

## Officer Delegated Decision 17 November 2017

**Report title:** Brixton Central Legal Services

**Ward:** Coldharbour

**Portfolio:** Cabinet Member for Planning, Regeneration and Jobs: Councillor Matthew Bennett

**Report Authorised by:** Sue Foster, Strategic Director Neighbourhoods and Growth

**Contact for enquiries:** Will Steadman, Neighbourhood Delivery Lead, Investment & Growth, 0207 926 4564, wsteadman@lambeth.gov.uk

### Report summary

The Council requires legal advice on the preferred land assembly and developer procurement strategy for implementing the Brixton Central masterplan. The Crown Commercial Service: Government Legal Services Framework (RM919) panel members were invited to respond to a request for expressions of interest before being invited to tender. Following the evaluation of nine submissions and the interview of four tenderers it is recommended that Trowers & Hamlin LLP be selected to provide the services. A separate procurement process has resulted in the appointment of GVA to provide the Commercial Property Services required to support the project.

### Finance summary

The total value of the contract for stages 1 to 4 is £143,313. The recommendation is that only stage 1 of the contract is instigated at a value of £101,598 plus contingency. After stage 1 is completed a further decision report will be drafted seeking approval for Stages 2 to 4 for the remaining £41,715 of the contract value plus contingency. The contract will be funded through approved capital feasibility funding.

### Recommendations

1. To award Trowers & Hamlin LLP a contract in November 2017 to the value of £101,597.50 based on the tendered price (plus contingency allocated for any additional work) to provide legal services to complete and confirm the preferred strategy for delivering the Brixton Central masterplan by 30 September 2018.
2. Subject to a future cabinet decision to proceed with Stages 2-4 of the commission, to award Trowers & Hamlin LLP a contract in Q3 2018 to the value of £41,715.00 based on the tendered price (plus contingency allocated for any additional work) to procure a development partner.

### Reasons for Exemption from disclosure

The accompanying Part II report is exempt from disclosure by virtue of the following Paragraphs of schedule 12A to the Local Government Act 1972:

Paragraph Three: Information relating to the financial or business affairs of a particular person (including the authority holding that information).

## **1. Context**

- 1.1. The Lambeth Local Plan (2015) and Brixton Supplementary Planning Document (2013) identify Brixton as a major town centre that should be protected and promoted through careful and sensitive regeneration in accordance with the Borough Plan's (2016) strong and sustainable neighbourhoods, reducing inequality and inclusive growth objectives.
- 1.2. Policy PN3 of the Local Plan explicitly identifies opportunities for redevelopment in the town centre through Site Allocations 15 and 16.
- 1.3. To understand the site's development capacity and test its viability in accordance with the Site Allocation requirements, the draft Brixton Central Masterplan Development Brief was prepared and consulted on in November 2014. The draft Masterplan Development Brief is currently being reviewed to confirm its deliverability and this process will require input from the appointed advisor.
- 1.4. In accordance with the approved business case, members of the Crown Commercial Service: Government Legal Services Framework (RM919) were invited to respond to a request for expressions of interest. Of the thirteen Legal Advisors who responded to the request for expressions of interest, nine responded to the Invitation to Tender.
- 1.5. The Invitation to Tender addressed the following workstreams:
  - 1A – International House: Identification of Workspace Operator/Investor
  - 1B - Due diligence and Land Assembly / Vacant Possession Strategy
  - 1C – Confirming Procurement Strategy and producing Procurement & Marketing Documents
  - 2 – Developer Selection Stage (Pre-Qualification)
  - 3 – Competitive Dialogue Stage (Single Stage Dialogue)
  - 4 – Recommendations & Appointment
- 1.6. Following a tender evaluation based on Quality (70%) and Price (30%), four legal advisors were invited to an interview used to moderate the quality score awarded for their written submissions. The interview involved five standard questions. The interview panel included the Director of Growth, Planning and Employment (Neighbourhoods & Growth), the Delivery Lead (Brixton & Clapham) and Neighbourhood Delivery Lead (Brixton & Clapham) for Investment & Growth, a Development Surveyor for the Estate Regeneration and Housing Delivery Programme and a procurement officer.
- 1.7. The price evaluation was conducted independently of the quality evaluation. Financial clarifications were also sought to confirm resource allocation and fee proposals.

## **2. Proposal and Reasons**

- 2.1 This report is a Gateway 3 Procurement Report which seeks approval to appoint Trowers & Hamlin LLP to provide the legal services required to prepare the site assembly, developer procurement and tenant management strategies needed to secure redevelopment.
- 2.2 The evaluation of quality was based on the following criteria and scoring:

Criteria Heading	Proposed Scoring Guidance	Score (0-5)	Weight	Total Score
Expertise (1)	<ul style="list-style-type: none"> <li>Excellent appreciation of the project objectives</li> <li>Understanding and experience of the range of skills and expertise required to support the client commercial and wider interests in delivering the scheme.</li> </ul>		25%	
Expertise (2)	<ul style="list-style-type: none"> <li>Clear methodology to complete the schedule of requirements and programme</li> <li>The risks associated with this approach and how they could be mitigated.</li> </ul>		15%	
Expertise (3)	<ul style="list-style-type: none"> <li>Knowledge and experience of land acquisition and compulsory purchase</li> <li>Understanding of the delivery implications of achieving vacant possession, including through use of compulsory purchase</li> </ul>		15%	
Expertise (4)	<ul style="list-style-type: none"> <li>Understanding and experience of the alternative a) delivery/funding and b) procurement routes available to the Council</li> </ul>		10%	
Expertise (5)	<ul style="list-style-type: none"> <li>Understanding and experience of OJEU competitive dialogue process and how to make it as attractive as possible to the market while protecting the client(s) interests</li> </ul>		10%	
Expertise (6)	<ul style="list-style-type: none"> <li>Named staff with relevant experience of delivering complex mixed use inner city regeneration schemes with more than one landowner</li> <li>Schedule of resource for each task, linked to fee proposal, demonstrating how the service will be delivered (no costs should be indicated on this)</li> </ul>		20%	
Management (1)	<ul style="list-style-type: none"> <li>Clear approach to management and communications throughout the different stages of the procurement process</li> <li>Track record of working with technical advisors who are leading the procurement process on behalf of a client</li> </ul>		5%	

- 2.3 The evaluation of Price used the following formula:

$$\frac{\text{Lowest Price Tendered} \times \text{Maximum Score Available}}{\text{Tender Price}}$$

- 2.4 Value for money has been achieved through the competitive process run through the establishment of the Crown Commercial Service: Government Legal Services Framework and the corresponding mini-competition run by the Council.
- 2.5 In responding to the tender requirements and the scoring guidance, the submissions displayed varied understanding and experience of the skills and experience required, including land acquisition and compulsory purchase, to support the Council's interests in delivering the masterplan and its underlying objectives. Trowers and Hamlin LLP displayed an excellent appreciation of the project objectives, their inherent opportunities and challenges and how they relate to Brixton, and this was reinforced at interview through relevant working examples and a strong knowledge of local issues.
- 2.6 Tenderers proposed methodologies and programmes of varied quality for completing the schedule of requirements, and the associated risks. Trowers & Hamlin LLP submitted a detailed methodology to complete the schedule of requirements, backed up by a clearly articulated explanation of the risks at interview. Both the written submission and performance at interview demonstrated the need for partner level involvement in all relevant legal disciplines: property, procurement, planning and compulsory purchase, led by public sector regeneration specialist.
- 2.7 Tenderers demonstrated knowledge and understanding of land acquisition and compulsory purchase. The written submissions, however, were varied in the quality of the examples cited and their relevance to the project, particularly in relation to the use of compulsory purchase. Trowers & Hamlin LLP's written submission proposed a strong and experienced team and this was confirmed at interview.
- 2.8 Tenderers generally acknowledged the different the funding and procurement routes available to finance and deliver development of the complexity proposed. Trowers and Hamlin LLP's submission recognised the strength of the preferred funding and procurement route but also acknowledged the need to test assumptions.
- 2.9 While all submissions showed an understanding of the OJEU competitive dialogue process, and how it can be made attractive to potential development partners, Trowers & Hamlin LLP's submission provided a detailed explanation of how to make the process attractive and at interview presented a team which demonstrated a strong understanding of procurement issues based on relevant and shared experience.
- 2.10 In response to the requirement for tenders to include named staff, with relevant experience of delivering comparable schemes, the strength of Trowers and Hamlin LLP's written submission was highlighted at interview, with public sector regeneration, property, procurement, planning and CPO leads in attendance.
- 2.11 In their written submission and performance at interview Trowers and Hamlin LLP set out a clear approach to managing resources that reassured evaluators of their ability to offer clear legal advice in support of the commercial advisor and in partnership with their client.

### **3. Finance**

- 3.1. The total value of the contract to be awarded to Trowers & Hammins LLP is £143,313.
- 3.2. It is intended that only stage 1 of the contract is instigated at a value of £101,598 plus contingency.
- 3.3. After stage 1 is completed, a cabinet decision report will be drafted seeking approval to complete stages 2 to 4 for the remaining £41,715 of the contract value plus contingency.
- 3.4. The total Stage 1 budget will be met from the approved capital feasibility funding for the Brixton & Clapham team of £360,000.

### **4. Legal and Democracy**

- 4.1 The Council has delegated the authority to enact this report's recommendations to the Strategic Director, Neighbourhoods and Growth. Before exercising that authority, this paper has been reviewed by the Council's Procurement Board.
- 4.2 Procuring via a mini-tender from a properly procured framework is compliant with the requirements of both the Council's Contract Standing Orders and the Public Contracts Regulations 2015 provided the Council is named, or is part of an identifiable group cited, in the original contract notice published in respect of the framework.
- 4.3 As soon as possible after making the decision to award the contract, the Council must provide a written notice to the unsuccessful bidders, naming the winning bidder and describing the characteristics and relative advantages of the successful tender.
- 4.4 The Council is obliged by provisions of the Local Government Act 1988 to provide a written explanation to any person who has not been awarded work for which they tendered within 15 days of a written request to do so.
- 4.5 The Council's Constitution requires that all key decisions, decisions which involve resources between the sums of £100,000 and £500,000, and important or sensitive issues, must be published on the website for five clear days before the decision is approved by the Director or Cabinet Member concerned. Any representations received during this period must be considered by the decision-maker before the decision is taken.

### **5. Consultation and co-production**

- 5.1 N/A

### **6. Risk management**

<b>Risk</b>	<b>Mitigation</b>
Supplier due diligence	Undertaken insurance, financial records and credit (Dun & Bradstreet), health and safety etc checks.
Cost over runs	The commission will be let against a fixed fee, so the balance of risk will sit with the consultant.

Programme over run	The brief will include a caveat that the fee relates to outputs not programme. Should scope increase and therefore programme this can be managed on a case-by-case basis through the project team meetings.
The May 2018 local elections may delay Council's decision making capacity	The brief and projected programme will include a period of Pre-Election Rules on Publicity (PERP).
Communications and co-production	There are a number of pressures facing the town centre in relation to growth and change and this project will address issues at the heart of this debate. As such, a communications plan will be developed as part of the preparation for the procurement phase.

## 7. Equalities impact assessment

- 7.1 Lambeth's Responsible Procurement policy will be used by the appointed commercial advisor to inform the preparation and delivery phase of the procurement strategy for the Brixton Central. This will include the Public Services (Social Value) Act elements of the social, economic and environmental issues and also London Living Wage (LLW) requirements.
- 7.2 An Equalities Impact Assessment (EIA) is being developed alongside the Brixton Central Masterplan Development brief. The work of the appointed commercial advisor will inform this EIA.

## 8. Community safety

- 8.1 The need to comply with Secure by Design requirements will be a key component of any development designed and/or procured.

## 9. Organisational implications

### 9.1 Environmental

The redevelopment of key Brixton town centre sites creates an opportunity, alongside complementary projects and initiatives, to improving air quality through sustainable design and construction, reducing reliance on the car and promoting sustainable travel behaviour.

### 9.2 Staffing and accommodation

The Investment & Growth: Brixton & Clapham team has sufficient resource to manage this contract.

### 9.3 Procurement

Trowers and Hamlin were selected following a procurement process using the Crown Commercial Service: Government Legal Services Framework (RM919).

### 9.4 Health

The redevelopment of key Brixton town centre sites creates an opportunity to improve health, well-being and social cohesion through the provision of a new employment space, retail and community facilities and homes, supported by improvements to Brixton station, Brixton Station Road and Pope's Road and accommodated within well designed buildings and streets.

## 10. Timetable for implementation

10.1 The table below shows the stages, milestones and deadlines for implementing the contract:

#	Item Description	Date
1	Decisions on Line (5 days)	9 – 17 November 2017
2	Return signed contract to procurement board administrator	17 November 2017
3	Anticipated contract start date	17 November 2017
4	Gateway Four report due date	16 February 2018
5	First Contract Performance Review date	25 May 2018

10.2 The contract will be managed by the Delivery Lead in the Investment & Growth team. There will be regular monthly client group meetings in the run up to the launch of the developer procurement process, which will move to monthly meetings thereafter. These meetings will be chaired by the Delivery Lead.

Audit Trail				
Consultation				
Name/Position	Lambeth directorate / department or partner	Date Sent	Date Received	Comments in paragraph:
Cllr Matthew Bennett	Cabinet Member for Planning, Regeneration and Jobs	16.10.17	19.10.17	
Sue Foster, Strategic Director Neighbourhoods & Growth	Neighbourhoods and Growth	17.10.17	20.10.17	
Sandra Roebuck, Director Growth, Planning and Employment	Neighbourhoods and Growth	16.10.17	16.10.17	
Andrew Ramsden, Finance	Corporate Resources	6.10.17	6.10.17	Finance Summary and 3
Michael O'Hora, Legal Services	Corporate Resources	6.10.17	6.10.17	
Maria Burton Democratic Services	Corporate Resources	6.10.17	9.10.17	4
Saif Mahamroot, Category Manager, Procurement	Corporate Resources	6.10.17	12.10.17	
Procurement Board		24.10.17	25.10.17	

Report History	
<b>Original discussion with Cabinet Member</b>	20.4.17
<b>Part II Exempt from Disclosure/confidential accompanying report?</b>	Yes
<b>Key decision report</b>	No
<b>Date first appeared on forward plan</b>	N/A
<b>Key decision reasons</b>	N/A
<b>Background information</b>	Lambeth Borough Plan Lambeth Local Plan Brixton Supplementary Planning Document
<b>Appendices</b>	N/A

**APPROVAL BY OFFICER IN ACCORDANCE WITH SCHEME OF DELEGATION**

I confirm I have consulted Finance, Legal, Democratic Services and the Procurement Board and taken account of their advice and comments in completing the report for approval:

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Post: Will Steadman, Neighbourhood Delivery Lead, Investment and Growth**

I approve the above recommendations:

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Post: Sue Foster, Strategic Director Neighbourhoods and Growth**

**Any declarations of interest (or exemptions granted): N/A**

**Any conflicts of interest: N/A**

**Any dispensations: N/A**