

Report of: Executive Member for Housing and Development

Meeting of:	Date	Ward(s)
Executive	21 5 15	Bunhill
		Non-exempt

SUBJECT: Procurement Strategy for the appointment of a multi-disciplinary team in respect of the redevelopment of the St Luke's Area Planning Brief Site

1. Synopsis

- 1.1 The Council wishes to procure an external multi-disciplinary design team to develop detailed designs and prepare a full planning application to develop sites identified in the St Luke's Area Planning Brief, adopted by the Council on 23 October 2014.
- 1.2 This report seeks pre-tender approval for the procurement strategy in respect of the appointment of the multi-disciplinary team for the St Luke's Area planning brief sites in accordance with Rule 2.5 of the Council's Procurement Rules.

2. Recommendations

- 2.1 To agree the procurement strategy for the multi-disciplinary team for the development of the sites within the St Luke's Area Planning Brief as outlined at paragraph 3.33 below.
- 2.2 To agree to delegate the decision to award the contract for the multi-disciplinary design team at the conclusion of the procurement process to the Corporate Director of Environment and Regeneration in consultation with the Executive Member for Housing and Development. This is expected to take place in November 2015.

3. Background

The St Luke's Area

- 3.1 The St Luke's Area site comprises the existing Finsbury Leisure Centre, the four five-a-side football pitches, the Bunhill Energy Centre, the East-West Nursery and the public spaces and walking routes that run through the site.
- 3.2 The Council has adopted a planning brief for the site. The brief sets out the Council's objective to build a new leisure centre building on Central Street. This building will include new leisure facilities, a new home for an expanded Bunhill Energy Centre, a new nursery and potentially a health centre. Football pitches will be re-provided alongside the leisure centre on the corner of Central Street and Mitchell Street. Council homes and some market sale homes will be provided on the remainder of the site, along with improved public spaces and walking routes. Section 106 monies, including a minimum of £1.1m of leisure contributions and the sale of a proportion of the new homes on the open market will fund the community facilities, and new Council homes including the preparation of the planning application. An independent financial appraisal was completed in February 2013. The financial appraisal is currently being updated.
- 3.3 When the planning brief was adopted in October 2014, the Executive agreed to run a design competition for the new development planned for the site. The design competition would be used to develop concept designs for the site and select a design team. The proposals will be evaluated by a Panel that will include Members and appropriately qualified professionals. The Panel will advise the Corporate Director of Environment and Regeneration prior to him taking the decision to award the contract. In order to launch the design competition, the Council's procurement rules (Rule 2.5) require the Executive's approval on the detail of the procurement strategy. This report forms the procurement strategy for approval by Executive.

Nature of the service

- 3.4 The Council wishes to appoint an external multi-disciplinary team that will develop detailed designs and prepare a full planning application for the site. If planning permission is obtained and the development of the site proceeds, the successful tenderer will also supervise the build out of the development. The multi-disciplinary team will be led by an architect and include other professionals including landscape architects, urban designers, cost consultants and engineers.
- 3.5 Due to the site's constraints and the complex nature of the proposed development, an exemplary design will be required to deliver the Council's ambitions. This will require a very high level of specialist expertise across a number of fields including architecture, landscape architecture, urban design and engineering. The Council does not have this range of professional expertise in-house.
- 3.6 In order to help progress the development of the site, the Council has adopted a planning brief. The planning brief sets out the Council's objectives for the site and how a future development can comply with the Council's adopted planning policies and standards.

Estimated Value

- 3.7 The fees for developing the detailed designs and preparing a full planning application are estimated to be in excess of £500,000 and therefore require Executive approval to the procurement strategy prior to the procurement being launched. This is based on the assumption that the multi-disciplinary team's fees will be at least 1% of overall construction costs (construction costs are expected to be between £56m to £64m). The Council has taken steps to reduce the costs of developing a detailed design and preparing a full planning application for the site. The planning brief resolves a number of design issues, which will

not need to be revisited by the multi-disciplinary team when developing the detailed design. Costs should further be reduced by opening up the procurement process to any practicing architect in Europe. Submissions will be evaluated on both cost and quality. This should enable the Council to demonstrate that it has secured value for money for the commission.

- 3.8 The full cost of running and managing the procurement process (including the initial design stage) will not exceed £100,000. This includes the costs of running a parallel design competition for local young people (see 3.21 below). That cost will be covered by secured Section 106 funding for the St Luke's Area project. The Council has already allocated £1.1m of leisure contributions to the St Luke's project.
- 3.9 It is envisaged that the successful multi-disciplinary team will be novated by the Council to its building contractor/development partner for the site. This appointment will be part of a separate subsequent procurement exercise. The cost of the multi-disciplinary team will be funded from the development. Options for the delivery of the project are currently being appraised and the preferred option will be reported to Executive for approval in early 2016.
- 3.10 If funding for the multi-disciplinary team is reduced, it will be harder to attract a high quality team to bid for the contract. This may result in the appointment of a team that is unable to deliver the kind of exemplary design that is required to deliver the Council's ambitions for the site. There is also a strong likelihood that the development of detailed designs will take longer with a less qualified multi-disciplinary team.

Timetable

- 3.11 The Council proposes to run the procurement process from June 2015 to January 2016. The timetable is set out below:
 - Procurement launch (June 2015)
 - Completed Pre-Qualification Questionnaires submitted (July 2015)
 - Evaluation panel selects list of tenderers (July 2015)
 - Invitation to tender published (August 2015)
 - Selected tenderers submit proposals (September 2015)
 - Public exhibition of design submissions (October 2015)
 - Evaluation panel interviews tenderers (November 2015)
 - Evaluation panel reaches a decision (November 2015)
 - Award of contract (November 2015)

- 3.12 Once the procurement has concluded, the successful team will develop detailed designs and prepare a full planning application for the site. The development of the detailed design will take into account the outcomes of the consultation on the St Luke's Area Planning Brief. It will therefore seek to reflect the aspirations and concerns of the local community as well as giving them the opportunity to view and comment on emerging designs. The Council estimates that planning permission can be secured within 18 months of the multi-disciplinary team being appointed.

Options appraisal

- 3.13 As part of adopting the planning brief, the Executive agreed that a design competition would be used to procure an external design team for the site. A design competition format was chosen as it achieved two important objectives:
 - Community involvement: a design competition can give the community the opportunity to view and comment on designs from the earliest possible stage.

- Design quality: a design competition will be high profile and generate a lot of interest from architects across Europe. This will drive up design standards and secure the very best design team for the site.
- 3.14 The Council has considered three procurement options to deliver a procurement approach that will meet the Council's objectives.
- 3.15 **Design Contest:** under European procurement law, design contests leading to the award of a contract must be submitted and judged on an anonymous basis. Anonymity must be observed until the judging panel has reached its opinion or decision on the submitted designs. The main drawback of this route is that it does not allow the Council to assess a design team's capability to carry out the commission and supervise the carrying out of the development. The design teams' economic and financial standing, track record and expertise cannot be effectively judged. The other major drawback of this route is that design teams cannot present their design proposal to the judging panel and / or attend clarification interviews.
- 3.16 **Open Procedure:** the open procedure is a single stage process. Any multi-disciplinary team could submit a bid that set out how they met the Council's selection criteria and award criteria. If teams fail to pass the selection criteria, then the rest of their tender would not be considered. As with the restricted route (see paragraph 3.17), the open procedure enables the Council to assess a team's capability to complete the commission. However, unlike the restricted procedure, it is more likely to generate a higher number of bids. This will give the Council and the community the opportunity to consider a range of ideas. The main drawback to this procedure is that the Council is likely to be inundated with submissions all of which will have to be evaluated. For this reason the open procedure is normally used in situations where there are a limited number of service providers in the market.

- 3.17 **Restricted Procedure (preferred option):** under this route, applicants would first need to demonstrate that they had the technical and professional ability and track record to complete the proposed commission. This would be achieved through a Pre-Qualification Questionnaire. A fixed number of teams (who met the Council's selection criteria) would then be invited to tender. Teams would submit their proposals as to how they meet the Council's award criteria (split between cost and quality) and attend an interview. The Council would invite more than five teams to ensure a range of ideas is produced. The benefit of this procedure is that it would allow the Council to only assess proposals from a limited number of teams that have the capability to complete the commission. The restricted procedure also allows the evaluation panel to interview the team prior to evaluation and a winner being chosen.

Key Considerations

- 3.18 The development of detailed designs and preparation of a full planning application is an essential element in progressing the development of the St Luke's Area site. The development will bring a number of benefits for local people, including:
- High quality leisure facilities
 - An expanded Bunhill Energy Centre providing cheaper heating and hot water
 - Improved affordable childcare provision
 - A new health centre to cope with rising local demand for primary care services
 - Affordable homes for local people; and
 - Improved public spaces and walking routes

- 3.19 The development of designs is a good opportunity to positively and constructively involve communities

in the design process and give them a sense of ownership of the development.

- 3.20 To help achieve this objective, the selection criteria will require teams to demonstrate that they have a track record of successful community engagement. Community involvement will form an important part of the design element of the procurement process. The community will have the opportunity to view and comment on the design submissions and their comments will be made available to the evaluation panel. On appointment, the successful team will be tasked with producing a community engagement strategy. At regular performance reviews, the Council will assess whether the team is effectively delivering the strategy.
- 3.21 A young person's design competition will run alongside the procurement. The young person's competition will help to raise awareness about the development of the area particularly with young people. It is the Council's intention that the winners of this competition will receive a paid internship with the winning team, which will improve their future employment prospects.
- 3.22 As part of the terms and conditions of appointment, the successful multi-disciplinary team will be required to pay at least the London Living wage to all staff employed on the project.

Evaluation

- 3.23 This procedure will be conducted in two stages known as the restricted procedure as the tender will be restricted to either all or a limited number of organisations that meet the selection criteria. During the first stage, design teams complete the pre-qualifying questionnaire (PQQ). The PQQ establishes whether an organisation meets the financial requirements, is competent and capable and has the necessary resources to carry out the contract. The PQQ is backwards looking and explores how the organisation has performed to date, its financial standing, information about their history and experience.
- 3.24 The second stage (the Invitation to Tender) is forward looking using the award criteria. Tenders are evaluated on the basis of the tenderer's price and ability to deliver the services as set out in the evaluation criteria in order to determine the most economically advantageous tender.
- 3.25 It is proposed to split the award criteria between cost (40%) and quality (60%). Quality is proposed to have a higher proportion of the marks, because of the critical importance of procuring a high quality team that can deliver an exemplary design.
- 3.26 **Cost (40%):** it is proposed that the cost element will be assessed by evaluating the submitted fee proposal. Scores will be assigned to the prices by measuring each total price against the lowest and realistically priced tender submitted. The overall lowest and realistically priced tender will achieve the maximum score and any prices above the lowest will be allocated a proportionate score
- 3.27 **Quality (60%):** each team will be required to submit a design submission and method statements. The design submission will attract two thirds of the quality marks (40% of the overall score). The submission will be assessed against four quality sub-criteria:
 - **Site specific challenges:** has the design submission addressed the site's challenges set out within the brief? (10% of the overall mark).
 - **Design quality:** has the design submission effectively balanced the multiple demands of the site set out in the planning brief? (10% of the overall mark).
 - **Viability:** has the tenderer demonstrated that their design submission can be delivered within the agreed cost envelope set out in the competition brief? (10% of the overall mark).

- **Communication** – has the tenderer effectively communicated their ideas? (10% of the overall mark)
- 3.28 The remaining third of the quality marks (20% of the overall score) will be equally allocated to four method statements: how they will work up the design to achieve planning permission, management and supervision of the project, approach to stakeholder/community engagement and partnership working with the building contractor/developer. Each method statement will be individually assessed to ensure that it delivers a robust and credible method to develop the project.
- 3.29 Prior to tenders being formally evaluated, tenderers will have the opportunity to present their design to the evaluation panel. The interview will also be an opportunity for the panel to ask for clarification on any points within the proposal.
- 3.30 Following the interviews, each of the quality sub-criteria will be scored out of ten. The contract will be awarded to the team that achieves the highest combined cost and quality score (subject to meeting the Council's quality expectations and the price being considered Value for Money for the Council).
- Business Risks**
- 3.31 The main risks and opportunities for the procurement exercise include:
- **Quality of teams:** if the procurement exercise does not attract a sufficiently high number of top quality teams, there is a risk that the Council will not secure a high calibre multi-disciplinary team for the development of the site. The Council has, therefore, commissioned the Royal Institute of British Architects (RIBA) to support the process. RIBA's involvement from the outset will ensure that the procurement opportunity is attractive to architects.
 - **The cost of the winning design:** there is a risk that the evaluation panel recommend acceptance of a tender submission where the design is too expensive to deliver. This could cause a delay to the project and increase the project's overall cost (as the appointed team may need to engage in significant value engineering). In order to mitigate this risk, tenderers will be required to demonstrate how the leisure centre building, which is the most costly single element, can be delivered within an agreed cost envelope (set out within the brief). The cost envelope will be based on the St Luke's Area High Level Cost Plan (prepared by an independent cost consultant). This will ensure that the appointed team develop a viable design that can deliver the Council's ambitions.
 - **The procurement process:** The Council will be advertising the procurement opportunity in OJEU (Official Journal of the European Union) and proposes to use the procurement process as an opportunity to drive up design standards. As the competition will be open to all practicing architects across Europe, the competition is likely to attract a high number of entries which will help to drive up the design standards.
- 3.32 The main risks for the development of detailed designs and preparation of a full planning application include:
- **Design team costs:** there is a risk that the costs associated with the commission will be in excess of the successful team's submitted fee schedule. In order to mitigate this risk, the Council will require the submission of a fixed fee for each stage of the detailed design process and a percentage fee for supervising the carrying out of the development.

- **Design team performance:** there is a risk that the successful team's detailed design proposal will not meet the Council's objectives. In such a scenario, another team may need to be appointed at considerable expense. In order to mitigate this, the selection criteria will assess whether the team has the capability to deliver the commission. On appointment, the successful team will draw up a project plan with staged payments linked to key milestones. At each milestone, the team's performance will be assessed. If the team are under-performing, they will need to explain what corrective actions will be taken. If poor performance persists, the Council will have the option of early termination and will retain all intellectual property rights to the designs.
- **Community involvement:** if the successful team does not sufficiently involve the community in the detailed design process, the community's ideas and concerns may not be taken into consideration. This could result in a poorer design that does not deliver on the Council's objectives for the site, and may generate objections from the community. This risk will be mitigated by the selection criteria, as the team must demonstrate they have a successful track record of community engagement. On appointment, the risk will be further mitigated by requiring the winning team to submit a community involvement strategy. The delivery of the strategy will be monitored throughout the project.

3.33 Relevant information

The following relevant information is required to be specifically approved by the Executive in accordance with rule 2.6 of the Procurement Rules:

Relevant information	Information/section in report
1 Nature of the service	The provision of architectural and related professional services See paragraph 3.4-3.6
2 Estimated value	Over £500k for developing the designs and submission of planning application See paragraph 3.7-3.10
3 Timetable	Award of contract in November 2015 See paragraph 3.11
4 Options appraisal for tender procedure including consideration of collaboration opportunities	This contract will be procured using the two-stage restricted procedure See paragraph 3.13-3.17
5 Consideration of: Social benefit clauses; London Living Wage; Best value; TUPE, pensions and other staffing implications	LLW will be a condition of the contract and will also be paid to the young people who win the internship. See paragraph 3.18-3.22
6 Evaluation criteria	Quality 60% Cost 40%. The award criteria price/quality breakdown is more particularly described within the report. See paragraph 3.23-3.30

7 Any business risks associated with entering the contract	There are mitigating factors to all risks identified. See paragraph 3.31-3.32
8 Any other relevant financial, legal or other considerations.	See paragraph 4.1-4.7

4. Implications

Financial implications

- 4.1 The total cost of the procurement process is not expected to exceed £100,000 and will be funded from S106 contributions allocated to Bunhill Ward.

Legal Implications

- 4.2 The Council owns the freehold of the planning brief site which is currently held primarily for leisure purposes. The Council may develop the site to provide a new leisure centre, social housing and housing for sale, a new nursery and energy centre (section 19 Local Government (Miscellaneous) Provisions Act 1976, section 9 Housing Act 1985, section 18 Children Act 1989 and section 11 Local Government (Miscellaneous) Provisions Act 1976 respectively). Accordingly the Council may procure and enter into a contract for architectural services namely to develop the detailed design of the project, apply for planning permission and if planning permission is obtained and the project proceeds, the supervision of the build out of the development.(section 1 Local Government Contracts Act 1997)
- 4.3 The proposed contract is a public services contract for the purposes of the Public Contracts Regulations 2015. The threshold for service contracts for full application of the Public Contracts Regulations 2015 is currently £172,514. (Estimated value over period of contract).The contract proposed to be Awarded will exceed the financial threshold and therefore will need to be advertised in OJEU. The contract will be procured using the restricted procedure in accordance with the rules relating to that procedure set out in the 2015 regulations.

Environmental Implications

- 4.4 New development at the St Luke's Area planning brief site will require detailed planning consent and so will have to comply with all policy requirements on sustainability including the Development Management Policies and Finsbury Local Plan. A Sustainable Design and Construction Statement (including an Energy Statement) will be submitted demonstrating how the proposal satisfies the policy framework and guidance, meets the highest standards of sustainable design and construction, and promotes sustainability through its long term management.
- 4.5 The proposed moving of the Bunhill Energy Centre presents potential opportunities and risks to the Council's decentralised energy programme. Bunhill Energy Centre has been designed with the redevelopment of the site in mind from the outset to enable the relocation. However, the re-provision of an energy centre to serve the Bunhill Network should maximise opportunities to expand the network and provide further efficiencies through integration of the plant within the redevelopment (such efficiencies could include an expanded generation plant and a private wire electrical network). A relocation of the existing plant will also need to be carefully managed to ensure minimal impact on the operation of the existing Bunhill heat network and the heat supplied to connected buildings. Supply disruption must be minimised to avoid adverse impacts for residents, financial and reputational implications for the Council.

Resident Impact Assessment

- 4.6 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.
- 4.7 The initial screening for a Resident Impact Assessment was completed on 27 March 2015. This did not identify any negative equality impacts for any protected characteristic or any human rights or safeguarding risks.

5. Conclusion and reasons for recommendations

- 5.1 This procurement strategy recommends using the restricted procedure to procure an external multi-disciplinary design team to develop detailed designs and prepare a full planning application for the St Luke's Area Planning Brief sites.
- 5.2 Using the restricted procedure enables the Council to run a highly competitive procurement process. Under the restricted procedure, the design competition will be open to any architect based in Europe, which will drive up design standards and help to bring down costs. Using this procurement approach means that there is a much greater likelihood that the Council will be able to appoint a design team that can draw up an exemplary design that delivers the Council's ambitions for a reasonable fee.
- 5.3 This report sets out a proposal to create a transparent procurement process, including opportunities for positive community engagement during the design competition. Community engagement will help to build a sense of ownership among local people over the design process and overall development of the site.

Appendices and background documents - none

Final report clearance:

Signed by:



5.5.12

Executive Member for Housing and Development Date

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