortlist the suppliers.

20. The criteria included:

- a. Experience
- b. Resources
- c. Social Value & London Living Wage

21. 11 firms expressed an interest and were evaluated. The following table sets out the quality scoring for the expression of interests – the top seven suppliers (highlighted) were invited to the mini-competition stage.

Contractor	Quality	Rank
Hunters	82.00%	1
Airey Miller	74.00%	2
DJJH Consulting Limited	74.00%	2
John Rowan Partnership	74.00%	2
Martin arnold	74.00%	2
Potter Raper	74.00%	2
Baily Garner	60.00%	7
Silver	54.00%	8
Turner & Townsed	54.00%	8
Ridge & Partner	48.00%	10
Summens	48.00%	10

22. It was made clear, in the invitation to tender, whilst suppliers could bid for each package, that the council would only award one contract for each package. It was stated that where a tenderer achieves the highest score in more than one package, they will be appointed to the package with the highest budget value. The tenderer will be removed from consideration for the remaining packages, which will then be re-scored amongst the remaining tenderers

23. Tenders were submitted via Pro-Contract the tender documents were uploaded on 09 January and all tenders were undertaken simultaneously. The Deadline for tenders was the 07 February 2020.

24. 5 out of 7 firms invited to tender submitted a return, the 2 firms that did not submit a tender did not offer a reason.

**Tender evaluation**

25. The quality aspect of the tenders for each of the packages were evaluated by four officers, which included the following:

- a. Development Manager
- b. Project Managers

26. As stated in the Gateway 1 report a weighted evaluation model was adopted with a 40/50/10 price/quality/social value split, this deviated from the council standard MEAT approach because we wanted to increase the focus on quality and have a more balanced approach to quality and value for money.

27. As a separate submission within their returns, tenderers were required to provide information to support their quality submission that demonstrated their ability to fulfil the requirements of the contract and demonstrate experience in similar project types. The tenders were required to answer questions that covered the following:

- a. Team Experience
- b. Service Provision
- c. Approach
- d. Consultation
- e. Project Risk

28. The quality assessment was weighted in relation to the level of importance put upon each criterion and was detailed in the tender evaluation assessment criteria included within the tender documents.

29. Tenderers were required to provide a price for providing their services and a 'blended' day rate. The blended rate is a combined rate for providing an all-in hourly charge irrespective of the grade of personnel involved. The only proviso being a minimum 75% involvement of professionally qualified staff. The cost evaluation was weighted in relation to the estimated size of each project within each package with a maximum of 40% achievable. The 'blended' day rate was weighted such that a maximum of 5% was achievable.

**Package 1**

30. Airey Miller Partnership was the successful tenderer for package 1. The scores achieved by the tenderers were as follows:

Contractor	Quality	Social Value	Price	Total	Rank
Airey Miller	32.00%	3.45%	38.70%	74.16%	1
Potter Raper	34.00%	6.45%	15.90%	56.35%	2
Hunters	26.00%	8.00%	18.93%	52.93%	3
DJJH Consulting Limited	26.00%	5.62%	21.29%	52.90%	4
Martin Arnold	30.00%	3.20%	4.45%	37.65%	5

**Package 2**

31. Potter Raper Limited was the successful tenderer for package 2. The scores achieved by the tenderers were as follows:

Contractor	Quality	Social Value	Price	Total	Rank
Potter Raper	34.00%	6.45%	32.31%	72.76%	1
DJJH Consulting Limited	26.00%	5.62%	37.63%	69.25%	2
Hunters	26.00%	8.00%	34.15%	68.15%	3
Martin Arnold	30.00%	3.20%	8.68%	41.88%	4
Airey Miller	X	X	X	X	X

32. Airey Miller Partnership was excluded from Package 2 because they were successful in achieving the highest score in Package 1 which had the highest budget value.

### Package 3

33. DJJH Consulting Ltd was the successful tenderer for package 3. The scores achieved by the tenderers were as follows:

Contractor	Quality	Social Value	Price	Total	Rank
DJJH Consulting Limited	26.00%	5.62%	38.16%	69.78%	1
Hunters	26.00%	8.00%	34.81%	68.81%	2
Martin Arnold	30.00%	3.20%	10.21%	43.42%	3
Airey Miller	X	X	X	X	X
Potter Raper	X	X	X	X	X

34. Airey Miller Partnership and Potter Raper Limited were excluded from Package 3 because they were successful in achieving the highest scores in Package 1 and Package 2 which had higher budget values.

35. The fees are based on estimated project values of indicative capacity studies, whereas the actual fees will be calculated on the estimated project values of the planning approved schemes. These updated project values will be based on the tendered and awarded construction contract for each. Consequently, the estimated fees recommended for approval allow for a change in the size of the projects and their values. To provide for this, the tenderers were required to submit % fees for a range of project value bands, such that their fees can be modified should the values change. As project values change such that they fall into a different project value band their fees will either increase or decrease as a % of the project value. The actual fees for each project will be approved by the Director of New Homes.

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

36. Not applicable

### Plans for monitoring and management of the contract

37. The project clienting, including the management and administration of the consultant appointments will be run and resourced through the New Homes Delivery Team in the Asset Management Division in Housing & Modernisation.

38. Payment will be made at the following periods of the contract:

- a. Completion of Feasibility Design (RIBA Stage 2): 15%
- b. Completion of Planning Submission (RIBA Stage 3): 10%
- c. Exchange of Building Contracts: 10%
- d. Mid-point in Construction Programme 25%
- e. Practical Completion: 30%
- f. Issue of Final Certificate 10%

39. 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,

- On-going design reviews, checking quality and cost against agreed standards and budgets
- Monthly financial statements by the consultant
- Monthly appraisals of progress against programme and monthly reports by the consultant
- Tracking and chasing actions on critical issues
- Periodic project team 'look ahead' workshops covering key phases of work and risks
- Risk and issues log

40. 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 & Modernisation.

**Identified risks for the new contract**

41. Successful tenderers will enter into Notting Hill Housing framework agreements which have been amended to include specific requirements of the council including a requirement for professional indemnity insurance of a minimum of £5,000,000 to be provided.

<b>Risk No.</b>	<b>Identified Risk</b>	<b>Risk</b>	<b>Likelihood</b>	<b>Risk Control</b>
1.	Risk of increase in price due to Covid-19		Low	The contract will be awarded on the basis a fee percentage.
2.	Financial stability due to Covid-19 crisis.		Medium	There is a risk of companies being more exposed to financial difficulties and/or going in to liquidation. Given the short time frame in which this crisis has developed, it will be quite difficult to identify any foreseeable problems at this stage, however as an additional precaution we will undertake credit checks and will engage with suppliers to ensure that they can mobilise and provide the adequate resources..

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

42. 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**

43. 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.
44. Cabinet agreed a new vision for the future housing strategy including a principle to use every tool at our disposal to increase the supply of all kinds of homes across Southwark.
45. The proposals to increase the supply of affordable, good quality homes will benefits households in need from all Southwark communities, and will increase the housing options available for older people and people with disabilities.
46. 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.
47. 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 2014.

### **Social Value considerations**

48. 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 details of how social value will be incorporated within the tender are set out in the following paragraphs which set out economic, social and environmental considerations.
49. The council's approach to procurement of design, development and construction process will ensure a requirement to maintain and improve the sustainability of each tendered project.
50. 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.
51. As part of the tendering process, each of the suppliers were required to submit a social value offering that they would commit to, which they were evaluated and subsequently scored on. These social value outputs will be monitored as part of the project management and project clienting process.



### **Economic considerations**

52. 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.
53. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, our contractors and subcontractors pay their staff at a minimum rate equivalent to the LLW rate. The Gateway 1 report confirmed, for the reasons stated in that report, payment of LLW was an appropriate and best value requirement for this contract. 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. Each tenderer agreed to this in section 2.2 of the contract amendments issued with the tender. Following award, quality improvements and costs implications linked to the payment of LLW will be monitored as part of the contract review process.

### **Social considerations**

54. 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.
55. The new rented homes will be let at social rent levels.

### **Environmental considerations**

56. 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.
57. 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.

### **Market considerations**

58. The market for construction related consultancy services is good. Of the 19 firms from NHH framework, 11 expressed an interest in these projects, and 7 were invited to tender, 7 were invited to tender and subsequently 5 provided a bid. This level of responses is considered to be good.
59. The impact of Covid-19 on the construction industry is mixed, they will be significant delays due to restrictions on working practices, however where the safe practice of distancing can be adhered projects are being progressed. The projects highlighted in this report are in the inception phases and therefore work needed to be undertaken at this stage can be done remotely and given the slow down generally in the construction industry, consultancies are likely to want to progress projects where they can.

### **Staffing implications**

60. The staff resources deployed to this procurement are sufficient to meet the proposed timetable.

61. The project will be resourced by existing staff, within existing budgets.

62. Officer time relating to the management of this project is funded from the capital budgets for the individual projects.

### **Financial implications**

63. The value of the professional fees arising from the procurement described in this report is circa £85k below our expectations.

### **Investment implications**

64. The costs of the employers agent services from the 3 firms 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)**

65. Not applicable as procurement was carried out using OJEU compliant frameworks.

### **Legal implications**

66. Please see the concurrent from the Director of Law & Democracy.

### **Consultation**

67. Local residents will be consulted at each stage of the development of each project as outlined in the Charter of Principles.

### **Other implications or issues**

68. Not applicable.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Head of Procurement**

69. This report is seeking approval for the award of three separate contracts (one contract for each works package) to provide employers agent services for the new homes delivery programme.

70. The report describes the procurement process that was followed which was to carry out a mini competition from the Notting Hill Housing Consultants Framework 3, Lot 2. The report confirms that this was in line with the procurement strategy which was approved on 5 November 2019. All 19 providers appearing on this framework were invited to express an interest, 11 confirmed and were invited to tender.

71. Paragraphs 20 - 35 describe how the submissions were evaluated and the results of that process. It was made clear to the tenderers that they could only be

awarded one of the contracts, therefore the tenderer achieving the highest score for the first contract was excluded from the evaluation of the second and third packages.

72. The recommended provider for each of the packages scored highest on the combination of quality, price and social value.
73. The report outlines the monitoring and management arrangements that will be in place during the life of the contract. This should go some way to ensure that a satisfactory outcome is achieved.

### **Strategic Director of Law & Democracy**

74. This report seeks the approval of the strategic director of housing and modernisation to the award of three separate contracts to three contractors to provide Employer's Agent services in relation to three packages under Phase 5 of the New Homes Delivery Programme as follows:

- a. Package 1 - Airey Miller Partnership
- b. Package 2 - Potter Raper Ltd
- c. Package 3 - DJJH Consulting Limited

75. At the estimated contract value noted for the contract for each package, the contract awards can be approved by the relevant chief officer, after consideration of the report by DCRB.

76. The nature and value of these services are such that they are subject to the full tendering requirements of the Public Contract Regulations 2015 ("PCR15"). However, and as approved at Gateway 1 stage, the council is awarding the three contracts through a framework – the Notting Hill Housing Consultants Framework 3 Agreement – Lot 2.

77. The framework has been established following an EU compliant tendering process and is established to allow local authorities to use for their own requirements. The tendering requirements of the PCR15 are, therefore, satisfied.

78. The council, using the evaluation methodology set out in the further competition, has identified the tender with the best price/quality/social value ratio for each of the three contracts and the three contractors are therefore recommended for award.

79. The strategic director's attention is drawn to the Public Sector Equality duty (PSED General Duty) under the Equality Act 2010, which requires public bodies to have regard, when making decisions, to the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and those who do not share it. The strategic director is specifically referred to the community impact statement at paragraphs [45-49], setting out the consideration that has been given to equalities issues which should be considered when approving the recommendations in this report.

80. Contract standing order 2.3 requires that no steps are taken to award a contract unless the expenditure involved has been included in approved estimates, or otherwise approved by the council. Paragraph 63 confirms the financial implications of this award.

**Strategic Director of Finance and Governance (H&M 17/127)**

81. This report seeks approval from the Strategic Director of Housing and Modernisation to award contracts for employers agent services for phase 5 of the New Homes Delivery Programme across three packages to Airey Miller Partnership, Potter Raper Limited and DJJH Consulting Limited. Actual fees will only be known once the individual schemes achieve planning permission. A competitive tendering process has been followed to help ensure value for money from these contracts. The delivery of the programme, and consequently these contracts are subject to potential disruption and delay as a result of the COVID 19 pandemic. Arrangements will be put in place to monitor the financial health of the companies appointed to ensure delivery of the contracts.

**FOR DELEGATED APPROVAL**

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

Date 10 June 2020

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

## BACKGROUND DOCUMENTS

Background documents	Held At	Contact

## APPENDIX

No:	Title
n/a	

## AUDIT TRAIL

<b>Lead Officer</b>	Stuart Davis, Director of New Homes	
<b>Report Author</b>	Tim Bostridge, Head of Development	
<b>Version</b>	Final	
<b>Dated</b>	2 June 2020	
<b>Key Decision?</b>	Final	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Head of Procurement	Yes	Yes
Director of Law & Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
<b>Cabinet</b>	N/a	N/a
<b>Date final report sent to Constitutional Team</b>		11 June 2020