


<b>Cabinet</b>		 <b>TOWER HAMLETS</b>
20 September 2023		
<b>Report of:</b> Kamran Rashid		<b>Classification:</b> Unrestricted
<b>Mellish Street – Approval to directly award Contract for the reasons set out in the report</b>		
<b>Lead Member</b>	Councillor Kabir Ahmed, Cabinet Member for Regeneration, Inclusive Development and Housebuilding	
<b>Originating Officer(s)</b>	Debra Richards – Principal Project Manager	
<b>Wards affected</b>	Canary Wharf	
<b>Key Decision?</b>	No	
<b>Reason for Key Decision</b>	Financial threshold	
<b>Forward Plan Notice Published</b>	22 August 2023	
<b>Strategic Plan Priority / Outcome</b>	2. Providing homes for the future	

### **Special Circumstances Justifying Urgent Consideration ('Reasons for Urgency')**

Following the conclusion of the contractual negotiation last week, the report was initially drafted as IMD, as the contract sum required us to waive the requirement to subject this purchase to competition as required by the Council's Constitution. Due to the urgent need to enter into contract to avoid further delay to the project the Mayor and CEO felt that the report could be referred to the September Cabinet for approval.

This report cannot wait for the October Cabinet as there is an urgency to enter into a contractual agreement with London MEP to complete the mechanical and engineering works and commissioning at Mellish Street for the sum of £300,810.95. The project has already been delayed for completion due to the main contractor Claritas Group entering voluntary insolvency. Entering into contract now will avoid the council incurring further delays and cost.

### **Executive Summary**

The report seeks the formal approval for the Council to enter into a contractual agreement with London MEP to complete the mechanical and engineering works and commissioning at Mellish Street for the sum of £300,810.95.

## **Recommendations:**

The Mayor in Cabinet is recommended to:

1. Authorise the Corporate Director – Housing and Regeneration to waive the requirement to subject this purchase to competition as required by the Council's Constitution
2. Authorise the Corporate Director – Housing and Regeneration to enter into a contractual agreement with London MEP to complete the mechanical and engineering works and commissioning at Mellish Street for the sum of £300,810.95.

### **1 REASONS FOR THE DECISIONS**

- 1.1 Ensure completion of the development of 111-113 Mellish Street without incurring further delay and cost.

### **2 ALTERNATIVE OPTIONS**

- 2.1 Adopt a full procurement process for the completion of works.
- 2.2 This option was explored and deemed commercially unviable. M&E contractors would not be willing to accept liability for completion and commissioning of works carried out by others without opening up and inspecting the installation. A full procurement process would create additional delays of at least 12 weeks to the handover of the development.

### **3 DETAILS OF THE REPORT**

- 3.1 The contract between LBTH and Claritas Group, [for the redevelopment of the site at 111-113 Mellish Street in accordance with the London Borough of Tower Hamlets (LBTH) Planning Application number PA/19/01299 delivering 22no 1, 2, 3 and 4 bedroom council homes for rent and a community building] was terminated in June 2023 as a result of the Contractor having entered voluntary receivership at an advanced stage of the works.
- 3.2 The London Borough received notification of Claritas Group's intention to enter voluntary insolvency on 31 May 2023, and formal steps to place it into creditors' voluntary liquidation was taken on 9<sup>th</sup> June 2023.
- 3.3 In a relatively straightforward case of voluntary receivership, it would be quite normal for the process of fully winding up a company's affairs to take around 18 months to complete. In less straightforward cases it could take considerably longer, therefore it was felt necessary to move quickly to re-engage with the supply chain that have a key role in the successful delivery of the 22 council homes.

- 3.4 Council Officers and Employer's Agent, Gardner Partnership, have completed negotiations with the sub-contractors for the completion of works. Each sub-contractor agreed to a settlement which included a portion of the debt remaining and have since commenced or in most cases completed their works.
- 3.5 London MEP were sub-contracted by Claritas Group to carry out the Mechanical and Electrical works, including M&E and heating and ventilation services to all flats and common parts, and life safety systems such as sprinklers, door entry systems, testing and commissioning. London MEP is the largest single works package and commissioning paperwork required to obtain building control sign off.
- 3.6 Negotiations with London MEP concluded with a settlement of £300,810. The amount included an element of debt obtained through their contract with Claritas Group and outstanding works to complete the works. This sum represents a 40% saving of the total amount for outstanding works (£162,473.67) plus the debt incurred through the original contract (£341,233.74).
- 3.7 It is expected that London Borough of Tower Hamlets will enter into a JCT Minor Works 2016 Contract and Performance Specification "Employer's Requirements" and associated drawings, with London MEP which have been prepared by Gardner Partnership. London MEP will also act as Principal Contractor on site.
- 3.8 There is no requirement for an additional increase in the approved budget for the scheme. The current balance to date is £1.040m. The anticipated spend to complete all works and payment of fees is approximately £0.650m.

#### **4 EQUALITIES IMPLICATIONS**

- 4.1 Equality Act 2010 requires the Council, in the exercise of its functions to have due regard to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not.
- 4.2 With the diversity and rapid growth of the borough, ensuring equality is embedded throughout Council plans, services and activities is a key priority and at the heart of all decision making. To help meet its duty under the Equality Act the Council undertakes equality impact assessments to analyse a proposed change to assess whether it has a disproportionate impact on persons who share a protected characteristic.
- 4.3 As part of the process of establishing a housing capital programme, an equality impact assessment checklist is carried out on all new proposals and schemes to determine if a full equality impact assessment needs to be carried out. Full equality impact assessments are carried out for each new build scheme as part of the governance process. This process prevents any proposal which amounts

to discrimination from being implemented and any project which is likely to lead to a differential impact is varied to mitigate the differential impact.

- 4.4 It is intended that the new development at Mellish Street reduces inequality, will foster cohesion and have a positive impact for residents and organisations in the borough.

## **5 OTHER STATUTORY IMPLICATIONS**

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:

- Best Value Implications,
- Consultations,
- Environmental (including air quality),
- Risk Management,
- Crime Reduction,
- Safeguarding.
- Data Protection / Privacy Impact Assessment.

- 5.2 No other statutory implications have been identified.

## **6 COMMENTS OF THE CHIEF FINANCE OFFICER**

- 6.1 The Mellish Street development comprises a housing development of 22 properties and a community centre. It is a HRA asset and the approved capital budget totals £10.3m, comprising £7.2m for the housing element and £3.1m for the Community Centre. The scheme is funded from a mix of RTB receipts, GLA grant and borrowing.

- 6.2 Spend to date against the scheme totals £9.3m. This report is seeking approval to enter into a contractual agreement with London MEP to complete the mechanical and engineering works to the sum of £0.3m. There is therefore sufficient funding available to meet this cost.

## **7 COMMENTS OF LEGAL SERVICES**

- 7.1 The Council has the legal power to undertake the activity referred to in this report.
- 7.2 Regulation 32 of the Public Contracts Regulations 2015 allows the Council to enter into a contract with a single supplier where competition is absent for technical reasons. The Council requires the contractor to be responsible for the entirety of the works. The only contractor who could be responsible in an economically viable way is London MEP as they have undertaken part of the works during the period they were originally contracted to Claritas and before Claritas went into liquidation. Whilst another contractor could possibly offer

this, they would have to redo a significant part of the works making their bid uneconomic.

- 7.3 The proposed action is the most economic, efficient and effective option available to the Council suggesting that this option represents statutory Best Value.

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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

- None.

### **Appendices**

- None.

### **Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012**

- None.