

**Report for:** Cabinet Member Signing

**Title:** To award a new asbestos remediation contract for a period of 4 years

**Report authorised by:** David Joyce – Director of Placemaking & Housing.

**Lead Officer:** Claude Pascal - Fire Asbestos & Construction Manager

**Ward(s) affected:** All

**Report for Key/  
Non Key Decision:** Key Decision

**1. Describe the issue under consideration.**

- 1.1. This report seeks approval from Cabinet for the award of a contract to appoint a licensed asbestos removal contractor to undertake various remedial works that includes encapsulation of asbestos containing materials, removal and clearance of any asbestos debris in accordance with the Control of Asbestos Regulations 2012 to both residential and corporate buildings managed by the Council. This will ensure that the Council meets its legal duties under the Health and Safety at Work Act
- 1.2. Appendix A is not for publication on the basis that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) as set out in paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).

**2. Cabinet Member Introduction**

- 2.1. NA.

**3. Recommendations**

The Cabinet is asked:

- 3.1. To approve the award of a contract to Contractor A, pursuant to a call off from the London Construction Program (LCP) Dynamic Purchasing System (DPS), as allowed under CSO 7.01(b) for Asbestos Remediation Works, over a period of 4 years commencing September 2023 and ending September 2027, for a maximum value of £939,464.00 (consisting of estimated spend for variable volume work, priced against bespoke prices). The form of contract will be the [JCT Measured Term Contract (MTC) 2016].
- 3.2. To also approve the issue of a letter of intent to the preferred contractor for an amount of up to, but not exceeding £93,946.40 which represents 10% of the

contract sum. This would enable mobilisation of the contract whilst the contract documentation is finalised.

#### **4. Reasons for decision**

- 4.1. The Council requires an asbestos remediation contractor to ensure that all residents, employees, and contractors are kept safe whilst living, visiting, or working in buildings that we manage which may contain asbestos materials.
- 4.2. The Council has a legal duty to ensure that they are compliant with the management of asbestos in accordance with the Control of Asbestos Regulations 2012.

#### **5. Alternative options considered.**

- 5.1. A do-nothing option would mean the residents living in buildings and staff working in offices with asbestos containing material are at risk of actions from asbestos surveys not being managed with the potential for exposure to asbestos. In addition, the Council would not be compliant with their duties under the Control of Asbestos Regulations 2012.
- 5.2. It is not feasible to directly employ asbestos removal operatives due to the specialist nature of the work and potential insurance liabilities. The Council is the duty holder for the management of asbestos in their properties and therefore have a legal responsibility to ensure that the work is carried out in a compliant manner. Asbestos remediation work poses a great deal of risk to the residents and employees and by using directly employed staff the employer will need a significant level of investment and a requirement for a 3 year license, public and private liability insurance and professional indemnity, together with specialist equipment for removal, testing and monitoring of the immediate and surrounding area where work is taking place.

#### **6. Background information**

- 6.1. A fully compliant procurement process was supported by our in-house Strategic Procurement team and managed through the London Construction Programme (LCP) Dynamic Purchasing System (DPS).
- 6.2. Following initial market engagement and interest, four contractors submitted bids for the work and the bids were assessed and evaluated based on 60% quality and 40% price. Two contractors failed the minimum quality submission process.
- 6.3. Appendix A sets out the bids received and the final rankings based on cost and quality.

- 6.4. The flat lined programme budget profile split over 4 years is shown in the following table.
- 6.5. The work generated from the contract will be funded from the Major Works Capital Programme which has an allocated budget of £500,000. The current spend to date is £103,000 with £397,000 remaining for 2023/24. Based on the new tender prices we will reforecast for 2023/24 and revise the budget requirement for future years.

Capital Description	Year 1 (23/24) £'000	Year 2 (24/25) £'000	Year 3 (25/26) £'000	Year 4 (26/27) £'000
Asbestos Remediation Works	£234,866	£234,866	£234,866	£234,866

6.6

The terms of the Council's standard right to buy lease permit recovery of a proportion of the cost of these works from leaseholders, subject to compliance with the consultation requirements set out in the Landlord and Tenant Act 1985 and the Regulations ("the provisions").

- 6.7 Leasehold Services have confirmed that on the basis that this programme will be based on the actual works programme to be carried out across all the general residential properties, 7789 are likely to be affected by these works, the estimated apportioned cost based on the yearly contractor price of £234,866.00 will be £30.15 to each dwelling and over the 4 year works period, the total estimated amount to each dwelling is £120.61 which is below the £250 threshold to consult leaseholders. Similarly, works carried out pursuant to the agreement will, on the same basis, not require consultation.

- 6.8 Where asbestos removal work has been identified from a survey the material would normally be removed. Where possible asbestos works will be included within major works to minimise disruption and costs.

## 7. Contribution to strategic outcomes

- 7.1. This project will help to theme 5 of the Corporate Delivery Plan; A borough where everyone has a safe, sustainable, stable, and affordable home.

## 8. Statutory Officer Comments (Director of Finance (procurement), Head of Legal and Governance, Equalities)

### 8.1. Finance

- 8.1.1 The total cost of the contract is £0.94m and this will be met from existing homes major works budget for 2023/24 and other relevant years.

- 8.1.2 Further finance comments are contained in the exempt report.

## **8.2. Procurement**

8.2.1 This procurement was carried out in a compliant manner using the LCP DPS, with full involvement of Strategic Procurement.

8.2.2 Strategic Procurement support this award.

## **8.3. Legal**

8.3.1 The Head of Legal and Governance (Monitoring Officer) has been consulted in the preparation of this report.

8.3.2 Under section 4 of the Control of Asbestos Regulations 2012 the Council has a duty to manage asbestos in non-domestic premises. To ensure compliance with this duty, the Council has undertaken a competitive procurement exercise in accordance with the Public Contracts Regulations 2015.

8.3.3 Cabinet is being asked to approve the award of a contract to Contractor A, pursuant to a call off from LCP DPS for Minor Works - Asbestos assessment services, asbestos abatement advice, and asbestos removal works, as allowed under CSO 7.01(b), for four (4) years, for Asbestos Remediation Works. The contract award value is £939,464.00.

8.3.4 In accordance with the procurement strategy a competitive procedure with negotiation was used to procure the works. Details of the procurement process followed is set out in this report.

8.3.5 The Cabinet may approve the variation under Contract Standing Order 9.07 (d) (contracts valued at £500,000 and above).

8.3.6 This contract is a Key Decision as the aggregate value of the contract is over £500,000. The Council must therefore comply with the governance provisions in the Constitution in respect of Key Decisions including publication in the Forward Plan (see CSO 9.07.1 (e)).

## **8.4. Equality**

8.4.1 Council has a Public Sector Equality Duty to have due regard to the need to:

- eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- advance equality of opportunity between people who share those protected characteristics and people who do not
- foster good relations between people who share those characteristics and people who do not

8.4.2 Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.

8.4.3 There are no known equalities implications arising from this decision.

## **9. Use of Appendices**

Exempt appendix A

## **10. Local Government (Access to Information) Act 1985**

10.1. Appendix A is not for publication on the basis that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) as set out in paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).

