



# **Executive Director for Community Services**

## **Report title: Broadway Theatre Works – Approval to award contract to Main Contractor for refurbishment works**

**Date:** 30 November 2021

**Key decision:** Yes

**Class:** Part 1

**Ward(s) affected:** Rushey Green

**Contributors:** Executive Director for Housing, Regeneration and Public Realm; Executive Director for Community Services; SGM Capital Programme Delivery; Director of Law, Governance and HR; Group Finance Manager

### **Timeline of engagement and decision-making**

- 11 March 2020 – Mayor and Cabinet approval to procure suitable Main Contractor for Broadway Theatre refurbishment works (based on lower budget)
- 12 March 2020 - Director of Corporate Resources approval to directly call off the services of Purcell from the Fusion 21 Framework to provide Lead Consultant services for the project (based on lower budget)
- Overall Capital Programme budget approved by Mayor and Cabinet on 7 October 2020 and 14 July 2021
- 13 January 2021 – Mayor and Cabinet approval to tender a Principal Contractor (based on increased budget) and to continue to utilise Lead Consultant services via Framework Agreement
- On 13 September 2021 the Executive Director for Community Services signed a report giving approval to proceed to stage 2 of the procurement process to appoint a Principal Contractor
- 6 October 2021 – Mayor and Cabinet approval to delegate responsibility to Executive Director for Community Services to award contract to a suitable Main Contractor to undertake Broadway Theatre refurbishment works

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## Outline and recommendations

This reports presents a summary of the findings of the procurement exercise to award a contract to a suitable main contractor to carry out the refurbishment of the Broadway Theatre.

It is recommended that Roof Ltd (Rooff) are awarded the contract for a total of £5,410,704 plus VAT.

### 1. Summary

- 1.1 This report outlines the procurement exercise undertaken to find a suitable Main Contractor to undertake refurbishment works at the Broadway Theatre. Following a 2 stage process, five suitably experienced contractors were invited to submit a full tender submission. Two submissions were received and evaluated.
- 1.2 It is recommended that Roof are awarded the contract for a total of £5,410,704 plus VAT.
- 1.3 Should approval be granted the successful contractor will commence work around mid December with a view to completing works by late October 2022 (subject to unforeseen delays on site).

### 2. Recommendations

The Executive Director for Community Services is recommended to:

- 2.1 Approve the award of contract to Roof for the sum of £5,410,704 plus VAT to undertake refurbishment works at the Broadway Theatre.

### 3. Policy Context

- 3.1 The contents of this report support the Council's Corporate Strategy 2018-2022 priorities, particularly "*Building an inclusive local economy: Everyone can access high-quality job opportunities, with decent pay and security in our thriving and inclusive local economy*". The strategy outlines the desire to develop the evening and night time economy focusing on arts and music spaces, cafes and restaurants to help bring our town centres to life.
- 3.2 The contents of this report also support the Council's regeneration strategy: '*People prosperity and place*' which sets out Lewisham Council's vision for the future of the borough. It sets out how the Council, with its private and public sector partners, will work to transform the borough through physical, social and economic regeneration. The strategy specifically sets out a vision for the provision of high quality town centres that meet the needs of the community.
- 3.3 Catford Town Centre is embarking on a major regeneration and redevelopment programme that will see new housing, retail, leisure and open space facilities. The Council has evidenced a strong commitment to Catford through its leadership of the

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Catford Masterplan programme over a sustained period. One principal that the Masterplan will set out is the aim of securing a Phase 1a Delivery programme which will set out a series of early actions and investments that can be made to demonstrate and secure 'early wins', but within a clear strategic framework. Investment in the theatre will allow the building to remain compliant and improve its appeal and accessibility to potential hirers and audience members. This refurbishment of the Broadway Theatre will help retain its iconic status in Catford.

- 3.4 On 11 February 2020 Lewisham was awarded London Borough of Culture for 2021 by the Mayor of London, Sadiq Khan. The bid focused on Lewisham's proud history of activism, harnessing the power of art and culture to make long-lasting social change. The prestigious award will see Lewisham receive £1.35 million to stage an ambitious, year-long programme of cultural events celebrating the wealth of creative talent in the borough and delivering lasting social change. The Covid-19 pandemic has delayed the Borough of Culture year to 2022.
- 3.5 In addition replacement of the electrical wiring, and new heating and domestic water systems is consistent with the Council's energy policy, which was agreed at Mayor and Cabinet in July 2014, and more recently the Council's commitment to the borough being carbon neutral by 2030 and development of a Climate Change Action Plan.

## **4. Background**

- 4.1 The Broadway Theatre, which is Grade II listed, sits in the heart of Catford town centre, and has been owned and operated by the Council since it was built in 1932. The Theatre has multiple spaces within the complex, but primarily there are two active performance spaces: the Main Theatre and the Studio. It is a valued resource to the community offering a mix of music, comedy, theatre and dance. However, in recent years the theatre has been showing its age, with some essential maintenance works overdue and other improvements required to allow the theatre to attract high quality performances and hirers. The theatre also provides limited access to those with disabilities, and is not fully compliant with its licensing requirements.
- 4.2 Mayor and Cabinet approved officers to procure a suitable Main Contractor to undertake the works in January 2021. The package of works include:
- Electrical re-wire of the building
  - New fire alarm system
  - Emergency lighting replacement
  - Installation of internal / external CCTV cameras to enable full compliance with current premises licensing requirements.
  - Various DDA improvements including platform lift to enable access to basement studio and improvements to accessible WCs
  - New heating and domestic water system
  - Upgraded rigging, projector and sound system
  - Replacement of circle seating
  - Redecoration and repair to particular identified areas within the building
  - Localised external works including installation of windows on 3<sup>rd</sup> floor and electronic billboards

## **5. Procurement process**

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- 5.1 A two-stage process was used to appoint a Main Contractor to undertake the refurbishment works at the Broadway Theatre. Stage 1 of the process involved the Council inviting contractors, via the London Tenders Portal, to submit a Standard Selection Questionnaire (SSQ) to provide specialist heritage refurbishment works to the Grade II listed Broadway Theatre on the terms and conditions set out in the invitation to tender (ITT) and the SSQ. Section 6 (Technical and Professional Ability) of the SSQ was evaluated and scored in order to short-list tenderers who demonstrated experience and knowledge of working in a grade 2 listed heritage building. At stage 1 five bidders met the minimum scoring criteria for Section 6 and following approval by the Executive Director for Community Services were invited to submit a full tender submission as part of Stage 2.
- 5.2 Stage 2 tender was open between 16 September and 22 October 2021. Following requests from bidders the deadline was extended to 8 November 2021. Two bids were received. The others did not submit a bid citing reasons for lack of resources or insufficient time to submit a bid.
- 5.3 The tenders were evaluated using the following criteria:
  - Financial detail including price 50%
  - Quality 50%
- 5.4 The qualitative assessment was based on the tendering contractor’s responses to the method statements included in the ITT. These were used to test tenderers’ understanding of service requirements. The questions are summarised in the table below:

<b>QUALITY</b>		
Criteria		
MS 1	Service Delivery	14%
MS 2	Project Management	15%
MS 3	Communication	5%
MS 4	Health and Safety and Covid-19 implications	10%
MS 5	Social Value	6%
<b>Total Quality Weighting</b>		<b>50%</b>

- 5.5 The quality scoring was awarded on a scale of 1 – 10. 1 being inadequate and 10 being perfect. All of the criteria required a minimum quality score of 6 to be considered valid, and the first two method statements required a minimum score of 8 to be valid. Any Tender which failed to attain these minimum scores was deemed invalid.
- 5.6 The tenders were evaluated by the following, who each signed a Declaration of Interest form declaring no interest in submissions:
  - Claudia Lynch - Project Manager, Capital Programme Delivery
  - Petra Marshall – Senior Programme Manager, Capital Programme Delivery

- Carmel O'Connor – Broadway Theatre Manager
- Barry Bugden – Social Value Officer (Social value question only)
- Daiva Bartke – Purcell Architects (external)

5.7 Each officer undertook an independent evaluation of the submissions. A moderation meeting supervised by a Senior Procurement Officer from the Council's Procurement Team took place, whereby all evaluators discussed their scores and reasoning, and agreed a moderated score.

5.8 The price of each tender was evaluated using the Lowest Price Option, in line with the methodology detailed in the ITT document and the worked example, which were provided to bidders as part of the tender pack, as follows:

$$\text{Price score} = 50 \times (\text{lowest valid tender} \times \text{Form of Tender price})$$

5.9 Each bidder's financial submission was checked and scrutinised by the project's Quantity Surveyor consultants, Ridge Ltd.

## 6. Bidder's scores and award recommendation

6.1 The overall scores are set out below:

Rank	Bidder	Credit Safe Score	Weighted Price Score	Weighted Quality Score	Total Weighted Score
1	Rooff	32	50.00	38.1	<b>88.1</b>
2	Company A	82	N/A	Fail	Fail

6.2 Analysis of each of the individual tender submissions are detailed in confidential Part 2.

6.3 The evaluation panel agreed that Rooff submitted a tender with an affordable price, along with a high quality submission. The other bidder failed on quality.

6.4 The contract will be the JCT Intermediate Contract with Contractors design 2016 together with the Council's Schedule of Amendments.

6.5 Should the recommendation to appoint Rooff be agreed, and subject to scrutiny, it is expected that the contract will commence on 15 December 2021. The contract will be for a period of 10 months. It should be noted that this may be longer, if there are unforeseen delays on site, which is quite possible in a building such as this. However the fullness of the preparatory work up to RIBA stage 4 has sought to minimise this uncertainty as much as possible.

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## 7. Financial implications

- 7.1 Roof tender submission was based on the following financial price submission:
- A total fixed price for £5,410,704 plus VAT.
  - Roof's Credit Safe Score is 32, above the Council's required threshold.
- 7.2 This and the associated project costs will be met from the budget set aside for the Broadway Theatre within the overall capital programme budget, the details of which are set out in the Part 2 report.

## 8. Legal Implications

- 8.1 The Council's Constitution contains requirements about how to procure and manage contracts. These are in the Contract Procedure Rules (Constitution Part IV). Some of the requirements in those Rules are based on the procurement regulations (the Public Contracts Regulations 2015 ('the PCR') continue to apply for the time being, as amended by Brexit provisions including the Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 SI 2020 No.1319) with which the Council must comply. Procedures for tendering are to be determined by contracting authorities in accordance with PCR 2015 (regulation 76). These require procedures to be transparent and ensure equal treatment of suppliers. Time limits must also be reasonable and proportionate. This contract has been externally and openly advertised by a restricted (two stage) tender process as required by PCR 2015 and the Council's Constitution. On 13 September 2021 the Executive Director for Community Services signed a report giving approval to proceed to stage 2 of the procurement process to appoint a Principal Contractor.
- 8.2 The report recommends the award of a works contract to Roof for the refurbishment of Broadway Theatre. The value of the contract means that this is a Category A contract for the purposes of the Council's Contract Procedure Rules and one which is to be awarded by Mayor and Cabinet.
- 8.3 If the proposal to award contracts is approved, award notices must be published on OJEU and Contracts Finder in the prescribed form.
- 8.4 The report explains the evaluation approach and process applied to the bid and the reasons for recommending the successful bid for approval. The Invitation to Tender set out that tenderers had to reach specified scores (see Appendix 1). The process followed, including exclusion of the tenderer who did not reach the minimum score, was in compliance with the advertised and required procedures.
- 8.5 This decision is a Key Decision under Article 16.2 (b) and Article 16.2 (c) (xxiii) of the Constitution as it has a value of more than £200,000. It is therefore required to be contained in the current Key Decision Plan.
- 8.6 In taking this decision, the Council's public sector equality duty must be taken into account. It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. In summary, the Council must, in the exercise of its functions, have due regard to the need to: eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not.
- 8.7 It is not an absolute requirement to eliminate unlawful discrimination, harassment,

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victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed above. The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for Mayor and Cabinet, bearing in mind the issues of relevance and proportionality. Mayor and Cabinet must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.

- 8.8 The Equality and Human Rights Commission (EHRC) has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance. The Council must have regard to the statutory code in so far as it relates to the duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found on the EHRC website.
- 8.9 The Public Services (Social Value) Act 2012 requires that when the Council is procuring services above the EU threshold – as is the case here - it must consider, before commencing a procurement process, how the procurement might be conducted so as to improve the social, economic and environmental wellbeing of the area. The matters to be considered must only be those relevant to the services to be procured and it must be proportionate in all the circumstances to take those matters into account. The Council has adopted a Social Value policy which must also be applied; and the Council's Sustainable Procurement Code of Practice will need to be applied to the contract. The report sets out the social value issues which arise, and any future decision by the decision maker will also need to take those matters into consideration.

## **9. Equalities implications**

- 9.1 Failure to deliver the urgent works around health and safety and compliance, and the premises licence agreement requirements for CCTV could result in the need to permanently close the theatre. This would severely impact upon the community who rely on the theatre and for the services they provide.
- 9.2 It is expected that the works will have a positive impact on staff, hirers, visitors and patrons. Moreover the improvements made around disabled access will be of a significant advantage to less abled patrons and take positive steps towards meeting the requirements of the Equality Act 2010.

## **10. Climate change and environmental implications**

- 10.1 The Council's sustainability objectives and commitment to carbon management were addressed in the tender specification which will be included in the contract documentation.
- 10.2 Some elements of the refurbishment will support the council's drive to be carbon neutral by 2030, for example the upgrading of the current heating system, a new BMS and the use of LED lighting and motion sensors on lighting will result in lower electricity use and associated revenue savings on running costs.

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## 11. Crime and disorder implications

- 11.1 The requirement to install CCTV both inside and outside as part of the premises licence will enhance customer and public safety.

## 12. Health and wellbeing implications

- 12.1 The works will improve the front and back of stage and office environment within the theatre, particularly around the heating and lighting systems, and will have a positive impact on health, mental health and wellbeing of the staff working in and visitors using the building.
- 12.2 Health and safety during the design and construction phases was tested through the Method Statements within the tender process, and will be monitored whilst the Main Contractor is on site.

## 13. Social Value implications

- 13.1 A section of the tender evaluation for Quality was based on the social value commitments contractors made in their method statement.
- 13.2 The employment, skills and economy social value targets agreed will be managed by the Local Labour Business Scheme (LLBS) team who will take steps to ensure as far as reasonably possible that apprenticeship, jobs and business opportunity targets are met.

## 14. Contract Management

- 1.1. A Contract Classification is determined by a combination of the level of contract risk, criticality and financial value. The classification for this contract is Tier 1, requiring a minimum of monthly contract management meetings with the provider and quarterly meetings for output monitoring.

## 15. Background papers



Creditsafe\_Company\_Report\_01269689\_

## 16. Report author and contact

- 16.1 Petra Marshall, Senior Programme Manager, 020 8314 7034.

## 17. Comments for and on behalf of the Executive Director for Corporate Resources

- 17.1 Peter Allery, [peter.allery@lewisham.gov.uk](mailto:peter.allery@lewisham.gov.uk), Group Finance Manager, 020 8314 8471

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## 18. Comments for and on behalf of the Director of Law, Corporate Governance and Elections

18.1 Sohagi Patel, Commercial Education and Employment Lawyer, 020 8314 7368

## 19. Approval

**I approve / do not approve the recommendation in this report (including Part 2 confidential appendices):**

Signed:



Date: 2 December 2021

Name (printed): Tom Brown

**Executive Director for Community Services**

If there are any queries on this report please contact Petra Marshall, Senior Programme Manager, 0208 314 7034.

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