



## Decision of Cabinet Member for Regeneration, Property & Planning

### Report from the Strategic Director of Regeneration & Environment

# AUTHORITY TO WAIVE THE CONTRACT STANDING ORDERS IN RELATION TO THE PROCUREMENT PROCESS TO APPOINT A CONTRACTOR FOR THE HARLESDEN HIGH STREET HERITAGE WORKS

<b>Wards Affected:</b>	Harlesden
<b>Key or Non-Key Decision:</b>	Non-Key Decision
<b>Open or Part/Fully Exempt:</b> (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
<b>No. of Appendices:</b>	None
<b>Background Papers:</b>	Harlesden Gateway High Streets Heritage Action Zone Cabinet Report (17 August 2020) <a href="https://democracy.brent.gov.uk/ieDecisionDetails.aspx?AllId=50367">https://democracy.brent.gov.uk/ieDecisionDetails.aspx?AllId=50367</a>
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## 1.0 Purpose of the Report

- 1.1 This report concerns the Harlesden Gateway High Streets Heritage Action Zone. This report requests Individual Cabinet Member approval to waive the contract standing orders (CSO) in relation to the procurement process to appoint a contractor for the shop front works. It also sets out the pre-tender considerations for this procurement activity.

## 2.0 Recommendation(s)

That the Cabinet Member for Regeneration, Property & Planning, having consulted with the Leader:

- 2.1 Approves a waiver of Contract Standing Order 96 for the requirement to tender for the shop front improvement works along Harlesden High Street and

approves the inviting of bids from up to five heritage experienced contractors for the reasons detailed in paragraphs 3.4 and 3.5 of the report.

- 2.2 Approves the pre-tender considerations for this contract as set out in paragraph 3.6 of the report.
- 2.3 Approves officers evaluating the bids referred to in 2.2 above on the basis of the evaluation criteria set out in paragraph 3.6 of the report.

### **3.0 Detail**

- 3.1 The High Streets Heritage Action Zone (“HSHAZ”) is a national programme for shop front improvements, and community space provision. Brent successfully received funding from Historic England for works within the designated conservation area in Harlesden town centre.
- 3.2 In August 2020, Cabinet approved a project to deliver a wide range of improvements to Harlesden Town Centre. One of these work-streams was shop front improvements to nos. 97, 101 – 109 High Street which involves restoring historic shop fronts and features to the buildings.
- 3.3 Officers appointed an architectural organisation with experience in Heritage and Conservation and they have worked up designs with input from the landlords and shopkeepers in order to propose these restoration works. The next stage is to procure a contractor to deliver the works.
- 3.4 Due to the nature and specialism of the works, the Council wants to ensure it approaches suitable contractors with heritage and conservation works experience. It is also a condition of the Historic England grant that a suitably qualified and experienced heritage works contractor delivers the building works. It is proposed this is achieved by directly approaching up to five pre-selected contractors. This will ensure the successful contractor is experienced in delivering similar works and will be able to complete the works to the required standards of the Council and Historic England.
- 3.5 An alternative procurement route would be the open or restricted tender procedures, involving a more lengthy process, with numerous contractors expressing interest, but possibly without the required experience of working on heritage buildings and within conservation areas and for which much valuable time would be spent filtering inappropriate contractors. This alternative was discounted due to the requirements detailed in 3.4 above.
- 3.6 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations have been set out below for the approval of the Cabinet Member of Regeneration, Property & Planning:

Ref.	Requirement	Response	
(i)	The nature of the services / supplies / works.	Shop front restoration works	
(ii)	The estimated value.	£258,000	
(iii)	The contract term.	Three months with a 12 months defects liability period after completion of the works	
(iv)	The tender procedure to be adopted.	Pre-selected contractors (max. 5) invited to tender	
v)	The procurement timetable.	<b>Indicative dates are:</b>	
		Invite bids	w/c 22 November 2021
		Deadline for bids	17 December 2021
		Panel evaluation	4 January – 14 January 2022
		Contract decision	17 January 2022
		Report recommending Contract award circulated internally for comment	18 January – 27 January 2022
		Operational Director approval	28 January 2022
		Contract Mobilisation	31 January – 18 February 2022
		Contract start date	21 February 2022
		Contract completion date	13 May 2022
(vi)	The evaluation criteria and process.	<p><b>Quality: Weighting 30%</b></p> <ol style="list-style-type: none"> <li>1. Project Programme</li> <li>2. Project Resources</li> <li>3. Logistics Plan, including working on a main road</li> <li>4. Project Communications</li> </ol> <p><b>Social Value: Weighting 10%</b></p>	

Ref.	Requirement	Response
		<b>Price: Weighting 60%</b>
(vii)	Any business risks associated with entering the contract.	No specific business risks are considered to be associated with entering into the proposed contract.
(viii)	The Council's Best Value duties.	By inviting up to 5 contractors, a competitive tender process can still achieve the Council's best value duties
(ix)	Consideration of Public Services (Social Value) Act 2012	See section 11 below.
(x)	Any staffing implications, including TUPE and pensions.	See section 10 below.
(xi)	The relevant financial, legal and other considerations.	See sections 4 and 5 below.
(xii)	Sustainability	Appropriate Sustainability Key Performance Indicators / Outcomes will be included in the contract.
(xiii)	Key Performance Indicators / Outcomes	Appropriate Key Performance Indicators / Outcomes will be included in the contract.
(xiv)	London Living Wage	The Contract will require the payment of the London Living Wage
(xv)	Contract Management	The contract will be managed by officers within the Capital Programme Team

## 4.0 Financial Implications

- 4.1 The pre-tender estimate for all the identified works to the shop fronts and higher levels of the buildings is £400,000. Officers acknowledge this is above the £258,000 budget approved by Cabinet.
- 4.2 Officers are currently liaising with Historic England on whether more funding could be made available. Therefore, the procurement exercise will remain with the project budget with the potential for further works if additional funding is awarded.

## **5.0 Legal Implications**

- 5.1 The contract falls within the definition of ‘public works contract’ under the Public Contracts Regulations 2015 (‘Regulations’), but as the value of the contract is below the threshold for works, the procurement is not subject to the full requirements of the Regulations. It is however subject to the Council’s Contract Standing Orders (‘CSO’) and Financial Regulations in respect of Medium Value works contracts in that Officers are required under CSO 96 to undertake a Single Stage Tender or Two Stage Tender process before the contract is awarded.
- 5.2 Under the Council’s Constitution, Individual Cabinet Members have delegated to them certain functions by the Leader that can be exercised within their portfolio. The table in Paragraph 13 of Part 3 of the Constitution provides that Individual Cabinet Members can agree to waive Contract Standing Orders for Medium and High Value revenue and capital contracts as set out in the Council’s Contract Standing Orders. Officers have provided the reason for the recommendation to invite bids from up to five heritage experienced contractors in paragraph 3.4 and 3.5 above and it is deemed the Cabinet Member for Regeneration, Property & Planning has the delegated authority to waive the Contract Standing Orders in order for officers to invite a pre-selected list of contractors for this contract.
- 5.3 Once the tendering process is undertaken, Officers will report back to the Operational Director, Property & Assets in accordance with CSOs, explaining the process undertaken in tendering the contracts and recommending award.
- 5.4 It is proposed to use the JCT Intermediate Contract with Contractor’s Design with the Council’s amendments.

## **6.0 Equality Implications**

- 6.1 The Council must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment and victimisation
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it,

pursuant to s149 Equality Act 2010. This is known as the Public Sector Equality Duty.

- 6.2 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender

reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

6.3 The purpose of the duty is to enquire into whether a proposed decision disproportionately affects people with a protected characteristic. In other words, the indirect discriminatory effects of a proposed decision. Due regard is the regard that is appropriate in all the circumstances.

6.4 The Equalities implications are set out in the Cabinet report from August 2020.

**7.0 Consultation with Ward Members and Stakeholders**

7.1 The Landlords and Shop Owners have been regularly updated on progress and involved in the design stage of the project.

7.2 Ward Councillors have been kept up to date on project progress and will be further updated following the successful outcome of the procurement process.

**8.0 Human Resources/Property Implications (if appropriate)**

8.1 None identified.

**Report sign off:**

**Alan Lunt**  
Strategic Director of Regeneration & Environment