

	<h2>CHIEF OFFICER IN CONSULATION WITH COMMITTEE CHAIRMAN DELEGATED POWERS REPORT</h2>
<p style="text-align: center;"><b>Title</b></p>	<p><b>Award of the Play Contract to Kompan Ltd by calling off from ESPO Framework 115_17 Outdoor Play Areas following a mini-competition.</b></p>
<p style="text-align: center;"><b>Report of</b></p>	<p><b>Executive Director, Environment</b></p>
<p style="text-align: center;"><b>Wards</b></p>	<p><b>All Wards</b></p>
<p style="text-align: center;"><b>Status</b></p>	<p>Public</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>Matthew Gunyon – Service Manager, Greenspaces  <a href="mailto:Matthew.gunyon@barnet.gov.uk">Matthew.gunyon@barnet.gov.uk</a> 020 8359 7403</p>

## Summary

Authorisation to award a three year contract, with the option to extend for a further 12 months subject to budget and performance, to Kompan Ltd to design, supply and install play equipment across the Borough. The contract is titled Large Projects, Play Area Schemes, Equipment and Supplies (also referred to as the Play Contract) contract ref 702247.

The Council carried out a mini competition under Lot 2 – Playground Equipment – Larger Authority/Large Projects of the ESPO Framework 115\_17 Outdoor Play Areas following which it has been decided that the contract should be awarded to Kompan Ltd.

## Decisions

To award the Play Contract to Kompan Ltd for a period of three years, with the option to extend for a further 12 months subject to budget and performance, by calling off from ESPO Framework 115\_17 Outdoor Play Areas following a mini-competition. The contract spend is limited to a maximum of £5 million.

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

- 1.1 There are 50 play areas across the Borough of Barnet which range in type, age, condition and, size. The Council has a statutory duty to monitor and maintain all Council owned play areas to ensure they are safe and comply with regulations.
- 1.2 Current processes require the Council to undertake separate procurement processes to find a suitable supplier and establish separate contracts for each project in delivering improvement schemes. This does not offer an opportunity to achieve best value and it is proposed that a new term contract, also referred to as the Play Contract, will provide a framework from which the following requirements can be called upon;
- a) The design and installation of new play areas/schemes
  - b) The complete redesign and installation of existing play areas / schemes
  - c) Replacement of existing play equipment and/or the addition to existing equipment with new
  - d) The supply of replacement parts and products (on a like for like basis with their own equipment and/or in some cases supply and install equipment at their cost from a specified manufacturer)
- 1.3 An opportunity to improve and update an approach was identified by the Greenspaces and Leisure Service Team and authorised by the [Policy and Resources Committee on 8 December 2020](#) under the Annual Procurement Forward Plan as noted in line 128 of the report; Parks and Open Spaces Infrastructure (Including but not limited to; Play Area Construction, 3G Pitches, Fencing, Hard Surfacing etc) (agenda item 12).

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 Award of this contract will allow the service to effectively deliver a flexible range of improvements to the Borough's play areas. In addition, providing an opportunity to deliver increased value and benefit through a single contractor. Thus also supporting future contract management and monitoring functions. A single contractor allows for swifter delivery of schemes, so that when funding has been identified we can mobilise through the design, consultation and implementation stages without the need for additional procurements.
- 2.2 Due to the nature of the contract agreement, call off arrangements will be dependent on securing the investment required to deliver a respective scheme (e.g. through S106, Area Committee CIL) and through engagement with the local community to determine their needs

### **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 The Council have identified that ESPO Framework 115\_17 Outdoor Play Areas is an OJEU compliant framework accessible to London Borough of Barnet. There are ten suppliers on this framework who are pre-qualified and are suitable companies to deliver contracts that meet the Council's requirements.
- 3.2 The alternative to utilising an existing framework contract would have been to openly test the market and the value of the contract would require an OJEU procedure. This route was not pursued due to the availability of suppliers via the ESPO framework. Additionally, an open process would have added significant length to the procurement timetable, due to existing Covid restrictions, the need to pre-qualify all the bidders, and would require increased staff resources to administrate and implement.

### **4. POST DECISION IMPLEMENTATION**

- 4.1 This contract will be a call off from the ESPO Framework and the mechanics for managing the contract require notifying the ESPO organisation through a *Notification of Award* notice. The Council will also be using the ESPO framework's contract terms and conditions and conclude an access agreement with the framework supplier.

### **5. IMPLICATIONS OF DECISION**

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

5.1.1 The Council's Corporate Plan says:-

- getting the best out of our Parks and improving air quality by looking after and investing in our green spaces;
- developing masterplans that deliver significant improvements to parks
- Creating healthy environments by working closely with partners to address and prevent health issues

5.1.2 The Joint Health and Wellbeing Strategy says:-

- Barnet is now the largest Borough in London by population (367,265 at the end of 2015) and is continuing to grow. The highest rates of population growth are forecast to occur around the planned development works in the west of the Borough; with over 113% growth in Golders Green and 56% in Colindale by 2030;
- Barnet Sport and Physical Activity Needs Assessment (2012) highlighted that whilst health behaviours and outcomes are more favourable in Barnet than in England as a whole, sport and physical activity rates and the use of outdoor spaces are below the national average;
- A breadth of evidence demonstrates that a more active lifestyle is essential for physical and mental wellbeing. Regular physical activity helps reduce the risk of stroke, type II diabetes, development of dementia, incidences of heart disease,

cancers and high blood pressure. Physical activity supports the prevention and management of long term conditions as well as being a component of achieving and maintaining a healthy weight;

- Physical inactivity currently costs the UK economy £7.2 billion. Additional costs are incurred via the wider economy through increased sickness absence, premature death of productive individuals and increased costs for individuals and their carers;
- Within Barnet the health costs of physical inactivity currently amount to £6.7 million. This is approximately £1.9 million per 100,000 of the Borough's population. However, as measured by the Sport England Active People Survey Data (APS9 Quarter 2) 43.8% of the Borough are currently inactive and would like to do more;
- The number of people with mental health conditions is predicted to increase as the population grows. In November 2014, the Health and Wellbeing Board identified prevention of and early intervention in mental health problems as a priority. Mental health is our key priority in year one of the LHWB Strategy with partners coming together to make a positive impact for all of our residents;
- Maximise the potential of improvements to and changes in the management of open spaces where this could support improved mental wellbeing.

5.1.3 Local Plan Policy CS7 says the Council will create a greener Borough by:-

- Enhancing open spaces to provide improvements in overall quality and accessibility;
- Meeting increased demand for access to open space and opportunities for physical activity;
- By tackling deficiencies and under-provision.

5.1.4 Investment in and improvement of Barnet's greenspaces to support growth and wellbeing in Barnet will also result in the delivery of a range of outcomes linked to other Council strategies:-

- Regeneration Strategy;
- Fit and Active Barnet Strategy;
- Community Safety Strategy;
- Entrepreneurial Barnet Strategy
- Growth strategy.

5.1.5 The residents' perception survey for Barnet showed a decline in satisfaction in parks and open spaces: from 70% in 2013 to 66% in 2016. Consultation with residents undertaken as part of the development of the Parks and Open Spaces Strategy showed a decline in Barnet's parks and open spaces rated 'good' or 'excellent' from 28% to 14% from 2009 to 2015.

5.1.6 It is probable that failure to address the decline in residents' satisfaction with parks and open spaces will result in a reduction in the numbers of individuals, families and groups that visit and use parks for informal physical activity and/or organised sport. Such a reduction would have an adverse effect on the delivery of the Joint Health and Wellbeing Strategy outcomes.

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

5.2.1 No schemes or projects have been confirmed at this time, although the service has worked with a number of residents groups and councillors in recent years to develop schemes and source funding as required in order for their successful delivery. Such funding includes but is not limited to S106, Area Committee CIL and external grants.

The overall contract spend is limited to a maximum of £5 million (based on a 3 year contract with the option to extend for a further 12 months subject to performance and budgets).

The costs for the services let through this contract will be met through existing and future capital budgets, revenue budgets (including s106/CIL contributions) and external grant monies. No orders will be raised, or projects created without confirmation of the project budget and funding being secured.

The Council carried out a closed mini competition which invited the ten suppliers listed on the ESPO Framework to competitively tender for this opportunity. The Council received three bids. Evaluation was undertaken of the bids received, and the outcome is presented below. Kompan Ltd are being awarded the contract on this basis.

Criteria	Weighting	Bidder A	Bidder B Kompan Ltd	Bidder C
Quality	55%	42.00%	44.90%	34.90%
Cost	45%	40.32%	45.00%	35.54%
<b>TOTAL</b>		<b>82.32%</b>	<b>89.90%</b>	<b>70.44%</b>

To evaluate the Cost element of the tender submissions bidders were asked to submit a number of worksheets within the Pricing Schedule document, this requirement was detailed within the tender documents and was confirmed through the tender clarification process to all bidders. The Pricing Schedule was designed to indicate the bidder's prices for a variety of play items/services. These include:

- C2: General Items (a list of surface treatments, ground works etc.)
- C3: Standard Play Items
- C4: General Spares
- C5: Tenderer's Margin (the uplift applied by the contract for the purchase and installation of equipment from another supplier).

The tender documents stipulated that all prices included in the bid will be fixed for the duration of the contract. The Council will therefore be able to accurately forecast approximate costs for all future projects.

5.2.2 If capital funding is required for any project to be delivered as part of the contract a capital bid will be made to Policy and Resources Committee for acceptance and inclusion in the capital programme.

### 5.3 Staffing

5.3.1 The Greenspaces and Leisure Service Team will be responsible for contract management of this contract. A programme of contract management systems will be agreed with the supplier and implemented for the start of the contract, these would include;

- Contract meetings
- KPI scorecard
- Site and project specific inspections

### 5.4 IT and Property

5.4.1 All equipment purchased and installed under this contract will be covered by guarantees and warranties provided by the contract and will be maintained by the Council's inhouse maintenance team in line with the regulations and manufactures guidelines.

### 5.5 Sustainability

5.5.1 When designing or replacing play areas the service works closely with colleagues in Street Scene who maintain and inspect the equipment and with our contractors to identify any equipment that could be retained, refurbished or reused in to ensure waste is kept to a minimum. E.g. as part of the recent refurbishment of Silkstream Park three items of play equipment were identified as surplus to requirements as such they were refurbished and installed as part of the new playground that was delivered in Victoria Recreation Ground.

### 5.6 Equalities and Diversity

5.6.1 The Council must demonstrate that it has procured contracts and services on a fair, just and equitable basis evidencing best practice and value for money. The procurement exercise carried out has satisfied corporate procurement requirements.

The 2010 Equality Act outlines the provisions of the Public Sector Equality duty which requires public authorities to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it

The protected characteristics are age; disability; race; gender reassignment; pregnancy and maternity; religion or belief; sex; and sexual orientation. Marriage and civil partnership is also a protected characteristic with regard to eliminating discrimination.

The Terms & Conditions relating to this ESPO Framework include the following clauses:

*21.3 The Supplier shall in all matters arising in the performance of the Agreement comply with the provisions of the Employment Equality (Age) Regulations 2006.*

21.4 *The Supplier must comply with the provisions of the Race Relations Act 1976 and the Race Relations (Amendment) Act 2000 and shall ensure that they perform their responsibilities under this Agreement with due regard to the need to eliminate unlawful racial discrimination, and to promote equality of opportunity and good relationships between different racial groups.*

Further compliance with the Council's requirements with regards the Equality acts (including the submission of their Equalities Policy Statement) will be confirmed during the pre-contract discussions

## 5.7 Social Value

5.7.1 The Public Services (Social Value) Act 2013 requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits. The key themes within Parks and Open Spaces Strategy schemes are Social, Environmental and Economic outcomes and Benefits.

## 5.8 Legal and Constitutional References

5.8.1 Local authorities have a number of different statutory powers in relation to parks and open spaces, including the Public Health Act 1875 which permits the purchase and maintenance of public walks or pleasure grounds and the Local Government (Miscellaneous Provisions) Act 1976, which gives wide powers to provide recreational facilities (including parking spaces in connection thereto) and to levy charges upon users as it sees fit. The Open Spaces Act 1906 provides that local authorities shall hold and administer open space in trust to allow the enjoyment of it by the public and shall maintain and keep the open space in a good and decent state.

5.8.2 ESPO Framework 115\_17 Outdoor Play Areas is an OJEU compliant framework accessible to the London Borough of Barnet. The Council's Contract Procedure Rules state that, where the Council accesses an existing Framework Agreement, the Framework Agreement terms and conditions of contract must be used.

5.8.3 The contract is being awarded following a mini-competition where suppliers were invited to competitively tender for this opportunity and an evaluation was undertaken of all bids received.

5.8.4 This procurement is included within the approved 2021/2022 Annual Procurement Forward Plan. Article 10 Table B of the Council's Constitution (Decision Making) states that, for procurements of £500,000 or above, the Procurement Forward Plan is sufficient authority for commencement of the procurement.

5.8.5 Article 10 Table B of the Council's Constitution provides that this Full DPR (Chief Officer in consultation with Theme Committee Chairman), is sufficient for acceptance of a contract award valued at £500,000 or above.

## 5.9 Risk Management

5.9.1 The management of risk is undertaken on a continual basis and reported as part of the Council's Quarterly Performance regime and considered as part of the Performance and Contract Management Committee quarterly monitoring report.

5.9.2 Risks will be managed by close and frequent contract and contractor monitoring against the contract specification, construction management plan, and cost plan, including site inspections, by the Project Manager, Lead Commissioner, Supervising Landscape Architect and Cost Consultant. Any issues will be escalated as appropriate for resolution. The current key risk areas are:-

	Rating Criteria	1: Low	2: Medium	3: High
1.	Total investment required	X		
2.	Potential benefits	X		
3.	Return on investment	X		
4.	Planning	X		
5.	Political sensitivity	X		
6.	Fit with corporate objectives	X		
7.	Users/DU's impacted	X		
	Total score	7		

## 5.10 Consultation and Engagement

5.10.1 There was no specific or formal consultation process related to the tender process for this contract. However, the Greenspaces Team regularly engage with park users and Friends of Parks groups and will, following the award of the contract, be able to pro-actively deliver improvements to various play areas across the Borough to meet these group's needs over the course of the contract period.

## 6. BACKGROUND PAPERS

6.1 [Parks and Open Spaces Strategy](#)

6.2 [Policy and Resources Committee Agenda Item 12, 8 December 2020 Annual Procurement Forward Plan 2021/22](#)

Chairman: Councillor Dean Cohen  
Has been consulted

Signed



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06/04/2021

Chief Officer: Geoff Mee - Executive Director, Environment  
Decision maker having taken into account the views of the Chairman

Signed



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25/03/2021

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