

MUNICIPAL YEAR 2008/2009 REPORT NO. 205

MEETING TITLE AND DATE:

4 March 2009 - Cabinet

REPORT OF:

Director of Place Shaping
and Enterprise

Agenda – Part:	1	Item No:	11
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Subject: Stock Reinvestment Programme, Procurement Of Major Works Constructor Partner.			
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Wards: Borough wide			
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CABINET MEMBER CONSULTED:			
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Cllr Matthew Laban			
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1. EXECUTIVE SUMMARY

1.1 This report seeks approval to enter into contract with the tenderer detailed in the part 2 report for the purpose of delivering a four-year contract to support the stock investment and decent homes works programme to the Council housing stock.

1.2 Members should note that this report contains information that has resulted in the report being larger than would normally be provided. To assist with the navigation through this report the executive summary has similarly been expanded below to provide the main themes and detail.

1.3 General Information

1.3.1 This report sets out the work undertaken and recommendation for the approval of the first (of two) constructor partner contracts and builds on the briefing information provided in the July cabinet report that gave results of the pre-qualification and tender evaluation process.

1.3.2 In order to access government funding for Decent Homes, the Council is required to demonstrate that it has the capacity to carry out a significantly enlarged housing capital programme.

1.3.3 Within this report members are advised how it is intended to administrate and control the works contained within this contract. Members should note that it is intended that the Lead Member of Housing & Community Safety be granted delegated authority to agree works packages from the delivery side activity being undertaken by the officers and agents of Enfield Council, Enfield Homes, and the appointed Major Constructor Partner.

1.3.4 This report sets out particulars in respect of the constructor partner procurement and a four-year contract. Funding available for delivery of the full five-year programme is subject to a separate report.

1.4 Background Summary

1.4.1 The report reviews the procurement process undertaken, including the actions around the pre qualification questionnaire and the selection of the tender list.

1.4.2 The development of the tender documents, the tender process and evaluation employed in attaining the bid which provides Enfield with the most economically advantageous tender (MEAT) is described.

1.4.3 The key activities in engaging with and consulting residents on the proposals that form the basis of this contract have been summarised and outcomes detailed.

1.4.4 The governance proposals are set out in a simple manner detailing the shape and format for the delivery and contract monitoring mechanisms.

1.4.5 Observations and results of the tender evaluation are commented on along with a brief note on the future procurement proposals.

2. RECOMMENDATIONS

2.1. That the Council enter into a contract with the tenderer mentioned in section 2.1 of the Part 2 report.

2.2. That consultant services for the provision of client agents, cost consultants and Constructor Design & Management Co-ordinator (CDM-C) be provided in the first instance through existing framework agreements and in the longer term through future procured frameworks / contracts (to be subject to a separate report and authority approval)

2.3. Subject 2.1 above that the Lead Member for Housing & Community Safety is granted delegated authority to commit expenditure of funds against projects to develop employers requirements under the block capital funding allowance, where not already attained or instructed and seek from the appointed constructor partner the accompanying contractors proposals.

2.4. That subject to this approval, and subject to the receipt of satisfactory and value for money contractor proposals, and satisfactory completion of statutory leaseholder notice of works consultation, that the Lead Member

for Housing & Community Safety is authorised to accept individual section proposals.

By such delegated authority the Lead Member for Housing & Community Safety has authority to confirm acceptance to issue instruction to the constructor partner in accordance with the contract to deliver a programme of works in support of and in accordance with the works priorities and criteria agreed under the Council's Housing Asset Management Plan, details of which are contained in Appendix A to this report.

3. BACKGROUND

- 3.1 Much of the early background to this process has previously been reported in detail through the report issued to cabinet in July 2008 where members were advised that a tender list of between six and eight contractors was being sought. Therefore it is not intended to revisit this in detail within this report. However should further reference be required then this previous report can be reviewed from archive municipal year 2008/2009 report no. 45 (Agenda item 11 from the July 2009 cabinet papers).
- 3.2 Procurement Process For The Delivery Of The Stock Investment Programme.
- 3.2.1 Progress in the procurement of this contract has been reported regularly to the Asset Management Executive (AME) this body comprising of resident stakeholders (both from the ALMO and the Federation of Enfield Community Associations – FECA), senior officers (both Council and ALMO officers) and chaired by the deputy Lead Member for Housing (Cllr Fallart) as delegate to the Portfolio holder.
- 3.2.2 The Project Board (see item 3.6.3 of this report) via the Project Team has been advised by the Council's Legal, Corporate Procurement and Finance teams throughout the PQQ (pre qualification questionnaire) and tender evaluation process. Corporate Procurement has undertaken regular quality assurance checks during the procurement.
- 3.2.3 The project delivery programme has slipped slightly from the timetable previously reported as the project team has responded to challenges from unsuccessful bidders. The award of the contract is now planned for April 2009, following completion of the statutory leaseholder consultation and will see the constructor partner in place and prepared to deliver the bulk of the stock investment programme from 2009 / 2010.
- 3.3 Results Of The Pre Qualification Stage
- 3.3.1 An advertisement was placed in OJEU in the autumn of 2007 (ref: 2007/S 224-273159) seeking expressions of

interest. This notice confirmed that a constructor partner was being sought to deliver the stock investment and decent homes programme over a four-year period, with a contract value in the region of £80M - £100M and that between 6-8 bidders would be invited to tender.

- 3.3.2 An initial PQQ was drafted and issued seeking responses to both financial and non-financial questions. With evaluation of both parts to be undertaken separately and subject to a ratio weighting split of 30 / 70, financial / non financial evaluation.
- 3.3.3 The PQQ was reviewed due to developments in EU procurement law (primarily the Lianakis ruling) and following independent legal advice from Eversheds the Council decided to pause the current PQQ process. The PQQ instructions were redrafted and reissued in compliance with comments provided by Eversheds and KPMG (providing independent financial risk management advice).
- 3.3.4 Subsequently twenty-three completed PQQ returns were received and assessed against the declared questions and criteria set out in the PQQ invitation and instruction to bidders. The results being:
 - 3.3.4.1 Fifteen submissions met the qualifying criteria.
 - 3.3.4.2 Eight submissions did not meet the qualifying criteria.
 - 3.3.4.3 From the combined financial and non-financial evaluation scores the highest top six bidders were clearly identified from the fifteen who met the qualifying criteria. These top six bidders were the companies invited to tender.
- 3.3.5 The evaluation and selection processes for the PQQ was set out on a first past the post basis with a number of key pass / fail assessment criteria setting the qualifying criteria. The PQQ information issued to potential bidders set out the areas to be evaluated, how the evaluation would be undertaken and the scoring system utilised in evaluating the bidder's responses in addition to specific instructions for the return of documents.
- 3.3.6 The combined score for financial and non financial assessment of the bidders following the first past the post evaluation process provided a clear top six and was in accordance with the intention as originally declared, and subsequently followed throughout the evaluation process. While the opportunity was made possible and

declared to seek to invite between six and eight bidders to submit tenders the spread of the combined scores provided a clear gap between the sixth and seventh placed bidders clearly indicating that on the balanced assessment of the financial and non financial assessment criteria there are six bidders, who at the time of completing the PQQ, are best placed to provide a tender which represented both a value for money and best value solution.

- 3.3.7 To expand the tender list beyond the six invited to tender was subsequently not pursued as it was anticipated that this would be unlikely to provide greater value for money, requiring increased resources for tender process and in general making the package less attractive to the market place.

3.4 Development Of The Tender Documents & The Invitation To Tender Stage

- 3.4.1 The tender documents identify a number of projects, simple in content that will be quick to start, plus other projects where resident consultation has commenced and details works specified. These projects will enable the successful constructor partner to commence works promptly.
- 3.4.2 The bulk of the works are to be delivered through a design and build format. Indeed the result of the procurement options paper drafted by the appointed cost consultants, Potter Raper Partners, in advance of seeking tenders confirms the recommendation that a JCT Design & Build Contract 2005 (DB) be utilised. Potential projects for the Constructor Partner have been identified and described in brief summary detail within the tender document with the intention being that Employers Requirements for these sections of the works will be drafted and developed during the life of the project and offered to the successful contractor for Contractor Proposals to be formed and offered to the Council for acceptance.
- 3.4.3 To ensure the smooth running and protection of the Council's position Eversheds have been engaged to draft bespoke supporting contract clauses.
- 3.4.4 The industry standard benchmark being employed in this contract are the Constructing Excellence building refurbishment suite of indicators.
- 3.4.5 Invitation to tender was issued on the 14th November 2008 to the six bidders who formed the tender list after

the PQQ process with the return date set as 29th December 2008.

- 3.4.6 To assist the bidders in ensuring robust tenders were returned, a mid tender review was offered and accepted by all bidders. This was organised by Enfield Homes with support from LBE Corporate Procurement Team to give all bidders an opportunity to clarify requirements of the tender.
- 3.4.7 This mid-tender review, a new model for Enfield, an example of current good practice was attended by all bidders and much welcomed.
- 3.4.8 Following this mid tender review one of the bidders withdrew, having reappraised their position on the basis that they felt that they would not be able to submit a tender that represent value for money (saving themselves, their suppliers and the evaluation team time and expense).
- 3.4.9 Just prior to receipt of tenders a second bidder withdrew citing that they had undertaken a commercial review and felt that the risk associated with a design and build contract no longer matched their business.
- 3.4.10 On the 29th December four tenders were received and opened and the evaluation process commenced.
- 3.4.11 The tenders were evaluated on a most economically advantageous tender (MEAT) basis with a ratio of financial (cost) to non-financial (quality) assessment being 30 / 70. This being consistent with PQQ evaluation and tender list selection and supported by residents and FECA who have been consulted throughout the development of this project.
- 3.4.12 The non-financial quality assessment was divided into four parts:
- 20 (of the 70) Technical Ability
 - 20 (of the 70) Environmental Care
 - 10 (of the 70) Health & Safety (CDM)
 - 20 (of the 70) Stakeholder Care

Members are advised that this breakdown was been developed and refined subsequent to the July 2008 cabinet report (clause 3.7) with the Health & Safety element being taken out separately from the Technical component. In addition the previously titled Equalities and Profitability section has focused much more on resident and local community impact and hence has

been renamed as Stakeholder Care to reflect this change.

- 3.4.13 The remaining 30% being attributed against the financial (cost) aspect of the priced tender – this being split into two parts the initial on total costs then moderated against individual rates (again designed to protect the client by avoiding high instances of inflated or impractically resourced rates).
- 3.4.14 The evaluation team consisted of officers, residents and client agents (Potter Raper Partnership, and EDC – environmental architectural design specialists) as industry specialists. The members of this team were asked to complete a declaration of interest in the firms submitting tenders prior to commencing the evaluation activities.
- 3.4.15 The non-financial quality appraisal set a target score of 42 (of the total 70 marks available) and any bidder who fell below this target would be eliminated.
- 3.4.16 The quality evaluation has included scoring a series of method statements. Site visits, interviews, and references have also been used for clarification purposes only.

3.5 Resident Engagement

- 3.5.1 The procurement strategy for the delivery of the major works housing stock investment programme and use of the constructor partner approach was initially introduced to residents at the Tenants & Leaseholders Conference of 2007. Where the three phase strategy for delivery of the major works programme was demonstrated;
- Phase one being the traditionally procured and on going spot purchase contracts
 - Phase two being the initial constructor partner
 - Phase three the subsequent constructor partner(s) – to be procured following the result of the February 2009 Audit Commission Inspection
- 3.5.2 During 2007 resident engagement activities centred around confirming resident priorities, identifying high risk areas where investment is required and merging the two to create the Housing Asset Management Plan (HAMP) and hence the base point for delivery of the five year capital programme (see Appendix A for the priority categories from the HAMP).

3.5.3 This consultation confirmed that resident priorities, originally identified in setting out the initial proposals for the Enfield Homes Standard were correct. Confirming the following as the ranking for resident priorities:

Work Element (Enfield Homes Standard)	Initial Resident Priority	2007 Consultation
Windows- Double Glazed	1	1 - Joint
Security To Individual Homes	2	1 - Joint
Central Heating	3	3
Good Electrical Standards	4	4
Sound Insulation	5	5
Kitchens-Well Planned	6	6
Bathrooms-Well Planned	7	8
CCTV	8	7
Door Entry Phone Systems	9	9
Lighting (Common Areas)	10	10
Refuse Disposal Facilities	11	11
Fencing	12	14
Adequate Car Parking Spaces	13	13
Lifts	14	15
Improved Communal Flooring	15	16
Play Areas	16	12

3.5.4 This consultation reconfirmed windows (including doors) as the highest priority for residents, with central heating and good electrical standards being next¹. Therefore these work areas will be prioritised in the stock investment programme. It is worth noting that these are all areas of work that go beyond the basic minimum of the decent homes standard.

3.5.5 While lifts are a low priority for residents, unless residing in a block served by a lift, they represent the single highest area of risk for ongoing maintenance and hence the modernisation of the lifted stock needs to be highly placed in the prioritisation of stock investment programme.

3.5.6 The above factors have been taken into account in shaping the dwellings being targeted for inclusion in this procurement. By the nature of the lifted stock this relates to primarily high-rise blocks and the intention is that this package of work will focus on these blocks providing improvement works to the external envelope and internal

¹ These being key components of delivering affordable warmth and combating fuel poverty.

services, where required and investment is practical, preparing the blocks to future decent homes compliance works where such are not undertaken directly as part of the programme under the initial constructor partner. Hence meeting requirements of the top four resident priorities, or where not upgraded immediately providing the basis for a future programme², along with meeting landlord obligation and high maintenance risk items.

- 3.5.7 The results of this exercise and development of the major works programme was reported back to residents through the Community Housing Partnerships in the later part of the financial year 2007/08. It should also be noted that within the constructor partner contract there are a number of potential schemes, which have been identified for low-rise stock. These are projects, which have previously been consulted and developed with residents through the Community Housing Partnerships and are of a nature where works may commence earlier in the initial constructor partner programme.
- 3.5.8 Notional five-year delivery programmes for windows and heating led projects, along with lifts, were drafted and displayed graphically to residents forming part of the presentations during the 2008 Community Festivals.
- 3.5.9 The result of the consultation process and subsequently the nature of the works proposed within the constructor partner contract highlighted that much of the work will be of a nature where a degree of costs will be charged to the leasehold residents. In addition to the statutory processes the leaseholder panel were engaged initially through a briefing in 2007. Subsequently a presentation was made to the leaseholder panel in the summer of 2008, detailing how the constructor partner contract was to be delivered and monitored, its adaptability and the potential benefits against traditionally procured contracts.
- 3.5.10 Leaseholders are obviously keen to know anticipated costs pertaining to their premises as soon as possible. Given the nature of the design and build contract and the four year term of the contract it is not possible to provide detailed costs to all leaseholders at the time of issuing the notice of proposal, however a best estimate based on the tendered rates for works should the leaseholders block be worked on will be issued and hence the estimated costs liable to the leaseholder should works be undertaken can be identified. A further notice of works will then be issued prior to instruction being issued to the

² In some instances it may first be necessary to carry out an upgrade to the power or water services and facilities within a block prior to commencing of works within the dwelling or provision of improved heating or electrical installations serving individual dwellings.

contractor to proceed with works to the individual section. This process will enable leaseholders to have a clear understanding of proposals and anticipated costs.

- 3.5.11 In preparation for the commencement of an increased programme of works and to ensure that as many residents as possible can be briefed on what to expect from a major works project an informative DVD has been produced. Similarly the current resident engagement procedures have been reviewed with the Residents Repairs Focus Group and a simple to follow flow chart has been produced to guide all involved in the delivery of major works. Following the appointment of the constructor partner a further review of resident engagement will be undertaken and the constructor partner will be tasked with working in partnership with residents and officers to continue to improve access to services and information for all residents.
- 3.5.12 Residents have been part of the evaluation process, assessing the responses and working practices of the bidders against stakeholder and customer care criteria. The residents involved in this process were recruited from workshops held during the 2008 Tenants & Leaseholders Conference and the Network, with training offered by the Borough's Corporate Procurement Team.
- 3.5.13 At the 2008 Tenants & Leaseholders Conference residents were given the opportunity review the priorities established within the Enfield Homes Standard from previous consultation. This review ensures that the performance specifications being used to set the baseline for the employer's requirements meet the reasonable expectations of all residents. This is particularly key for works to the communal parts and elements where leaseholders will be subject to cost recovery in accordance with qualifying works criteria.
- 3.5.14 Residents will continue to have opportunities to influence how the constructor partner undertakes works through consultative processes and the governance procedures for the constructor partner contract.

3.6 Project Governance

- 3.6.1 The project has been developed initially through an officer led project team. In August 2008 the project governance was split into a Project Board and Project Team. The purpose being that the Project Board would form the guiding, directing and formal decision making vehicle for the delivery of the constructor partner

contract, receiving reports from the Enfield Homes project manager.

3.6.2 Terms of reference for the groups being agreed as:

3.6.2.1 **Project Board:** To provide project governance, direction and timely recommendation for the delivery of the constructor partner procured stock investment programme, in accordance with the joint aims and objectives of the London Borough of Enfield and Enfield Homes.

3.6.2.2 **Project Team:** To undertake actions so as to facilitate the procurement and day-to-day administration of the constructor partner contract, monitoring project progress and delivery against milestones and objectives. Provision of highlight reports and recommendations to the Project Board to ensure timely decision-making and programme delivery.

3.6.3 Membership of these governance bodies being:

Project Board

- Assistant Director Housing Strategic Services, LBE - Project executive (Client) / project sponsor
- Director Housing Technical & Property Services, Enfield Homes - Senior supplier
- Head Of Finance (Financial Management Services – Housing, Health & Adult Social Care), LBE – Financial Resource
- On appointment, the constructor, also as Supplier
- Resident representatives (Leaseholder & Tenant) as User representatives, to join post tender evaluation / contractor appointment.
- Housing Professional Services Manager, Enfield Homes – Project manager

It is anticipated that the function of the Project Board will change slightly once the contract has been awarded and the main purpose will be to oversee the activities of the housing stock investment programme. Hence the name will change to the Programme Board.

Project Team

- Project Manager, Enfield Homes
- Estate Management, Enfield Homes
- Home Owner Services, Enfield Homes
- Legal Services, LBE
- Corporate Procurement, LBE

- Finance, LBE & Enfield Homes
- CDM-C, Enfield Homes appointed agent
- Independent Cost Consultant
- Client Agent(s)
- Constructor Partner, as required

In addition to and sitting as a sub-set of the Project Team once the delivery of the contract commences will be a delivery team for each project / section or scheme. Membership of these teams shall be.

Delivery Team

- Project manager(s), Enfield Homes
- Resident Liaison Officers, Enfield Homes & Constructor Partner
- Residents & Community Partners, Steering Group Members
- Constructor Partner, Design & Delivery
- Client Agent(s)
- Clerk of Works & Quality Control, Enfield Homes & Constructor Partner
- Estate Management & Communal Services, Enfield Homes

- 3.6.4 Individual work packages will be let on the basis of contractor proposals offered against specific employers requirements for the blocks and homes involved. The employer's requirements will be developed through the resident consultation process. The contractors proposal for each work package will be costed against the tendered rates with value for money and practical deliverability assessment applied prior to the project manager offering the proposal to the Project (Programme) Board for approval prior to completion of final leaseholder consultation and seeking of delegated authority to instruct the constructor as defined in section two of this report.
- 3.6.5 The letting of individual work packages will therefore be subject to the appropriate delegated authority reporting process.
- 3.6.6 Project performance and the project key performance indicators (KPI) will be monitored at all levels. The Delivery Team will focus locally on their project, while the Project Team will review overall performance and assess areas of excellence which can be developed elsewhere within the project along with monitoring trends and recovery plans where performance may drop. The project manager will provide a highlight report to the Project (Programme) Board to allow for monitoring of the KPI during the life of the project.
- 3.6.7 The monitoring of this contract and its impact on the delivery of the capital works investment programme for the Enfield Council owned / Enfield Homes managed housing stock will be of

interest to governance bodies of both parties. In line with the working in partnership principals being promoted by Enfield Council & Enfield Homes the current monitoring and reporting structures and relationships shall be reviewed and recommendation will form the basis of a future paper.

3.7 Results Of The Tender Evaluation

3.7.1 Further details of this process are contained within the Part 2 report.

3.8 Future Procurement Activity

3.8.1 This report concentrates on the recommendation to enter into contract with the initial constructor partner and will see the delivery of the second phase of the strategic major works procurement. The first phase having been facilitated through the ramping up of the annual capital investment programme and gearing up processes ready for the initial constructor partner.

3.8.2 The second (or subsequent) constructor partner(s) will focus more on the decent homes works within occupied homes (particularly kitchens, bathrooms, heating and rewires – where not undertaken concurrently with the enabling works within this contract) and it is currently envisaged that these works will commence from the final quarter of 2010 (January – March). However an element of decent homes works will also be undertaken by the initial constructor partner to ensure that the overall programme to meet decent homes continues on target.

3.8.3 This next phase of procurement will again be procured through OJEU and a new notice will be raised. Prior to the formal notice being issued it is intended to issue a PIN (Prior Information Notice) to confirm the intention of Enfield Council to seek the further constructor partner(s) and develop the procurement process. This along with the broader five-year stock investment programme will facilitate market testing to ensure that the procurement option being recommend for the next phase is a robust and sustainable option.

3.8.4 The value of this next phase of procurement will be dependant on the result of the Audit Commission inspection and access to the full ALMO funding envelope.

4. ALTERNATIVE OPTIONS CONSIDERED

4.1 To continue to procure the works in a traditional manner as historically employed.

- 4.1.1 This is feasible and would deliver a programme of works to the required specification and at a market rate that reflects value for money at the time of tendering. However this method of procurement does not allow long term continuity of processes, securing supply chains and predictability of material and labour costs, and offers little if any strategic investment in the community.
- 4.1.2 The capital investment programme is anticipated to increase in volume both physically and financially and the servicing of this through the existing process will require an increase in labour and procurement costs. The nature of spot purchasing would result in the need for full tendering process to be revisited each time works are proposed. Where as the constructor partner route streamlines this process.
- 4.1.3 Continuing to procure in the traditional historical manner in the current economic climate will effectively mean that each procurement is open to a high degree of risk either through procedural challenge, hence increasing overall administrative charges, or through lack of contractor security, cash flow or incentive hence leading to poor performance and failure.
- 4.1.4 Traditional procurement is usually preferred by leaseholders as it provides firm costs based on lowest price. However in the current economic environment it is higher risk in places contractors at a greater risk of failure and increases potential for contractors to perform poorly. Individual traditional procurement processes also sees total costs increase due to higher administrative and management costs. While savings can only be fully quantified on completion of the contract it is envisaged that the constructor partner has the potential to realise up to £17M total project savings over the life of the contract through the selected procurement route.

4.2 To procure the works via a framework arrangement.

- 4.2.1 A Framework agreement is a commitment to a long-term relationship between the client and a number of principal contractors. The contractors, together with their supply chain partners, undertaking work packages usually following individual mini competition on a project-by-project basis.
This mini-procurement exercise usually increases the cost of operating a framework. There is no guarantee of work for a contractor on a framework so rates are likely to be inflated against framework contracts in order to offset the risk of non-continuity. Recent local procurement activity in London has resulted in poor response to frameworks from contractors.
- 4.2.2 It is known that some early round ALMO's in London with established frameworks have found themselves tied into

arrangement with costs way above the current market rates. There are also high client side management and fee costs necessary for frameworks to work effectively, thus reducing funds available for investment in the housing stock. Most frameworks take 10-12 months to finalise the AMP (Agreed Maximum Price) of each individual work package.

4.2.3 Whilst a framework can offer the opportunity of bringing in another contractor promptly should an existing contractor fail, the risk management and mitigation measures detailed later in this report confirm advises how to managed this risk within the proposed constructor partner route.

4.3 To take no action at all.

4.3.1 This is really not an option as without a strategic approach to the procurement of the stock investment works programme the Council, through Enfield Homes will not achieve a two star Audit Commission Housing Inspection status and hence will not be able to access the additional funds for investment in the housing stock which a two star housing service status will facilitate.

4.3.2 Members should also note that the project team responsible for the delivery of this procurement exercise have continually reviewed the procurement process from commencement through to tender to ensure that current market conditions and influences and risks are mitigated and opportunities for best practice, innovation and cost reduction are identified and pursued.

5. REASONS FOR RECOMMENDATIONS

5.1 This approach to procurement and the utilisation of a Major Constructor Partner will deliver efficiency and monetary savings through good practice. The Design and Build route allows the Major Constructor Partner freedom to exploit the market place for value within a controlled and accountable environment.

5.2 The Major Constructor Partner will appoint and manage Design Consultants and will utilise principal and specialist suppliers who will undertake the installation of works. This will keep professional fees at a minimum and encourage the specialist supplier/installers to use their market knowledge and expertise to best effect.

5.3 The Major Constructor Partner will be able to provide EPC's (energy performance certificates) on completed homes through the specialist supplier/installers who undertake the installation. As they will already hold the calculation data from the selected installed option this will minimise EPC costs.

5.4 Through collaborative working and thorough examination of all the supply chain options, and then with all of the partners bringing different

levels of expertise and experience into the relationship, both social housing and commercial, and encouraging the partner contractors to share their experience and solutions, instead of directly competing with each other, it is anticipated that considerable financial and time savings will result. This has been the experience of existing ALMO's where they have worked collaboratively to maximise savings, which in turn can be put back into the programme for further resident benefit.

- 5.5 The Major Constructor Partner will organise the selected supply chain management to exploit both short and long term gains through collaborative working including best price purchasing, future maintenance reliability, long-term warranties, preferential day-to-day operative training, security of spares and delivery. There is also the potential for drawing together the longer term maintenance partners and the constructor partner to deliver a streamlined after care service to the installation works – although initially a traditional arrangement of defects liability will pertain.
- 5.6 By programming capital investment over a four-year period and through a collaborative working approach, the Major Constructor Partner will ensure efficient working and best use of specialist installers and sub-contractors, fewest labour, material and waste movement, with the potential for local training and employments gains, and capacity building. These are not so effective, or practically achievable, with shorter individually procured contract packages.
- 5.7 The long-term arrangement is proving very attractive to the market producing surety and security for the contractor in this time when the construction industry is being troubled by a regressing economy. Comparable framework arrangements with no work guarantees have proved much less attractive, and do not offer the same level of continuity, surety or community investment opportunities and hence in the current economic environment offer a higher risk option for both the client and contractor parties.
- 5.8 By adopting the Major Constructor Partner approach Enfield Homes has avoided the additional costs of managing contractor framework arrangements. These require individual competition between framework constructors for each work package. This increases costs, takes time and requires additional client management costs, which in turn limit the funds available to provide improvements to the stock.
- 5.9 Additional professional staff resources will be appointed either directly by the Major Constructor Partner or through Enfield Homes existing competitively sourced consultant arrangements. Thus there will be no severance costs at the end of the programme.
- 5.10 Through maintaining a small efficient client side professional and back office team, Enfield Homes has achieved associated savings of reduced office space and associated furniture, equipment and ICT.

- 5.11 The Major Constructor Partner and their appointed suppliers will be required to directly prepare and upload asset management data for the in-house management systems on completion of each project through web access – a process presently labour intensive within Enfield Homes as data is drawn from a number of consultants & contractors.
- 5.12 The works targeted through this contract will see Enfield Homes Energy and Affordable Warmth strategies continue to improve the stock SAP figures, increasing comfort conditions and minimising resident fuel costs. In addition the HRA benefits through fewer complaints and reduced maintenance callouts in respect of aged and hard to maintain components.
- 5.13 The work proposed within this contract addresses the highest areas of resident priority and meets the high risk, high priority need as set out in the Housing Asset Management Plan.
- 5.14 The structure of the design and build contract allows works to be let in sections against a set of agreed contractor proposals to the employers requirements. This will provide the London Borough of Enfield and Enfield Homes with an increased level of control.
- 5.15 The proposed design and build refurbishment contract, while previously untested by the London Borough of Enfield, provides the Council with a mechanism with the required flexibility to deliver works during the life of the contract. The contract clauses provided by Eversheds allow the Council flexibility to tailor the contract to match funds available without high risk but maintaining value for money.
- 5.16 By entering into this contract Enfield Homes will be able to demonstrate (through the London Borough of Enfield) to the Audit Commission that there are clear defined plans in place and commitment to the delivery of a long term robust and value for money strategy for the delivery of decent homes investment to the housing stock. In turn this will have a favourable impact on the ability for Enfield Homes to attain a two star or better inspection standard, and hence facilitating the additional decent homes ALMO funding that attainment of such a standard would attract.
- 5.17 The processes pursued in this procurement have been undertaken in accordance with OJEU procurement requirements and are consistent with the original OJEU notice (ref: 2007/S 224-273159).
- 5.18 The evaluation team involved in the assessment of the tenders and subsequent recommendation to accept the tender which represents the most economically advantageous tender to the London Borough of Enfield, have declared any personal or business interest in the organisations assessed. Officers, external advisors and consultants so involved are subject to the rules of the Code of Conduct of the London Borough of Enfield, Enfield Homes and where applicable the framework agreements used to procure external services.

5.19 The financial standing of the recommended bidder has been reviewed by KPMG and at the time of this report the company appears to be financially robust and capable of resourcing the full term of the contract.

6. COMMENTS OF THE DIRECTOR OF FINANCE & RESOURCES

6.1 Resources Available for Major Works are set out in the table below:

	2009/10	2010/11	2011/12	2012/13	2013/14	Total
	£'000	£'000	£'000	£'000	£'000	£0.0k
Housing subsidy	9,475	9,425	9,396	9,368	9,338	47,002
Supported Capital borrowing (SCE)	4,797	4,797	4,797	4,797	4,797	23,985
CLG Approved-additional SCE**	25,000	25,000	30,000 ³	30,000 ³	27,000 ³	137,000
Total	39,272	39,222	14,193	14,165	14,135	207,987

* This borrowing will only be made available if 2 stars are awarded following the Audit Commission Inspection scheduled in February 2009.

* CLG have not confirmed funding after 2010-11 and no assumption has been built in above. A CLG bid was put in for £137m.

Unallocated Capital Receipts available £1.348M -not reflected above. Capital receipts currently forecast at £5.454M in 2009-10. (Subject to change as dependant on draw down in 2008-09).

6.2 The contract and all works arising shall be funded from the capital budget, including the use of reserves, ALMO funding from CLG and any housing capital receipts which accrue during the term of the contract.

6.3 The Council is able to provide £80M from its own resources over the next 5-years, this is made up of Major repairs allowance paid through housing subsidy, additional borrowing supported by subsidy, and other HRA resources and reserves. In addition to this, indicative funding from the CLG for 2009-10 and 2010-11 is £25M per year subject to two stars being awarded following the Audit Commission inspection.

6.4 The current capital expenditure is forecast to be £22m at the end of this financial year. As reported in the last capital monitor the aim is to complete the financial year within the approved capital resources.

³ To be confirmed following comprehensive spending review in 2011

- 6.5 The Council's Corporate Procurement Team have been utilised throughout the procurement process to ensure that the activities of the project team meet the Council's quality assurance procedures.

7. RISK MANAGEMENT IMPLICATIONS

- 7.1 External expert advice was taken from Eversheds LLP and KPMG during the procurement process to mitigate as far as possible risks in terms of OJEU procurement challenge and financial validation.

- 7.2 The importance of this procurement exercise and the potential risks associated have been recognised, jointly owned and mitigated by Enfield Council & Enfield Homes. A risk register has been in operation both locally to the project and corporately. Primarily the key operational risks are:

7.2.1 The potential failure of the constructor partner to perform and deliver which could have a very significant impact on the delivery of the stock investment and decent homes, particularly if the contract were to make it difficult to allocate work to a new contractor.

7.2.2 Whilst the Contractors we are choosing from are major names in their field, the current economic position is such that failures of major names whilst unlikely might occur.

- 7.3 In order to mitigate against these key areas of risk the following actions have been undertaken:

7.3.1 The Contract

The Contract is not based on "open book" principles. There are a number of pre-identified sections of work for which lump sum prices have been obtained. Thereafter it has a series of identified sections of work, each with a provisional sum allowance. There are tendered rates against pre-stated schedules of items that can then be prepared into costed works. The contract operates by omitting the provisional sums and adding back the priced works as a contract instruction.⁴

Eversheds LLP has adjusted the contract so that works are issued in sections, and in the unlikely event of failure of the constructor partner the Council does not risk cost liability for works scheduled in the contract but not yet issued to the contractor on a contract instruction.

7.3.2 Delivery

The contract provides certainty for the Council and the constructor partner over four-years. The Council has the option

⁴ Appendix B of the Part 2 Report is a letter from the Potter Raper Partnership letter dated 30th January provides comprehensive detail on how financial aspect of the contract operates.

to procure a second constructor partner either through a similar arrangement or through traditional spot procurement although the latter could not deliver the volume of work envisaged when the decent homes funding is accessed.

It would not be possible to achieve the programme on individually packaged projects below EU levels without a large team of consultants with an associated fee cost. The current procurement saves the Council some £500k a year on consultant fees compared to this alternative.

Individually tendered packages would not deliver the same level of training investment (anticipated as one trainee / each £ million) or achieve the savings currently achievable. This in itself might jeopardise CLG funding.

7.3.3 Price Fluctuation

Prices are adjusted annually in line with RPI.

7.3.4 Economic Downturn

The procurement route was selected on the basis of making Enfield attractive to the marketplace bearing in mind the Olympics superstructure work is now commencing and neighbouring boroughs of Haringey, Barnet and Waltham Forest are also into large capital programmes for both housing and schools.

As stated in 4.2.1 – 4.2.3 the marketplace is less enamoured with Framework arrangements than it was two or three years ago and even less so since Enfield commenced on this procurement. Nor will Enfield experience the delays associated with approving work packages on a framework. That these delays are unavoidable in such circumstances was borne out by a recent “good practice” seminar in January that a number of London ALMO’s attended.

The market is also working in the favour of Enfield as more major constructors are able to select from a previously over stretched skills market.

7.3.5 Financial Risk

In order to reduce the likelihood of contracting with a bidder who is financially at risk, or performs poorly, the following action has (and continues to be taken). During the procurement phase of the constructor partner contract those bidders on the tender list have been closely monitored for financial stability, and on receipt of tenders a further check has been undertaken (in accordance with the remit allowed in the PQQ and under EU procurement regulations) by KPMG to ensure that the contractor remains in a state of solvency so as to be able to service the contract. During the delivery phase a suite of KPI’s will be used to monitor performance these will be both industry benchmarks through the Constructing Excellence suite and local indicators with resident satisfaction levels being considered along with the more

traditional construction monitoring criteria such as performance against key project milestones, cash flow (open book accounting), quality control and defects control. The use of these indicators will provide a means of prior warning and ability to instigate impact-limiting procedures.

7.3.6 Restarting the Tender process

There is no procurement that is risk free however the selected route seems very low risk. Certainly other London ALMO's who tender frameworks two or more years ago are now paying above market costs. The agreed Design and Build procurement enables the Council to take advantage of the current economic downturn (low cost, very favourable rates, skilled labour availability, and a constructor desire for long-term stability etc).

To delay new capital procurement until the economy improves would seem unwise. At that point prices will increase and skilled labour will become scarce again especially as some of the current workforce is likely to leave or retire as a result of the current downturn.

Tenant consultation has raised expectations and this would require careful management.

There is also a critical need to replace many lifts and the affordable warmth strategy would also be compromised. Whilst the industry is currently seeing some material cost increases, overall there would seem to be no gain with not proceeding with the recommended award at this time along with the opportunity to enjoy very substantial savings.

7.3.7 Quality Assurance Review

A robust quality assurance review has been undertaken at each key stage by the project team led by Corporate Procurement with input from Eversheds on certain aspects of the review. It has been confirmed that the overall risk associated with this procurement project has been assessed as low.

- 7.4 There is potential for adverse leaseholder reaction as improvements may lead to greater cost recovery; however there is a duty to properly recover qualifying costs to avoid tenants subsidising leaseholders. The presentation and communication of these issues will continue to need careful management.

7.4.1 To mitigate against the potential for cost recovery not being fully attained, all leaseholders are to be contacted via the notice of proposal giving an estimated cost of the potential works and notification of the recommended contractor.

7.4.2 While this will mitigate against the ability to recover qualifying costs there will be a residual risk from this process as not all the leaseholders who receive a notice of proposal will subsequently receive a detailed notice of works and have works undertaken to

their premises under this constructor partner. Again this will be subject to careful communication and management.

8. LEGAL IMPLICATIONS

- 8.1 The Council has received external legal advice from Eversheds LLP with regard both the operation of the Design and Build Contract and the Procurement process. It is envisaged that the Contract will be let in the name of the London Borough of Enfield and will be in a form approved by the Borough Solicitor. The Contract is to be in the form of a JCT Design & Build Contract (DB), 2005 Edition, Revision 1 2007 – with additional clauses commissioned by the Council from Eversheds LLP to facilitate the Council's intended use of the Contract as recommended by the Council's Consultants PRP (Potter Raper Partnership) and to mitigate risk to the Council. The use of the Design and Build Contract in the manner envisaged within the report currently remains untested by the Council.
- 8.2 The tender exercise has been conducted by Enfield Homes as lead using the Restricted Tender Procedure in accordance with the Council's Constitution and Public Contract Regulations 2006.
- 8.3 Throughout the engagement of the principal constructor partner the Council must ensure value for money in accordance with the overriding Best Value Principles under the Local Government Act 1999.

9. PROPERTY IMPLICATIONS

- 9.1 Under the terms of their lease, leaseholders are required to contribute to the costs incurred by the Council (Enfield Homes) in undertaking certain works – as described above and as applicable under the proposals of this contract.
- 9.2 The leaseholder implications, if any, of individual schemes within the works delivered under this contract will be set out in future scheme (or section) specific reports within Enfield Council and Enfield Homes' reporting structures.
- 9.3 Leaseholder consultation has commenced with the Notice of Intention having previously been issued. The statutory consultation will continue and will be carried out in accordance with the current legislative requirements. The Notice of Proposal being run concurrent with this report and the authority sought from this report being subject to the completion of the notice of proposal period.
- 9.4 Leaseholder consultation will include a third notice (a detailed notice of works) prior to instruction being issued to the contractor. The initial start up schemes will receive this notice alongside the notice of proposal, with future sections being issued with this notice following receipt of the detailed contractor proposals for the works defined within that section.

- 9.5 In recognition of the expanded value of the capital programme and the likely nature of the works having an impact on leaseholder contributions, consultation beyond the statutory obligations has been undertaken with and will continue to be undertaken with leaseholders.
- 9.6 Final proposals for each project / section / scheme will be subject to review against the Housing Asset Management Plan prior to commitment to ensure long term sustainability is achieved through the investment.

10. CONTRIBUTION TO ACHIEVEMENT OF DELIVERY PLAN & PERFORMANCE MANAGEMENT IMPLICATIONS

- 10.1 The initial constructor partner contract will see Enfield Homes delivering against two key delivery plan objectives and aims, these being:
- 10.1.1 Sound asset management through stock reinvestment and maintenance.
 - 10.1.2 Successful partnerships and sustainable communities.
- 10.2 The constructor partner will be key to the future delivery of the capital programme which in turn impacts on two Best Value Performance Indicators (BVPI) and two new National Indicators (NI) against which the Council is measured both locally and nationally. These indicators are:
- 10.2.1 BVPI 63, average SAP rating. This is a measure of the energy efficiency of the stock. The proposed programme will see the average SAP rating of the stock improve. This indicator impacts on the CPA rating via assessment of the provision of Environmental Services. In addition NI 187 (Tackling Fuel Poverty) has been introduced for 2008 / 2009 where good performance is shown over time by a reduction in the proportion of households with a SAP below 35 and an increase in the proportion of households with SAP of 65 or greater.
 - 10.2.2. BVPI 184, percentage of stock failing the Decent Homes Standard. The proposed programme will address both those dwellings currently listed as non decent and those requiring works to prevent the dwellings from falling into non-decency. This indicator impacts on the CPA rating for the Housing Service. In addition NI 158 (Proportion Of Non Decent Homes) has been introduced as the new performance indicator for decent homes delivery.

11. COMMUNITY IMPLICATIONS

- 11.1 The introduction of the constructor partner will have a positive impact on the community by improving the estates and improving resident satisfaction with landlord services.
- 11.2 Adverse reaction can be anticipated from some leaseholders, particularly non-resident leaseholders with multiple properties, due to the recovery of the cost of major works for which they have a liability. Some will object as a commercial tactic. Dealing with this effectively is part of the project stakeholder management plan.
- 11.3 There are no long term negative impacts for the estates involved in the works arising from the constructor partner programme, however there will be short term disruption for residents, neighbours, and visitors to the estates while the works are in progress.
- 11.4 The entering into a long-term contractual arrangement with a constructor partner for the delivery of the major works programme offers Enfield the chance to create community investment opportunities and capacity building schemes.
- 11.5 This can be achieved through the encouragement of the appointed constructor to undertake training and supporting employment based benefits to the community. The potential exists for the constructor partner to utilise Construction Web (the joint partnership of Enfield, Waltham Forest and Haringey) to assist: -
- 11.5.1 **Individuals**, interested in finding employment and/or undertaking training in the field of construction.
 - 11.5.2 **Construction Companies**, small locally based construction companies seeking skilled labour and/or training to up-skill existing employees.
 - 11.5.3 **Large Construction Companies**, wanting to find local sub-contractors or local labour and to ensure available grant funding is fully accessed.
- 11.6 Further community implications and equalities impact assessments will be included in future section delegated authority reports.

12. PUTTING ENFIELD FIRST

- 12.1 **This project will help the Council to deliver the key priorities of Putting Enfield First as set out below:**

12.1.1 Aim 1: A cleaner greener Enfield

1(b): The delivery of the capital programme through the use of the constructor partner contract will protect and enhance the quality of Enfield's buildings.

12.1.2 Aim 3: A safer Enfield to live, work, study and do business

3(b): Work with partners to reduce crime, anti-social behaviour and respond to the fear of crime.

12.1.3 Aim 5: Supporting the delivery of excellent services

5(a): Deliver a customer-focused approach that helps all people access council services.

5(b): The recommendation assists in achieving Best Value in the management of resources.

5(f): Deliver the community strategy, local needs and priorities by productive partnership working.

12.1.4 Aim 6: Economically successful and socially inclusive

6(e): Improve the quality of housing in the borough through partnership working.

12.1.5 Aim 7: Improving quality of life in Enfield

7(c): The consultation with Community Housing Partnerships, the use of project steering groups and resident involvement within the project governance is helping residents play an active role in the running of their estates by increasing public participation, involvement and empowerment.

Appendix

A – Housing Asset Management Plan, Investment Need Priorities

Background papers

- Cabinet Report No.45 for the municipal year 2008/2009
- Enfield Homes Project Management files (at Claverings office)

APPENDIX A

Housing Asset Management Plan, Investment Need Priorities

<i>Prioritisation for Asset Management Investment</i>		
1	Health and safety	Immediate risk to life or health
2	Statutory Obligations	Compliance with Acts, Regulations etc
3	Asset preservation	Backlog repair, prevention of short to medium term deterioration (mainly revenue)
4	Landlord responsibility	Essential planned maintenance to comply with obligations (usually identified from stock condition survey - revenue and capital)
5	Stock reinvestment	Renewal or upgrading to ensure long-term viability of asset
6	Enfield Homes Standard	Investment recommended following consultation
7	Accessibility and Adaptations	Reasonable steps to ensure compliance with DDA
8	Match funding	Accessing external funding
9	Community safety	Security initiatives to tackle vandalism, crime and fear of crime
10	Marketing initiative	Targeting difficult to let homes
11	Sustainability	Efficient use of energy, reducing fuel poverty
12	Tenant initiatives	Tenants association bid for funds from consultation
13	Sheltered Housing: to meet needs of elderly residents	Small scale scheme specific improvements to tackle problems highlighted by resident groups.
14	Community need	Combating disadvantage
15	Fit with other programmes/investment	Best use of funds, access equipment (scaffold) etc