

Community Wealth Building
7 Newington Barrow Way
London N7 7EP

Report of: Executive Member for Environment, Air Quality and Transport

Meeting of: Executive

Date: 20 July 2023

Ward(s): All

Subject: Procurement strategy – 'RE:FIT' procurement framework for NZC (net zero carbon) projects for public buildings

1. Synopsis

- 1.1. The Council's Vision 2030 strategy has the objective of all council buildings being decarbonised by 2030. Delivery will require access to specialist technical and construction capability as well as a significant capital investment to eliminate gas heating systems and make council buildings more energy efficient.
- 1.2. This report seeks authority to undertake a mini-competition exercise using the RE:FIT framework to procure a contract with a suitably qualified contractor to deliver decarbonisation works to a range of council owned non-residential buildings, in accordance with Rule 2.8 of the Council's Procurement Rules.
- 1.3. The delivery of these decarbonisation projects will be dependent on the availability of future council and grant funding.

2. Recommendations

- 2.1. To approve this procurement strategy to use The National Framework for Energy Performance Contracting (RE:FIT) (Ref: 432507671) to appoint a contractor (via a mini competition) to carry out high-level appraisals, investment-grade proposals and

capital works to decarbonise council buildings for an initial period of 36 months with the option to extend the contract for up to a further 36 months. The estimated value of the contract over the 72 months (6 years) is up to £30.0m, subject to funding.

- 2.2. To delegate the decision to award a contract for an initial three-year period (with an optional extension of three years) to the Corporate Director of Community Wealth Building, following consultation with the Executive Member for Environment, Air Quality and Transport.

3. Background

3.1. Nature of the service

- 3.1.1. Buildings are the largest contributors to carbon emissions in Islington, accounting for 80% of total emissions in the borough according to the latest figures (2020). While the council has switched most of its electricity supplies to renewable energy tariffs, gas boilers in the council's non-residential buildings (including leisure centres) emitted around 3,800 tonnes of carbon in the last twelve months, with boilers in schools emitting around 2,800 tonnes.
- 3.1.2. The Vision 2030 strategy includes a commitment to begin replacing gas boilers in the council's non-residential buildings with electrical heating (heat pumps) or connections to heat networks, to improve energy efficiency through insulation and lighting replacements, and to carry out feasibility studies to assess how best to do this. Another commitment is to assess the suitability of these buildings for solar power and to install panels and battery storage where technically and financially feasible.
- 3.1.3. The Energy Services team and Corporate Landlord Service have identified a total of 199 non-residential council buildings (including schools) that may require retrofitting works to decarbonise and improve their energy efficiency. This number may increase or decrease slightly during the life of the contract for various reasons for example due to the delivery of other building refurbishment projects undertaken by the council, buildings being disposed of or new ones being acquired. The buildings identified are referred to in this report as the 'master list'.
- 3.1.4. The prioritisation of the buildings in the master list for retrofit works will be agreed by the two teams. The buildings will be split into manageable project groups of between 10-15 buildings per group.
- 3.1.5. Although the council has allocated some funding for decarbonisation feasibility studies and capital works, the size of the financial investment needed to achieve net zero carbon requires additional and significant external funding. The main source of external funding is currently the Public Sector Decarbonisation Scheme (PSDS), a central government funding stream to decarbonise public sector buildings. The council

has also used the Low Carbon Skills Fund (LCSF) scheme, which has funded high-level feasibility studies.

- 3.1.6. Past experience with the PSDS highlights three significant challenges with the scheme:
1. Difficulty providing all the technical information required for a PSDS application before detailed feasibility studies had been carried out (the high-level studies carried out with LCSF funding do not contain enough detail)
 2. The amount of time and resource required to make applications (the 15 applications for round 3b of PSDS took more than six months with five council officers' time working on average two days a week)
 3. Needing to deliver major capital projects within short timeframes (PSDS has hard spending deadlines of one or two financial years), which is extremely challenging with the timescales required by local authorities procurement processes. This can be particularly difficult with inevitable changes in scope between a high-level feasibility study (which are currently used for PSDS applications) and the detailed design produced after a contractor has been appointed.
- 3.1.7. This previous experience has shown that detailed designs are required prior to applications being made, that assistance is needed preparing funding applications, and that appointing a contractor for each individual building project is impractical and heavily impedes delivery. However, all of these issues are addressed by the The National Framework for Energy Performance Contracting (Referred to as the RE:FIT Framework).

The RE:FIT Framework

- 3.1.8. The RE:FIT Framework was developed in 2009 as part of the Mayor of London's Energy for Londoners programme. The purpose of RE:FIT is to help local authorities retrofit their non-domestic buildings, taking into account the specific barriers they face in terms of long and complex procurement process as well as risk associated with investing in projects with long-term paybacks and no guaranteed savings.
- 3.1.9. RE:FIT has been designed to save time and resources for local authorities procuring retrofit works, while guaranteeing energy and cost savings through Energy Performance Contracts. To date, the RE:FIT framework has been used by 19 London public sector organisations to prepare the funding application for, and deliver the works associated with, PSDS-funded decarbonisation projects.
- 3.1.10. RE:FIT provides local authorities with an efficient approach to carrying out decarbonisation works by allowing them to procure an experienced contractor who will work with them through feasibility to detailed design and installation stages to ensure a seamless process, which includes performance guarantees (financial savings on

energy costs and carbon savings). The framework also provides local authorities using the framework with free technical support which is funded by the Greater London Authority (GLA) and the European Regional Development Fund (ERDF).

- 3.1.11. A contractor will be procured by the council using the framework agreement through a mini competition between pre-qualified suppliers on the framework. The contract will specify that the Council has identified a list of up to 199 buildings to decarbonise, which will be split into manageable groups of 10-15 buildings. Each group of buildings will be considered as a phase in the REFIT contract, with the Council only committing to paying for the IGP costs for the first phase (10-15 buildings), with potential for future phases of works to decarbonise the remaining buildings.
- 3.1.12. The successful contractor will be required to complete the following tasks for the first phase of works (first group of 10-15 buildings):
- 3.1.13. The contractor will first review each of the buildings in the group and provide a high-level energy appraisal at no financial cost to the council. This appraisal will set out the most suitable decarbonisation and energy efficiency measures for each site, together with an estimate of the retrofitting costs and achievable carbon savings. It is expected that a wide range of works, including the installation of heat pumps, double glazing/window replacements, fabric upgrades, and solar photovoltaic panels (PV) will be considered in these appraisals. The HLA process is an inherent and free-of-charge part of the scoping of the Energy Conservation Measures / ECMs (decarbonisation/energy reduction solutions) and are the basis of the Investment Grade Proposal (IGPs).
- 3.1.14. Following a review of these appraisals by the Council, the second stage will involve the contractor developing more detailed Investment Grade Proposals (IGPs) for each of the buildings in the first phase. The IGP outlines guaranteed financial and carbon savings associated with the agreed measures. These IGPs will include a detailed design of the retrofit measures proposed and will form the basis of applications to PSDS or similar funding schemes. This feature of RE:FIT is of particular interest to the council given the significant time and resources required to prepare funding applications, and the need for a detailed design. Having a contractor in place will allow the council to have the necessary information for PSDS (or similar) funding applications readily available for future rounds of funding.
- 3.1.15. If the council chooses to proceed with the capital works associated with the measures proposed in the IGPs, the contractor will deliver the agreed decarbonisation works to groups of buildings in rounds of retrofit works projects, dependent on the availability of funding. The council can choose to instruct the contractor to proceed with the capital works as and when funding is available, for example following a successful PSDS funding application. This is a crucial point as it will allow a prompt mobilisation to start the works as soon as the grant offer letter

is received, ensuring that the works can be completed in the short timeframes of central government funding, rather than having to start the procurement process from scratch.

- 3.1.16. The council will not be obliged to proceed with the installation of any of the measures identified during the high-level energy appraisals and investment grade proposals (IGP). The only potential cost to the council may be to develop the IGP and is likely to be between £0-5,000 per building. However, it is common that the contractors offer the IGPs for free as part of their bidding strategy in the mini-competition. Therefore, there is minimal financial risk associated with the use of this framework in terms of being tied into the capital costs proposed by the contractor.
- 3.1.17. If the contractor carries out decarbonisation works at a building and the promised savings set out in the IGP are not met, the contractor will be contractually bound to either provide additional retrofit measures to meet the savings they guaranteed or pay the difference. The energy performance contract guarantees a return on any council investment and Islington would retain 100% of the savings. The contractor is not owed any of the energy savings that they guarantee nor any surplus savings that exceed their guaranteed amount. During period of high inflation, the IGPs might include terms that the works contracts must be placed within a short time frame (e.g. 30 days for the IGP costs to be held, as opposed to typically 90 days during a low inflation market).
- 3.1.18. There will be potential for future phases of work in the contract for which the contractor will be required to complete the tasks listed above.

3.2. **Estimated value**

- 3.2.1. The council intends to procure a single contractor to complete the high-level surveys, Investment Grade Proposals and deliver the identified and agreed decarbonisation works. The contract will be for an initial period of 36 months with the option of contract extensions up to a further 36 months. This means the contract will be for a total period of up to 72 months (6 years). The total estimated value for the contract is up to £30.0m, subject to funding.
- 3.2.2. It is anticipated that the 199 non-residential buildings identified for decarbonisation work will undergo assessment and works in several phases in which up to 10-15 buildings would be considered per project, dependent on the availability of grant funding.
- 3.2.3. The cost of producing an IGP for a building can range from £0 to £5,000, depending on the size and complexity of the building. Contractors may offer to complete the IGPs for free as part of their bidding strategy. However, if they are

not free, the council will apply for Low Carbon Skills Fund grant funding (which funds feasibility work) or pay for them using the feasibility studies budget in the net zero programme budget. As part of the tender, the council will only be committing to get IGPs for the first group of 10-15 buildings, with the option for future phases of IGPs for the remaining buildings on the master list over time, dependent on securing further external decarbonisation funding.

- 3.2.4. The total costs of the capital decarbonisation works will only be known after the IGPs have been completed. The council is not obligated to proceed with the capital works detailed in the IGPs and can proceed as and when funding is available.
- 3.2.5. The decarbonisation works will be part funded through the council capital budget for retrofitting existing council buildings and schools. Given the value of committed Council funds, the completion of works will be dependent on securing significant additional external grant funding, such as PSDS or similar for which the council will apply.
- 3.2.6. The estimated potential value of the contract for years 1-3 is £14.959m, funded through the remaining capital budget for retrofitting council buildings (£2.583m), a forecast PSDS match grant funding for this remaining capital of £2.376m (based on previous applications) and an indicative estimate of £10m of potential additional spend should additional grant funding become available, based on a retrofit delivery programme of £5m per annum.
- 3.2.7. The forecast PSDS grant funding is a conservative estimate based on the ratio of PSDS funding received to council match funding for construction costs of projects to date excluding other associated costs (e.g.: contract administrator, contingency). The six successful PSDS applications have received an average of grant of 2.8 times the council match funding. However, two of those (Archway Leisure Centre and King Henry's Walk Care Home) were much higher than the others; discounting these outliers, the average ratio was 0.92.

Site	Total capital cost (construction)	PSDS grant	Council match funding (construction)	Ratio of match funding (construction)
Calshot care home	£549,775	£145,107	£404,668	0.36
Waste and Recycling Centre	£1,614,141	£951,831	£662,310	1.44
New River College	£361,500	£179,745	£181,755	0.99
Archway Leisure Centre	£2,244,249	£1,974,939	£269,310	7.33
Drayton Park school	£237,286	£110,171	£127,115	0.87

Site	Total capital cost (construction)	PSDS grant	Council match funding (construction)	Ratio of match funding (construction)
King Henry's Walk care home	£264,385	£225,945	£38,440	5.88
Total	£5,271,336	£3,587,738	£1,683,598	2.13
Average	-	-	-	2.81

Table 1: Previous successful PSDS applications: grant and match-funding amounts (construction costs only)

3.2.8. Subject to availability of additional funding, the total estimated contract value for years 1-6 is up to £29.959m, as summarised below

Budget source		Year 1-3	Year 4-6 (Indicative)	Year 1-6 Grand Total
Capital budget for retrofitting council buildings	Approved	£2.583m	-	£2.583m
PSDS grant funding (0.92 ratio)	Forecast	£2.376m	-	£2.376m
Committed and match funding (Year 1)	Forecast	£4.959m	-	£4.959m
Indicative programme spend if funding available	Forecast	£10.000m	£15.000m	£25.000m
Total		£14.959m	£15.000m	£29.959m

Table 2: Indicative budget for future decarbonisation works (construction costs only)

3.3. Timetable

3.3.1. Table 3 below shows the estimated timeline of this procurement project:

Procurement Strategy approved by Executive	13 July 2023
Tender Documentation Issued	August 2023
Tender return deadline	October 2023
Evaluation of Tenders	November 2023
Award of Contract	January 2024
Mobilisation Period	March 2024
Contract Start	April 2025
Completion of Phase 1 of the Project	IGPs for the first phase of buildings: June 2024

Table 3: Project timeline

3.4. Options appraisal

3.4.1. Option 1: Do nothing

The council decides not to proceed with the tender under the Retrofit Accelerator Framework. This option is not recommended because of the issues with the current

situation, as set out in paragraph 3.1.6. This option does not align with the council's commitment to achieve net zero carbon by 2030.

3.4.2. Option 2: Doing the works in-house

There needs to be specialists who have the knowledge and skills to complete both feasibility and decarbonisation works for different types of buildings and the capacity to carry out such works. The council does not have the ability or capacity to carry out these works itself, therefore, this is not the recommended option. The uncertainty of the funding regime would also increase financial risks for the council if directly employing a team of specialists and programmes of work may be delayed for periods of time.

3.4.3. Option 3: Conduct our own tender exercise

A potential advantage of running our own tender process to secure a preferred contractor is that it could attract bids from contractors that are not on the RE:FIT framework. However, this process is not recommended for the following reasons:

- The tender process will take longer to complete. This will be incompatible with the short timeframe associated with central government grant funding schemes, and requires greater staff resources.
- Potential contractors may be less likely to participate in a tender process given the high level of uncertainty linked to the outcome of external funding bids.
- This approach does not offer the flexibility required to prepare high quality PSDS (or similar) funding applications in a constantly evolving government funding landscape.
- There is a high risk of a shortage of suppliers since all local authorities who submitted successful PSDS (or similar) funding applications will be looking for decarbonisation contractors at the same time.

Due to the reasons stated above, this option is not recommended.

3.4.4. Option 4: Using the Retrofit Accelerator Framework (recommended)

The council goes ahead with the tender and holds a mini competition via the Retrofit Accelerator Framework. Unlike other framework agreements, the council will be able to benefit from the following through this framework:

- Free technical support is provided from project inception to project completion to ensure that guaranteed energy savings are achieved.
- The council will have the flexibility to specify their own evaluation criteria and percentage weightings.
- There are 16 suppliers (all energy services companies) on the framework that have all been approved and checked by the GLA and have experience delivering large scale retrofitting projects for other local authorities. The list of suppliers can be accessed at <https://www.london.gov.uk/programmes-and-strategies/environment-and-climate-change/energy/low-carbon-accelerators/retrofit-accelerator-workplaces/trusted-suppliers>.

- The IGPs developed by the successful contractor will be used as the basis for future PSDS (or similar) funding applications, which require extensive technical information from a detailed design of the retrofit measures. The flexibility of the RE:FIT framework will allow the Council to have the technical information necessary for applying for PSDS funding readily available for each funding round, with the possibility of instructing the contractor to proceed with the capital works once the outcome of the PSDS application is known (typically 4 to 6 months after the submission of the applications), and only for the buildings that are successful.
- Similar to option 3, option 4 demonstrates value for money. However, the advantage of using the framework is the reduced officer time required to complete the procurement process. Awarding a single contractor for a large volume of work is also likely to deliver economies of scale, particularly through mobilisation costs, which would not be achieved via option 3.
- Having a contractor already in place when the council receives confirmation of grant funding, such as PSDS grant offer letters, will allow a prompt mobilisation and start to the works compared to starting procurement from scratch at the time of the grant outcome. This will mitigate risks associated with inflation cost increases compared to the time the IGP is developed, and will also ensure that the Council has secured a contractor in an extremely competitive environment where all local authorities will be seeking decarbonisation contractors at the same time.
- There is a “reserve bidder” feature within the RE:FIT Framework which allows the council to switch from the “preferred bidder” to the reserve bidder under specific conditions. The pros and cons to using the reserve bidder is detailed in Appendix 1.
- After careful consideration, it was determined that the reserve bidder feature did not provide significant benefits to the council compared to terminating the contract with the “preferred contractor” and rerunning a mini competition through the RE:FIT Framework. If the relationship with the contractor breaks down, the council will terminate the contract under clause 48 of the Call Off Contract and hold another mini competition through the RE:FIT Framework to appoint a new contractor (see section 3.7.3 and 3.7.4).

3.4.5. Other framework agreements were taken into consideration, but it was determined that the RE:FIT Framework was the most appropriate for these works, as:

- This framework has been identified as a quick and efficient route to market.
- The framework agreement is specifically designed and tailored for decarbonisation projects to meet the needs of public sector organisations.
- The scheme is recommended by other London local authorities who have successfully applied for PSDS funding and delivered decarbonisation works on their local buildings to help meet their climate change goals. To date, 19 London public bodies have used the RE:FIT framework since 2009.

3.5. **Key considerations**

- 3.5.1. Islington Council is committed to shaping and promoting a local economy that is underpinned by the principles of equality and fairness, economic, environmental, and social justice. This builds on work undertaken in response to the Islington Fairness Commission and is part of Islington Council's overarching vision of working towards a fairer Islington.
- 3.5.2. Social value will be a requirement of this contract. The framework agreement allows scope for social values and monitoring/compliance obligations to be incorporated into the specific project requirement and tailored to our requirements. The tender documents will detail a 2 tier social value requirement comprising of a 'Required Social Value' that the appointed contractor must meet and an 'Additional Social Value' that the contractor will be assessed for specifically during the tender exercise/mini-competition stage. A comprehensive description of the required and additional social values can be seen in "REFIT social values" – see Appendix 2.
- 3.5.3. The Council is committed to supporting young people through providing apprenticeship opportunities and is keen to see this also reflected through its contractors.
- 3.5.4. The Council will also seek practical steps to provide opportunities for long-term unemployed individuals who are not in education, employment or training (NEET). A requirement of this contract is that all entry-level posts will be advertised through the council's job portal with the support of the iWork team, where around 400 skilled local job seekers are registered and ready to start work.
- 3.5.5. In addition to increased employment for local people, the Council would like to see practical steps taken to reach out to and employ people from disadvantaged backgrounds, such as young people, particularly those with low or no qualifications, who face significant barriers to a very challenging labour market, and Black, Asian and Minority Ethnic populations who research shows have been disproportionately impacted by the COVID-19 pandemic.
- 3.5.6. Payment of London Living Wage for all staff and operatives working on the delivery of projects under this contract will be a requirement of the contract.
- 3.5.7. The project will have a positive sustainability benefit by cutting carbon emissions from the buildings in scope by reducing the use of gas boilers and an economic benefit to the council by reducing energy consumption at a time of rapidly increasing energy costs. See the Environmental Implications section (4.3) for more detail.
- 3.5.8. There are no TUPE, pension or staffing implications with this project.

3.6. Evaluation

- 3.6.1. The tender will be conducted through a mini competition open to all contractors on the RE:FIT framework agreement. The mini-competition will be run with the support of external consultants and conducted in compliance with Section 4 of the framework agreement and the mini competition procedure set out in Schedule 7 of the framework.
- 3.6.2. The council will issue Invitation to Tender (ITT) documentation including the project brief and a draft contract to all contractors on the framework, inviting them each to submit a Tender Response (for the time limit specified in the ITT).
- 3.6.3. Tenders will be evaluated on the basis of the tenderer's price and ability to deliver the contract works (as set out in the following award criteria) in order to achieve the best value for money for the council, as well as ability to deliver the works within the timeframe set out by the PSDS grant.
- 3.6.4. It is proposed that tenders are evaluated on the basis of 40% cost and 60% quality (which includes the 20% social value). The detailed breakdown of the quality criteria is set out below:

Criteria	Description	Weight [%]
Cost	Cheapest sustainable bid achieves the highest score, all other bids get a pro-rata score	40%
Quality	Overall	60%
Quality will further be broken down into:		
Quality	Proposed approach to delivery of: <ul style="list-style-type: none"> - High Level Energy Appraisals - Investment Grade Proposals - Decarbonisation Works 	15%
Quality	Proposed approach to Health and Safety	5%
Quality	Proposed approach to ensuring suitable resources are in place to deliver the contract	10%
Quality	Proposed approach to working in occupied buildings and in conjunction with other projects on site	5%
Quality	Proposed approach to quality (including environmental sustainability) and contract management	5%
Quality	Proposed approach to social value	20%

3.7. **Business risks**

- 3.7.1. Starting the procurement process early, writing specifications and other procurement documents will be important in mitigating the risk in relation to the timeline in table 2 in section 3.3 above.
- 3.7.2. To mitigate potential risks to the council, the council will put in place safeguarding measures to ensure the projects progress as specified in the contract with minimal adverse impact and disruption to building users. The Energy Services team will carry out independent internal and external audits by appointing third party specialist consultants through a separate procurement exercise, who will carry out cost and quality reviews throughout the project's duration to ensure that the projects provide value for the council over the long term. These third party services include a Quantity Surveyor, a Contract Administrator and a Technical Assurance expert. The contract administrator will liaise with internal and external stakeholders during the delivery of projects to ensure they are kept informed of progress and work with them to resolve issues that may arise.
- 3.7.3. There is a risk that a contractor chosen through the procurement exercise could pull out prior to the signing of the contract. Should this occur alternative suitable contractors will be sought from the framework agreement. The chosen contractor could attempt to pull out of the contract after it has been signed. Should this situation occur, the council's legal department will consider contractual options. An alternative contractor would be sought to deliver the project.
- 3.7.4. The Council only commits to the costs of the IGPs of the first phase of works (first group of 10-15 buildings), which may be free. The council is not obliged to go ahead with the works through the appointed contractor even when an IGP has been produced. There are sufficient funds from the feasibility studies budget to cover the costs of the IGPs of the first phase of works should the IGPs not be offered for free.
- 3.7.5. The capacity of the contractor will be a main requirement of the tender documentation as it is critical that they have the appropriate resources, whether internal or through established sub-contractors, in place to be able to deliver all potential decarbonisation works.
- 3.7.6. Under the Call Off Contract (clause 48), the council has the right to terminate the contract with the appointed contractor at any time for any reason with 90 days' written notice. Therefore, there is no significant risk to the council being tied to a contractor for a long period. In the event the council decides to terminate the contract, the council would simply hold another mini competition under the same framework.

3.7.7. In the case that another mini competition is held, as the RE:FIT Framework would already have received authorisation to be used from the Executive. Awarding a new contract to a new contractor from the same framework would be a delegated decision for the Corporate Director of Community Wealth Building.

3.7.8. The Employment Relations Act 1999 (Blacklist) Regulations 2010 explicitly prohibit the compilation, use, sale or supply of blacklists containing details of trade union members and their activities. Following a motion to full Council on 26 March 2013, all tenderers will be required to complete an anti-blacklisting declaration. Where an organisation is unable to declare that they have never blacklisted, they will be required to evidence that they have 'self-cleansed'. The Council will not award a contract to organisations found guilty of blacklisting unless they have demonstrated 'self-cleansing' and taken adequate measures to remedy past actions and prevent re-occurrences.

3.7.9. The following relevant information is required to be specifically approved by the Executive in accordance with rule 2.8 of the Procurement Rules:

Relevant information	Information/section in report
1. Nature of the service	<p>The council intends to use the RE:FIT framework agreement to procure a contractor pursuant of the framework to complete decarbonisation works for a mix of public buildings.</p> <p>The procurement of these works is crucial in order to reduce carbon emissions from Islington buildings. These works will help in achieving our Vision 2030 goal of becoming net zero by 2030.</p> <p>See section 3.1</p>
2. Estimated value	<p>The potential value of the procurement over Years 1 to 6 is £29.959m.</p> <p>See section 3.2 for the detailed breakdown.</p>
3. Timetable	<p>The indicative timetable is set out within the body of the report. See section 3.3</p>
4. Options appraisal for tender procedure including consideration of collaboration opportunities	<p>After careful consideration of the options available to the council, option 4 is the recommended option.</p> <p>See section 3.4</p>
5. Consideration of: <ul style="list-style-type: none"> • Social benefit clauses; • London Living Wage; • Best value; • TUPE, pensions and other staffing implications 	<p>These are set out in the body of the report.</p> <p>See section 3.5</p>
6. Award criteria	<p>These are set out in the body of the report.</p>

	See section 3.6
7. Any business risks associated with entering the contract	These are set out in the body of the report. See section 3.7
8. Any other relevant financial, legal or other considerations.	See section 4

4. Implications

4.1. Financial Implications

- 4.1.1. In March 2022, the Council approved £5.5m of funding for retrofitting existing council buildings which included £1m each for LED lighting and Solar PV respectively and to date there is now £2.583m remaining. Based on previous applications the Council could expect to secure up to £2.376m Public Sector Decarbonisation Scheme funding in the next three years to 2025/26 but it is a competitive bidding process. Combined with an indicative estimate of £10m of potential additional spend should other funding become available the value of the framework in Years 1 to 3 could be in the region of c. £14.959m.
- 4.1.2. Based on an indicative estimate of a capital programme of £5m per annum (subject to availability of future funding) the potential value of the procurement in Years 4 to 6 could be in the region of c. £15.0m.
- 4.1.3. Combined, the estimated value of the contract across Years 1 to 6 is up to £30.0m, subject to funding. The programme will be closely monitored to ensure that projects only proceed when there is sufficient council and grant funding available.
- 4.1.4. Investment Grade Proposals (IGPs) are anticipated to cost £0-5,000 and evidence from other local authorities is some IGPs will be provided free of charge. However the Council has an approved Carbon Offset Fund allocation of £0.225m which could be utilised to pay for IGPs as required. The Council also intends to apply for Low Carbon Skills Grant funding to support IGPs and has been successful in previous rounds.

4.2. Legal Implications

- 4.2.1 The Council, along with a number of other local authorities, has committed to achieving net zero carbon by 2030. The measures that may be implemented by the contract proposed in this report will assist the Council in achieving that target.

- 4.2.2 The proposal is to enter into a call-off contract from the National Framework for Energy Performance Contracting (RE:FIT) (“the Framework”). The contract would be for an initial period of 36 months with the ability to extend for up to a further 36 months. The total estimated value of the contract over the possible 6 year period is £30.0m, subject to funding.
- 4.2.3 The value of the proposed contract is significantly above the threshold at which the Public Contracts Regulations 2015 (as amended) (“the Regulations”) applies to the procurement of works contracts. As such, the Council are required to comply not only with the Council’s Procurement Rules (“the Rules”) but also the full rigours of the Regulations.
- 4.2.4 The Framework has been procured by an approved purchasing body in accordance with the Regulations and is open for use by the Council. As such, whilst the value of the proposed contract exceeds the financial threshold in table 1 of the Rules, by virtue of Rule 3.1 the procedure for procurement of the contract as set out in the Framework prevails over that set out in the Rules.
- 4.2.5 The Framework commenced on 24 April 2020 and is due to continue for 4 years from that date. Public authorities are permitted to place call-off contracts at any time prior to the expiration of the Framework and such call-off contracts may continue beyond the end of the Framework and for such period as considered reasonable given the scope of the works included within them. Consequently, the Council are permitted to procure the call-off contract for a period of up to 6 years as proposed.
- 4.2.6 As detailed in this report, the tendering approach permitted under the Framework is flexible and the Council is permitted to adjust the questions, evaluation scoring and evaluation weighting as required for a particular project provided these remain within the scope of the Framework and are permitted under the Regulations. Once the mini-competition has concluded, the terms of the Framework require the contract to be awarded based on the Most Economically Advantageous Tender (“MEAT”). The procurement process detailed in this report complies with the requirements of the Framework.
- 4.2.7 As the proposed contract will directly impact or change the fabric of corporate buildings, Rule 2.6.2 of the Rules will apply and the prior agreement of the Director of Corporate Landlord (or their representative) must be obtained in addition to relevant permissions such as building control or planning.
- 4.2.8 As the proposed value of the call-off contract exceeds £500,000 the decision as to the award of the contract lies with the Executive (Rule 18.1.4). However, as set out in Rule 16.2 of the Rules, the Executive may delegate its responsibilities to

Corporate Directors or the Chief Finance Officer. As such, it is possible to approve Recommendation 2.2.

- 4.2.9 Procurement Rule 24.2 states that all contracts over £24,999 will need formal conditions prepared or agreed by the Legal Services Team. In this instance, to proceed with the contract award the Council will need to enter into the call-off contract prescribed as part of the Framework. The terms of the call-off contract can be amended to suit the specific requirements of the Council and to comply with the requirements as set out in the Rules. Following award, the contract and details of the award must be published on Contracts Finder. All contracts with a value above £500,000 will need to be sealed.
- 4.2.10 The Local Government Act 1999 requires the Council to make arrangements to achieve Best Value in the exercise of its functions when considering service provision.
- 4.2.11 The Council has power to enter into the contract under section 111 of the Local Government Act 1972 and section 1 of the Local Government (Contracts) Act 1997 which enable the Council to carry out any activity that is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions, and to enter contracts accordingly.
- 4.2.12 The decision maker can approve the Recommendations contained in this report provided they are satisfied with the contents of the report and they consider the proposed procurement represents best value for the Council.

4.3. **Environmental Implications and contribution to achieving a net zero carbon Islington by 2030**

- 4.3.1. The main purpose of the works to be procured through the RE:FIT framework is to decarbonise council buildings, which is a key element of the council delivering net zero carbon. However, the delivery of the measures will have some environmental impacts during their implementation. These include material and energy use and the generation of construction waste (including the requirement to remove and dispose of earth soil extracted to put in pipework). There is also potential for some nuisance issues such as noise to neighbouring properties during construction. There will also be some travel-related impacts by the suppliers. Mitigation actions will be in place where possible to reduce these impacts. There are no other implications to the environment as wildlife will not be affected by the works.

4.4. **Equalities Impact Assessment**

- 4.4.1. The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant

protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

- 4.4.2. An Equalities Impact Assessment was completed on 17 March 2023. This document will be updated regularly during the project, especially as the total impact of the works for each building cannot be determined until IGPs have been completed, in which the required decarbonisation works for each building will be defined.
- 4.4.3. At this stage, the main findings of the Equalities Impact Assessment are that the decarbonisation measures should overall provide increased thermal comfort to building users, and that the retrofit works will have to be planned carefully to ensure minimal disruption to building users. The premises managers of the buildings under consideration will be consulted to understand their energy needs and requirements, and the appointed contractor will conduct high-level energy appraisals to evaluate the current decarbonisation/energy status of the buildings to determine which energy-saving measures are required for each building. Based on this information, and if the Council is satisfied with the investment grade proposals, the retrofitting works will be scheduled, and the contractor will be informed of the specification and site management to ensure that the work is completed with minimal disruption. Discussions will also be held with premises managers about the construction operation and how works can be carried to minimise disruption to the building users and residents/visitors near the site. If necessary, engagement with local disability action groups and older people will be considered closer to the construction period. Noisy works will only take place between a certain time during the day and will be defined in the terms and conditions of the contract specification. There will be clear communications to building users and local communities around the affected area prior to the works through the means of flyers, letters and emails.
- 4.4.4. The full Equalities Impact Assessment is appended.

5. Conclusion and reasons for recommendations

- 5.1. It is recommended that the RE:FIT framework agreement is used to procure a contractor to undertake feasibility studies and decarbonisation works for council buildings and schools in Islington. This will enable the council to appoint a contractor that possesses the relevant skills and expertise required to successfully deliver the decarbonisation projects needed to meet the council's 2030 net zero carbon target, subject to funding.

Appendices:

1. REFIT programme “reserve bidder” option appraisal
2. REFIT social values
3. Full Equalities Impact Assessment

Final report clearance:

Approved by:

Executive Member for Environment, Air Quality and Transport

Date: 6.7.23

Report Author: Sara Abdalla, Energy Analyst

Tel: 02075272970

Email: sara.abdalla@islington.gov.uk

Financial Implications Author: Owen Darracott, Finance Manager

Tel: 02075272629

Email: Owen.Darracott@islington.gov.uk

Legal Implications Author: Clive Sheldon, Senior Contracts Lawyer, 15th May 2023

Tel: 02075272965

Email: clive.sheldon@islington.gov.uk