

## Notice of Non-key Executive Decision

<b>Subject Heading:</b>	5 Year long term agreement for the replacement of replacement roofing coverings 2021/26
<b>Cabinet Member:</b>	Councillor Joshua Chapman Lead Member, for Housing.
<b>SLT Lead:</b>	Patrick Odling-Smee
<b>Report Author and contact details:</b>	Mark Howard, Programme Delivery Manager, Housing Services Email: <a href="mailto:mark.howard@havering.gov.uk">mark.howard@havering.gov.uk</a> Tel: 01708 434704
<b>Policy context:</b>	This Executive Decision is required to authorise the start of the procurement of a 5 Year long term agreement for the replacement of roof coverings, as set out in the Councils Contract Procedure Rules.
<b>Financial summary:</b>	The estimated contract value is £8,250,000, over 5 years. which will be funded from the Housing Revenue Account Capital Programme, Projects Code A2847 Task 4.0
<b>Relevant OSC:</b>	Overview and Scrutiny Board
<b>Is this decision exempt from being called-in?</b>	Yes – it is a non-key decision by a member of staff
<b>Is this a Key Decision?</b>	No

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**The subject matter of this report deals with the following Council Objectives**

Communities making Havering	<input type="checkbox"/>
Places making Havering	<input checked="" type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

***Place an X in the [] as appropriate***

## Part A – Report seeking decision

### DETAIL OF THE DECISION REQUESTED AND RECOMMENDED

The SLT member is asked to approve the procurement strategy set out within the body of the report for a Works contract, at an estimated contract sum of **£8.25 million pounds**, for a period of **five years**, with an estimated start date in February 2021 for the replacement of replacement roofing coverings 2021/26. The proposed form of contract to be the JCT Measured Term Contract 2016 with the Council's supplemental amendments.

There are two contracts to be awarded for roofing works. This one will focus on blocks of flats, whereas the second contract a one-year contract is covered under a separate Non-key Executive Decision.

### AUTHORITY UNDER WHICH DECISION IS MADE

#### 3.3 Powers of Members of the Senior Leadership Team

Members of the Senior Leadership Team (SLT) have delegated authority to act as follows within the assigned service service/portfolio of responsibilities, subject to the general provisions and limitations set out in section 3.1 above.

#### General powers

(a) To take any steps necessary for proper management and administration of allocated portfolios.

(b) To exercise all the powers delegated to them personally and those powers delegated to Second Tier Managers and other staff members in their directorate where circumstances require and so far as legally permissible. Exercise of such powers should be recorded where appropriate. Where possible, a SLT member should give notice to a relevant staff member that he or she intends to exercise a specified power that is delegated to that staff member.

#### Contract powers

- a) To approve commencement of a tendering process for all contracts above a total contract value £500,000.
- b) (b) To award all contracts with a total contract value of between £500,000 and £5,000,000 other than contracts covered by Contract procedure Rule 16.3.
- c) (c) To sign contracts on behalf of the Council which do not require sealing under paragraph 4 of Article 10 of the constitution.'

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**STATEMENT OF THE REASONS FOR THE DECISION**

1. Housing Services have identified via our Asset Management System, flats in need of replacement roof coverings, upgrading thermal insulation and roofline works to pitched and flat roofs in the next five years.
  - a. This programme has identified flats only.
  - b. It is anticipated that works will commence on site in February 2021 however, this is subject to approval of this report and Covid 19 regulations
2. The works will reduce the need for responsive repair works to their homes and increase the useable life of the Council's Housing Stock. In turn, this should increase the potential for a longer period of rental income from those homes
3. The works will improve the welfare of the Council's residents, reduce the need for responsive repair works to their homes additionally this will assist in reducing heat loss and potentially bring about a reduction in fuel poverty (keeping in warmth & reduce heating cost during winter seasons) and also improve sound proofing particularly to aircraft noise.
4. All works will comply with current Building & Fire Safety Regulations.
5. This programme will include leaseholders and they will be notified of the proposed contract via a Section 20 Stage 1 Notice Schedule 4 Part 1 prior to any tender being released. Under this Notice There is no right of nomination of alternative contractors where a public notice is required.
6. Due to the value of the works over the full Contract term, LB Havering is required under the Public Contracts Regulations 2015 to openly advertise the opportunity to the market. This will need to take the form of a Contract Notice to be published via LB Havering's procurement portal to Contracts Finder and the Official Journal of the European Union (OJEU). Under the first stage of the two-stage 'Restricted' procurement procedure, any contractor will be able to express an interest and submit a pre-qualification questionnaire, which comprises a minimum requirements (pass/fail) set of questions plus a suite of quality questions to test relevant knowledge, skills and experience. Only those contractors meeting all of the minimum requirements will be eligible to be Invited to Tender under the second stage of the process. LB Havering will evaluate the qualitative submissions of contractors who meet the minimum requirements in order to short list a suitable number to be Invited to Tender, based on the highest scored quality submissions
7. The procurement process will be conducted via Capital ESourcing Procurement Portal in accordance with the Councils Contract Procedure Rules.

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8. Tender evaluation will be carried out by two surveyors within the Programme Delivery Team.

The Programme Delivery Project Surveyor Philip Sharp and one other member of the programme delivery team, will individually score the submission for each quality question. The score allocated to each quality question will then be moderated to identify a final score by a member of the Council's procurement team.

All quality questions will be weighted according to their relative importance in the performance of the works. The weightings are specified by each question. We will ask for one overall fixed price for the works.

Moderation will be carried out by a member of the Corporate Procurement team.

9. Financial checks will be undertaken prior to advertising the contract to ensure the proposed bidders are financially viable for this project.
10. The quality/price threshold is will be 70% Price 30% quality.
11. The total pre-tender estimate for the works is £8,250,000 over 5 years.
12. Performance of the contract will be managed and monitored throughout the project by the Programme Delivery Project Surveyor and the Clerk of Works.
13. The proposed Form of Contract is the standard JCT Intermediate Form of Contract (2016 Edition) with Council amendments.
14. The Contract will be monitored throughout the duration of the works by the Programme Delivery Project Surveyor. Quality standards for sub-contractors will be introduced by the Council in order to improve the quality of the supply chain and the key service and quality requirements will be emphasised in the invitation to tender documents and closely monitored throughout the duration of the contract
15. The contractor will be required to provide additional social value aimed at increasing job and training opportunities, and improving the local supply chain.
16. Minimum standards for sub-contractors will be introduced by the Council in order to improve the quality of the supply chain and the key service and quality requirements will be closely monitored throughout the duration of the contract.
17. There are no equality and diversity issues with this contract. Contractors will of course have to comply with all relevant legal requirements.
18. The contract will not discriminate on the basis of any of the protected characteristics, but a full Equality and Health Impact Assessment will be completed as an appendix to the necessary executive decision report, prior to contract award.

19. Sustainability of materials will be built into the specifications by ensuring the manufacturers comply with BES 6001 "Responsible Sourcing of Construction Products", to prove that their products have been made with constituent materials that have been responsibly sourced. Contractors will be required via a KPI of 95% recycling of roofing

20. **CASH SAVINGS** - It hard to put a figure on cashable savings as the savings is on the reduction of call out for request for repair. The saving will be in the form of works and staff not having to deal with requests for repair and not having to visit to carryout initial inspections.

## **21. RISK**

### **a) Covid 19**

The national lockdown will have a major impact on the delivery of the project and places a lot of uncertainty on the overall project time

The Contractor will be required to carry out the works in accordance with the Governments current gudelines and recommendations.

### **b) Contractor financial viability**

The biggest risk is the Contractor financial viability to deliver the works – we ensure this is mitigated by carrying out a credit searches.

### **c) Budget change.**

The Quantity Surveyor and the Programme Delivery Project Surveyor will manage the Projects finances.

### **d) Scope of works**

Adequacy of the scope of works which will be mitigated by the external consultants.

### **e) Quality of works**

This will be managed by the councils appointed clerk of works.

### **f) Management/Labour force**

Quality and competence of the management and labour force

### **g) Sequence of Work**

Capital Works team have produced a programme for the project.

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Regular site meeting will take place where this will be monitored to avoid slippage.

22. It is anticipated that works will commence on site 2<sup>nd</sup> February 2021 however, this is subject to approval of this report

### **23. PROCUREMENT TIMETABLE**

This procurement is intended to follow the time-line below:

<b>Stage</b>	<b>Date(s)and time(s)</b>
Section 20 stage 1 Schedule 4 part 1	10 <sup>th</sup> June 2020 to 3 <sup>rd</sup> August 2020
Issue of Invitation to Tender	1 <sup>st</sup> July 2020
Contractor Clarification questions	02 July to 10 <sup>th</sup> August 2020
LBH Response to Clarification questions	17 <sup>th</sup> November 2020
Submission of Tenders	12 <sup>th</sup> August 2020
Evaluation of Tenders	13 <sup>th</sup> to 19 <sup>th</sup> August 2020
Checkpoint 2 approval	8 <sup>th</sup> January 2020
ED approval 2	23 <sup>th</sup> November 2020
Notification of result of evaluation	18 <sup>th</sup> January 2021
Expected date of award of Contract(s)	18 <sup>th</sup> January 2021
Standstill period	19 <sup>th</sup> January to 1 <sup>st</sup> February 2021
Add to Contract Register	2 <sup>nd</sup> February 2021
TUPE Consultation period (if applicable)	N/a
Part Place award notice in official Journal of European Union (OJEU)	N/a
<b>Contract</b> commencement (Mobilisation)	2 <sup>nd</sup> February 2021
<b>Initial Contract</b> completion date	April 2021
<b>Contract</b> completion date – (if extension(s) exercised)	April 2026



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**OTHER OPTIONS CONSIDERED AND REJECTED**

We have considered tendering for replacement roof coverings and associated works as stand-alone project each financial year.

However, due to the time this process takes, this would delay delivery of works over the financial year. In addition tendering this way, could mean a number of different contractors delivering the works within the borough.

**PRE-DECISION CONSULTATION**


This request was raised on I-Decision 18<sup>th</sup> May 2020 and has since been issued out to all business partners by our Programme Office team.

No Section 20 Stage 1 notices have been issued to lease holders yet.

**NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER**

Name: Philip Sharp

Designation: For and behalf of the Programme Delivery Manager



Signature:

Date: 27/5/2020

## Part B - Assessment of implications and risks

### LEGAL IMPLICATIONS AND RISKS

1. The SLT member is asked to approve the procurement strategy set out within the body of the report for a Works contract, at an estimated contract sum of £8.25 million pounds, for a period of five years, with an estimated start date in 2nd February 2021 for the replacement of replacement roofing coverings 2021/26. The proposed form of contract to be the JCT Measured Term Contract 2016 with the Council's supplemental amendments.
2. The proposed contract value is below the EU threshold for Works contracts and accordingly, the Council is not under an obligation to publish a Contract Notice in the OJEU. However, the procurement must comply with the EU Treaty principles of equal treatment, non-discrimination and transparency as well as the Council's Contract Procedure Rules (CPR).
3. The Housing Revenue Account (HRA) specifically accounts for spending and income relating to the management and maintenance of council-owned housing stock. The services procured under this contract will cover various properties all located within the London Borough of Havering owned or managed through the HRA as set out in the section 74 of the Local Government and Housing Act 1989.
4. The Council has the general power of competence under section 1 of the Localism Act 2011 to do anything an individual may generally do, together with the power under section 111 of the Local Government Act 1972 to do anything ancillary to or which facilitates any of its functions. The contract may be procured in accordance with these powers.
5. With the assistance of the Procurement unit, the client department will undertake a tender process which is allowable under the Public Contracts Regulations 2015 ("PCR 2015") and the Council's CPR, including the award selection using the MEAT criterion. The most economically advantageous tender (MEAT) criterion enables the contracting authority to take account of criteria that reflect qualitative, technical and sustainable aspects of the tender submission as well as price when reaching an award decision.
6. The Council's Contract Procedure Rule 3 provides that a contract may only be awarded if the expenditure has been included in approved revenue or capital estimates or has been otherwise approved by, or on behalf of the Council. The body of this report confirm the relevant financial implications arising from the Council's award of the contract.
7. The SLT Member will be aware of the Public Sector Equality Duty (PSED) set out in section 149 of the Equality Act 2010. At each stage, in exercising its function (and in its decision making processes) the council must have due regard to the need to:
  - a) eliminate discrimination, harassment, victimisation or other prohibited conduct;

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- b) advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it;
  - c) foster good relations between person who share a relevant protected characteristic and those who do not share it.
  - d) The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
8. The Legal and Governance officers are available to assist the client department in finalising the terms and conditions of the proposed contract between the parties once the approval of the preferred bidder has been authorised following the procurement exercise.
9. Housing Services seek to procure these services in accordance with the Council's responsibilities as a landlord as well as Health and Safety legislation and Building Regulations.
10. The procurement process followed by the Council has already been set out in the body of this report. Due to the value of the contract, a minimum of seven organisations must be selected from Constructionline and invited to tender as set out in Contract Procedure Rule 13.2.
11. Upon award, the contract will incorporate the JCT Measured Term contract 2016 with amendments. The contract will be sealed in accordance with rule 17.1 of the Havering Contract Procedure Rules.

**Cleared 5/6/2020**

### **FINANCIAL IMPLICATIONS AND RISKS**

This report is seeking approval to commence the procurement process and does not contain any financial implications at this moment in time. It is anticipated that the contract will cost in the region of £8,250,000, which will be funded from HRA Capital Programme, Project Code A2847 Task 4.0. This figure will be confirmed and the contract awarded via a separate Executive Decision.

**Cleared 29/5/2020**

### **HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

The recommendations made in this report do not give rise to any identifiable HR risks or implications that would affect either the Council or its workforce.

TUPE (Transfer of Undertakings (Protection of Employment) Regulations) will not apply as there will be no transferring staff.

**Cleared 5<sup>th</sup> May 2020**

**EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

The procurement process will be carried out in accordance with the Council's Contract Procurement Rules. The proposed contractor will be expected to comply with the Council's policies with regards to the promotion of equality and diversity in service delivery and employment practice.

The Council will seek to ensure that socio-economic status will not dictate health and safety outcomes for occupants of new and existing homes.

**Cleared 5<sup>th</sup> May 2020**

**BACKGROUND PAPERS**

None

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**Part C – Record of decision**

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

**Decision**

Proposal agreed

**Details of decision maker**

Signed 

Name: Patrick Odling-Smee

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title:

Date: 12/06/20

**Lodging this notice**

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

**For use by Committee Administration**

This notice was lodged with me on \_\_\_\_\_

Signed \_\_\_\_\_