

	<p style="text-align: center;"><b>ACTION TAKEN UNDER DELEGATED POWERS BY OFFICER 30<sup>th</sup> November 2015</b></p>
<p style="text-align: center;"><b>Title</b></p>	<p>BARNET DEVELOPMENT PIPELINE PROCUREMENT STAGE 4 ENTER INTO TRANCHE 1 PRE- CONSTRUCTION SERVICES AGREEMENTS (5 No.)</p>
<p style="text-align: center;"><b>Report of</b></p>	<p>Commissioning Director for Growth and Development</p>
<p style="text-align: center;"><b>Wards</b></p>	<p>Edgware, Underhill, Hale, High Barnet &amp; Coppetts</p>
<p style="text-align: center;"><b>Status</b></p>	<p>Public with separate exempt report, which is exempt by virtue of paragraph 3 of the Local Government Act 1972.</p>
<p style="text-align: center;"><b>Enclosures</b></p>	<p>None</p>
<p style="text-align: center;"><b>Officer Contact Details</b></p>	<p>Stephen McDonald(Re), Director of Place <a href="mailto:Stephen.McDonald@Barnet.gov.uk">Stephen.McDonald@Barnet.gov.uk</a></p> <p>Abid Arai(Re), Development Programme Director <a href="mailto:Abid.Arai@Barnet.gov.uk">Abid.Arai@Barnet.gov.uk</a> – Tel – 0208 359 4980</p> <p>Michael Spyrides(Re) Development Programme Project Manager <a href="mailto:Michael.Spyrides@Barnet.gov.uk">Michael.Spyrides@Barnet.gov.uk</a> – Tel – 0208 359 2941</p>

<b>Summary</b>
<p>The ARG Committee approved at its meeting on the 7 September 2015, amongst other matters, to enter into the Pre-Construction Services Agreement and to delegate to the Commissioning Director for Growth and Development, in consultation with the Chairman to execute all future contracts associated with the Pre-Construction Services Agreement(s).</p>

<b>Decisions</b>
<p><b>Authority to enter into five Pre-Construction Services Agreements (One for each site) with Wates Construction Limited, the successful tenderer, to only carry out the necessary services on Tranche 1, up to and including RIBA Stage 4 - Technical Design, to be approved.</b></p>

## **1. WHY THIS REPORT IS NEEDED**

- 1.1 It was resolved at the ARG Committee on the 7 September 2015 to delegate to the Commissioning Director for Growth and Development, in consultation with the Chairman to execute all future contracts associated with the Pre-Construction Agreement.
- 1.2 This report seeks authority for the Council to take forward Tranche 1 of the development pipeline by entering into the Pre-Construction Services Agreement with the successful contractor following the evaluation of the mini competition (see Appendix 1). The detailed business case for Tranche 1 of the development pipeline will be presented to the ARG Committee in March 2016

## **2. REASONS FOR DECISIONS**

- 2.1 To enable the Commissioning Director for Growth and Development to enter into the Pre-Construction Services Agreement (PCSA) with Wates Construction Limited.
- 2.2 Under the PCSA, the selected bidder will be expected to develop the initial proposal for the project into a final and fully costed design solution for Tranche 1, namely, the development of new homes at five sites as set out in the 7 September 2015 ARG report. Following approval of the documents prepared under the PCSA, the parties will enter into the JCT 2011 D&B Contract. It should be noted that the Council is not bound to enter into the D&B Contract with the selected bidder. The legal contract is proposed to be entered into between the London Borough of Barnet and Wates Construction Limited. The contract may subsequently be novated should the Council decide to set up a subsidiary company to take forward the development pipeline.

## **3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

- 3.1 A single stage Design & Build approach was considered, but the overall timescales of the development did not facilitate this approach. In addition, a two stage approach gives a higher degree of cost certainty.

## **4. POST DECISION IMPLEMENTATION**

- 4.1 Progress Tranche 1 (all 5 planning applications) with a view of obtaining full planning permission on all 5 proposed schemes in January 2016.
- 4.2 Key Target Milestone Dates for Tranche 1:
  - Commence PCSA Period week commencing 30<sup>th</sup> November 2015
  - Commission Additional Site Surveys December 2015
  - Sales & Marketing Agent appointment by January 2016
  - Design Development December 2015 – May 2016
  - Final internal layouts & Specifications to be agreed by February 2016
  - Planning Committee February 2016
  - Full Business Case target March ARG 2016 or June ARG 2016
  - Final Contractor's return May 2016

- Final contract award June/July 2016
  - Start on site July/August 2016
- 4.3 Following the approval of the Full Business Case in June 2016, LBB can sign the main contract (for construction works) with Wates Construction Limited to start on site in July 2016

## **5. IMPLICATIONS OF DECISION**

### **5.1 Corporate Priorities and Performance**

- 5.1.1 The Council's Corporate Plan (2015-2020) sets out how residents will see a responsible approach to regeneration, with new homes built and job opportunities created. This includes identifying a pipeline of sites to build new homes that residents need and that will increase local revenue streams.
- 5.1.2 The Council's Estates Strategy (2011 – 2015) sets out our commitment to continually review the use of Council Assets so as to reduce the cost of accommodation year on year.
- 5.1.3 The Strategic Asset management Plan (SAMP) sets out the Council's property objectives, focusing on how the Council intends to utilise its asset base to deliver its Corporate Plan over the next five years. The SAMP sets out the principles governing the development pipeline.
- 5.1.4 The Growth Strategy for Barnet recognised that growth is vital for ensuring the future prosperity of the Borough and maintain Barnet as a successful London suburb.
- 5.1.5 The Council's Local Plan adopted in 2012 sets out a 15 year 'vision' to help shape the kind of place that Barnet will be in the future. It supports the delivery of new homes including affordable dwellings and the use of brownfield land for high quality and sustainable suburban development.
- 5.1.6 The Council's Housing Strategy (2015-2025) has the overarching objective of providing housing choices that meet the needs and aspirations of Barnet residents and sets out how the Council will deal with a number of challenges including high prices, a shortage of affordable housing and the potential threats to the qualities that make the Borough attractive.
- 5.1.7 The Strategy identifies a number of core objectives including increasing housing supply, including family sized homes to improve the range of housing available to residents, promoting mixed communities and maximising opportunities available for those wishing to own their home.

### **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

- 5.2.1 A mini-competition sifting brief was released to all suppliers on the London Development Panel framework established by the GLA. Three contractors made a submission and were shortlisted to the stage two tender.

- 5.2.2 The stage two tender process assessed the supplier's project specific approach, understanding and engagement with the project and the financial response to overhead and profit, insurance and project specific pre-construction and construction management resources and costs.
- 5.2.3 The evaluation of the stage two tender followed the evaluation methodology and weighting between technical and commercial criteria. The individual technical and commercial questions were weighted according to the project specific requirements.
- 5.2.4 Following assessment by the Client team the consensus scores of the RIBA Stage 3 Contractor Submission are as follows:

<b>Main Contractor</b>	<b>Technical Assessment maximum score 60%</b>	<b>Commercial Assessment Maximum Score 40%</b>	<b>Overall Score</b>	<b>Rank</b>
Wates	37%	40%	77%	1
Bidder 2	35%	38%	73%	2
Bidder 3	42%	25%	67%	3

- 5.2.5 Following the second stage scoring and clarifications interviews in September 2015, approval is now sought to proceed with Wates Construction Limited for the Design & Build project, and enter into Pre-Construction Services Contracts in November 2015 for the RIBA Stage 4 Technical Design of the proposed development.
- 5.2.6 The financial commitment associated with the pre-construction period required by Wates Construction Limited is £1,683,812 for all of the 5 sites/proposed developments. At present £1m funding from the infrastructure reserve has been agreed for this work.
- 5.2.7 The budget for the pre-construction phase of £1,683,812 is due to be approved in December 2015 as an addition to the capital programme by the Policy and Resource Committee. This will be instead of the agreed £1m infrastructure reserve funding.

### **5.3 Legal and Constitutional References**

- 5.3.1 Council Constitution, Responsibility for Functions, Annex A – The Assets, Regeneration and Growth Committee has responsibility for “Asset Management – all matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council and the approval of non-statutory plans that concern asset management matters.
- 5.3.2 Council Constitution, The Management of Asset, Property and Land Rules, Appendix 2, Table B sets out the acceptance thresholds which provides authority for the action. Financial arrangements in excess of £100,000 must be approved by the Assets, Regeneration and Growth Committee, which had delegated on the 7<sup>th</sup> September 2015 to the Commissioning Director for Growth and Development to exchange contracts and to carry out all other associated duties, and to complete contracts.
- 5.3.3 The 7 September 2015 ARG Committee agreed to delegate the authority to approve the appointment of the preferred contractor and to enter into the pre-construction services agreement to the Commissioning Director for Growth and Development, in

consultation with the Chairman.

- 5.3.4 HB Public Law has been consulted on this matter, and appointed through its panel, Bevan Brittan LLP to act as external legal advisors to the Council. Bevan Brittan has advised on contractual & Legal aspects of the Pre-Construction Services Agreement, and shall further advise on the main JCT Design & Build construction works contract.
- 5.3.5 The Mini Competition was carried out under the London Development Panel framework in accordance with the Council's Contract Procedure Rules (CPRs) and Appendix 1 Table A an officer DPR is required to confirm the appointment.

#### 5.4 **Social Value**

- 5.4.1 By developing Tranche 1 (5 development sites) it enables the Barnet Development Pipeline to provide the Council with approximately 40% of Affordable Housing Units, subject to planning, across its five Tranche 1 development sites.
- 5.4.2 The Council will expect Wates as the Main Contractor to encourage the use of local labour through the supply chain, and to provide training opportunities for local people and local suppliers where possible.

#### 5.5 **Risk Management**

- 5.5.1 A financial health assessment has been undertaken to confirm proceeding with contract award.
- 5.5.2 The initial view upon which authority from ARG was approved on the 7 September 2015 was to enter in to a single PCSA for all of the Tranche 1 sites. The advice received from Bevan Brittan LLP the Council's legal advisors, is to enter into five separate PCSAs, one in respect of each site. By doing this, the risks can be more effectively managed through five separate PCSAs. Following completion of the pre-construction services, the intention is to enter into a final building contract (based on the JCT Design and Build form) in respect of each project. As all of the rights and obligations in respect of the pre-construction services are to be governed by the terms of the building contracts (once they are entered into), it therefore follows that there should be an individual PCSA in respect of each site. This should also assist the Council in separating the projects in the event that one of the sites is delayed or does not progress to the construction period for whatever reason.

#### 5.6 **Equalities and Diversity**

- 5.6.1 Under the Equality Act 2010, the Council must have due regard to the need to: a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; b) advance equality of opportunity between those with a protected characteristic and those without; c) promote good relations between those with a protected characteristic and those without. The 'protected characteristics' referred to are; age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation. It also covers marriage and civil partnership with regards to eliminating discrimination.
- 5.6.2 The Council is committed to improving the quality of life for all and wider participation in the economic, educational, cultural, social, and community life in the Borough.

- 5.6.3 The development proposals will make significant contribution to the provision of additional, high quality intermediate housing in the Borough to assist first time buyers many of whom are currently priced out of the market. It will also promote further construction jobs in the borough.
- 5.6.4 At this stage the proposal does not raise any issues under the Council's Equalities Policy and does not have a bearing on the Council's ability to demonstrate that it has paid due regard to equalities as required by the legislation. No immediate equality impacts are anticipated as a result of this proposal.
- 5.6.5 Equality and diversity issues are a mandatory consideration in the decision making of the Council. This requires elected Members to satisfy themselves that equality considerations are integrated into day to day business and that all proposals have properly taken into consideration what impact, if any, there is on any protected group and what mitigating factors can be put in place.
- 5.6.6 The DPR will not give rise to any specific equalities and diversity issues. Local people and community groups are being consulted and engaged during the planning process in accordance with the Council's Statement of Community Involvement (2007) to ensure the diverse needs of existing and future residents are met in the masterplan.
- 5.6.7 A full equalities impact assessment was completed for The Housing Strategy 2015-2025 which identified that the Strategy would have a positive impact on all sections of Barnet's Community.

## 5.7 Consultation and Engagement

- 5.7.1 Not applicable

## 6. BACKGROUND PAPERS

Assets Regeneration and Growth Committee, 9 July 2014, Strategic Asset Management Plan <http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=696&MId=7960&Ver=4.%206.2>

Assets Regeneration and Growth Committee, 8 September 2014, <http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=696&MId=7885&Ver=4%206.3>

Assets Regeneration and Growth Committee, 16th March 2015 <http://barnet.moderngov.co.uk/ieListDocuments.aspx?MId=7887>

Assets Regeneration and Growth Committee, 7<sup>th</sup> September 2015 <http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=696&MId=8310&Ver=4>

## 7. DECISION TAKER'S STATEMENT

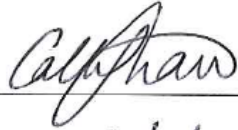
- 7.1 *I have the required powers to make the decision documented in this report. I am responsible for the report's content and am satisfied that all relevant advice has been sought in the preparation of this report and that it is compliant with the decision making framework of the organisation which includes Constitution, Scheme of Delegation, Budget and Policy Framework and Legal issues including Equalities obligations.*

**8. OFFICER'S DECISION**

**I authorise the following action :**

- 8.1 That the Council enters into 5 Pre-Construction Services Agreements with Wates Construction Limited to deliver the RIBA Stage 4, Technical Design works only for Tranche 1 (5 development pipeline sites) outlined in the Tender report.

**Signed**



**Date**

