

London Borough of Hammersmith & Fulham

Report to: Tony Clements, Interim Strategic Director for the Economy

Date: 03/09/2020

Subject: APPOINTMENT OF EMPLOYER'S AGENT ON WHITE CITY
CENTRAL SCHEME

Report of: David Burns, Assistant Director – Growth

Report author: Ayesha Ovaisi, Development Manager

Summary

This report updates on the Council's progress in implementing Cabinet's 4th June 2019 decision to approve the strategic case which aims to:

Consult with residents to explore the options for the central area of White City Estate, to:

- Create additional affordable housing
- Provide modern community facilities
- Enhance the open space and play provision
- Support thriving neighbourhoods

Officers now seek a decision to appoint the recommended Employer's Agent for the White City Central scheme.

Recommendations

The Strategic Director for the Economy is recommended:

1. To approve that Appendix 1 of this report is not for publication on the basis that they contain information relating to the financial or business affairs of any particular person (including the authority holding that information) as set out in paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).
2. To appoint Arcadis LLP as Cost Consultant and Employer's Agent for the White City Central scheme through to RIBA stage 7; at a total cost of £640,000 with a break clause after RIBA stages 1 and 3, such that the approval extends only to a commitment of at-risk expenditure up to the end of RIBA stage 1 of £68,000 and RIBA stage 3 of a further £87,000.

3. To approve a 15% contingency of £23,250 for the services to be delivered by the Cost Consultant and Employer's Agent for the White City Central scheme up to the end of RIBA stage 3.

Wards Affected: Wormholt and White City ward

H&F Priorities

Our Priorities	Summary of how this report aligns to the H&F Priorities
Building shared prosperity	The Employer's Agent will ensure that the Main Contractor will procure local businesses and sub-contractors, where possible, to maximise impact to the borough.
Creating a compassionate council	The Employer's Agent will facilitate the comprehensive public consultation on the proposals to provide modern fit-for-purpose schools through the provision of quality homes. In addition, the Employers Agent will ensure that a robust set of Employers Requirements are adhered to, ensuring that the Council's requirements are met.
Doing things with local residents, not to them	The consultation mentioned above will go over and above that required by the planning process and will include a virtual consultation event.
Being ruthlessly financially efficient	As above, the robust set of Employer's Requirements will ensure that delivery of the best quality and most financially viable project.
Taking pride in H&F	The brief for the project encourages a quality addition to the borough both in terms of community facilities, housing provision and the physical fabric of the borough. We have also encouraged smart thinking around the creation of shared spaces for the community to benefit from. Will make an incremental step towards zero carbon by 2030 and

	will ensure the construction takes place in the most appropriate way.
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Financial Impact

1. In June 2019, Cabinet approved a capital budget of £2,880,000 to progress the White City Central Scheme to RIBA stage 3 (Planning permission). This budget is to be funded by HRA borrowing¹. Cabinet have approved an initial allocation of £720,300 to progress the project to RIBA stage 1. At 15th July 2020 only £45,622 of the £720,300 RIBA 0-1 budget had been spent, with nothing else committed. This leaves £674,678 available to complete RIBA stage 1.
2. The current project budget is £2,880,000 and is intended to cover spend to RIBA stage 3. This appointment will be for Employer’s Agent services through to RIBA stage 7 (through construction to completion). However, there will be break clauses inserted within the contract that can be triggered at completion of RIBA stages 1 and 3 (see recommendation no. 2) which effectively limits committed expenditure to stage 3 (£178,250). Progressing the scheme beyond RIBA stage 3 (i.e. to construction) will require further cabinet approval so the commitment as a result of this decision is effectively limited to £178,250. The table below sets out the current forecasted spend for the consultant team:

Discipline	Proposed Lead Consultant	Proposed spend to RIBA Stage 1 £000s	Proposed spend to RIBA Stage 3 (incl stage 0-1) £000s
Lead Architect & Design Team	Mae Architects Ltd	357	1,082
Employer’s Agent	Arcadis LLP	68	178
Total		425	1,260

3. Development Board will consider further budget allocations to progress the scheme through RIBA stages 2 & 3 subject to a refreshed scheme appraisal confirming continued viability following the completion of stage 1. Based on the current appraisal the scheme is financially viable, although dependent on 50% of the housing being developed for private sale. If planning permission and procurement of a build contractor is successful (i.e. the scheme proceeds through

¹ The original approval included a £864,000 contribution from right to buy receipts. However as White City has been included in the GLAs affordable housing programme the right to buy receipts have been substituted with GLA affordable housing grant. The trigger point for claiming GLA grant is start on site. Therefore, the GLA grant cannot be applied to the budget to RIBA stage 3 (planning permission) and as such borrowing will be used in its place. This change was recognised through the 2019/20 Capital Budget Monitoring.

to RIBA 7) then further approvals will be needed for the remaining contracted value.

4. Should planning or procurement of a build contractor be unsuccessful then the scheme expenditure to date would be at risk of being written off from capital, turning it into an unbudgeted charge to revenue. The break clauses for this contract cap at-risk expenditure to £178,250.
5. CreditSafe have performed a credit check on Arcadis LLP on 16th June 2020. Their latest score as at 6th December 2019 was 92, which is classified as very low risk. CreditSafe also proposed a 'suggested contract limit' of £50,000,000 which is more than sufficient for the proposed contract value.

Legal Implications

1. This report is recommending the appointment of a Cost Consultant and Employer's Agent for the White City Redevelopment scheme following a procurement exercise using the Notting Hill Housing framework for construction professionals, Lot 3 (Employer's Agent).
2. The value of the contract means that it is over the threshold for services contract above which it needs to be tendered in accordance with the Public Contracts Regulations 2015 ("PCR"). One of the ways of complying with the PCR is to call a contract off a compliant framework. The NHH framework has been previously checked for compliancy.
3. Under Contract Standing Orders, this contract is classed as a High Value contract. Under CSO 19, call off from a compliant framework satisfies the Council's procurement requirements for High Value contracts, provided that the rules of the framework have been followed.
4. The NHH framework includes a set of standard contract terms for use in appointing consultants, and Contract Standing order requires a formal contract to be drawn up for execution as a deed.
5. The decision-maker needs to be satisfied that the recommended contract award will see award being made to the tenderer which submitted the most economically advantageous tender on the basis of the criteria set out in the framework, and an award that is in the best interests of the Council.

Contact Officers:

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Verified by Emily Hill, Director of Finance

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Background Papers Used in Preparing This Report

None

DETAILED ANALYSIS

Proposals and Analysis of Options

1. The Employer's Agent service will provide additional project management resources, oversight on works costs estimates and management of works contract payments in addition to contract management of the main contractor.
2. Assuming the project proceeds past the end of RIBA stage 3 (Planning), the Employer's Agent will also manage the Design & Build Contract procurement exercise and ensure that the contract is robust and administered effectively. Design and Build contracts are LBHF's preferred procurement route, though this is subject to approval of a procurement strategy for the building contract at the appropriate time.
3. The external and internal project team, including Employer's Agent, will enable appropriate management of cost risk and facilitate LBHF in 'Being Ruthlessly Financially Efficient'.
4. Officers have carried out a mini-competition using the Notting Hill Housing Framework, lot CF3 Employer's Agent. The Council's capitalEsourcing portal was used to manage the process. Under the Notting Hill Housing Framework rules, the Framework's Capability Matrix was used to select the four bidders best matched to meet the council's requirements, these four were invited to receive the Council's invitation to tender. One bidder did not submit a tender so three were evaluated.
5. For the recommended tenderer, the price for RIBA 0 through RIBA 3 (Planning) is fixed at £155,000 plus a 15% contingency £23,250 totalling £178,250.
6. For the recommended tenderer, the price for RIBA 4 through 7 (In-use) inclusive is £485,000. Plus 15% contingency £72,750 which totals: £557,750.

Procurement Process

7. The NHH framework allows flexibility as to the split between price and quality/technical evaluation, and in relation to the technical evaluation sub-criteria. In assessing the tenders, and as set out in the Council's Invitation to Tender, submissions were evaluated to ascertain the most economically

advantageous tender on the basis of: 60% on technical / quality and 40% on price.

8. The technical review was based on the following sub-criteria as selected by officers within the NHH guidelines:
 - i. Experience – 30%
 - ii. Approach – 30%
 - iii. Resourcing – 15%
 - iv. Social Values – 5% and
 - v. Risk Management – 20%

Evaluation of Tenders

9. Officers from the Economy Department carried out an evaluation of the three tenders received. Details of the evaluation is contained in exempt Appendix 1.
10. Arcadis LLP scored the highest on the technical review (see summary table below). Arcadis LLP has significant experience of delivering schools, homes and mixed-use developments.

Supplier	Technical Score out of 100%	Commercial Score out of 100%	Total Score out of 100%
Arcadis LLP	82.5%	32.69%	67.56%

11. The contract will allow for break clauses at the end of each RIBA stage if the projects are not approved to proceed at the Council's Gateway process.

Options and analysis of options

12. Option 1 – To appoint Arcadis LLP as the Employer's Agent on the White City Central scheme.
13. Option 2 – do not appoint Arcadis LLP as the Employer's Agent and carry out a new procurement exercise.
14. Option 3 – do not appoint Arcadis LLP as Employer's Agent, leaving the White City Central scheme without an Employer's Agent support.
15. Option 1 has been recommended as the preferred approach. The Council's priorities are still aligned in delivering modern and fit-for-purpose community facilities and new affordable Council housing in the borough and the procurement process has produced a good result in compliance with Council's Contract Standing Orders.

Reasons for Decision

16. The appointment of the Employer's Agent will enable the Council to design proposals for a viable planning application enabling the final business cases for each project to be determined.
17. To deliver new Council homes and community facilities in line with the 4 June 2019 cabinet paper, a tender of the role of Employer's Agent was required and officers have invited tenders and have reviewed the returns concluding that Arcadis LLP offered the best tender submission.
18. The appointment of an Employer's Agent will enable the Council to deliver the best project to meet the aims of the Council's affordable housing delivery programme and community facilities for local residents, and this requires the approval of the SLT member.
19. The fees are within the budget.

Equality Implications

20. There are no anticipated negative equality implications for groups with protected characteristics, under the Equality Act 2010, associated with the approval of the recommended option outlined in this report.

Implications completed by: Fawad Bhatti, Policy & Strategy Officer, tel. 07500 103617.

Risk Management Implications

21. The Construction Sector, amongst others, has been impacted severely by the Covid-19 Outbreak. The Council's affordable housing delivery programme will contribute positively and significantly to recovery providing jobs and opportunities in the local area. Additionally, the Council is being Ruthlessly Financially Efficient by appointing an Employer's Agent to deliver the project using an existing framework and mini-competition. Additional assurance on delivery will be through break clauses at the end of each RIBA stage if the projects are not approved to proceed at the Council's Gateway process.

Implications completed by Michael Sloniowski, Risk Manager, 020 8753 2587 2389

Procurement

22. The results of the evaluation process have been verified against the e-tendering system on 29 July 2020 by Ilaria Agueci, Corporate Procurement Officer.

Consultation

23. Officers have set up a White City Residents' Advisory Panel consisting of local residents on the estate. The project will work closely with residents and co-produce any scheme brought forward.

List of Appendices:

Exempt Appendix 1 – Scores