

DECISION NO:	<i>For Member Services use only</i>
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Concurrence No:	0066419
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Action under delegated authority of Chief Executive	X
Action under delegated authority of Director of Finance and Cabinet Member for Finance	
Action taken by Chief Executive in consultation with Cabinet Member(s)	

Subject: Exception to Contract Standing Orders – ABBC2

Signature and designation of officer(s) taking action:

<u>12/10/2020</u>	<u>12/10/2020</u>	<u>09/09/20</u>
Chief Executive	Date	<i>Pp</i> Director of Finance
		Date
		Head of Finance
		Date

**Name of Cabinet Member(s)
Consulted:**

I have been consulted and concur with
the proposals set out below:

Councillor

Cabinet Member for

Signature:

Date:

Councillor

Cabinet Member for

Signature:

Date:

Name of any member who has declared a
conflict of interest in relation to this decision: _____

THIS DOCUMENT WILL BE PUBLISHED ON THE COUNCIL'S WEBSITE

Officer decisions are available for public inspection, both at the Borough Offices and on the Council's website. Officer decisions are kept for a period of six years at the Borough Offices and for six months on the website after the decision is made. Background papers are available for four years.

RECOMMENDED that: an exception to Contract Standing Orders to allow Gardiner & Theobald to provide project management, contract management and quantity surveying services required for the construction of a new business start-up centre at the Maxwells Farm site be approved.

Purpose

To request an exception to Contract Standing Orders to allow Gardiner & Theobald LLP (G&T) to provide Project Management (PM), contract management (CM) and quantity surveying (QS) services to the Council.

The Project

The Council is proposing to construct a business start-up centre similar to the Ambition Broxbourne Business Centre on a parcel of land at Maxwells Farm, Cheshunt. The land will be transferred to the Council under the terms of the s106 arrangements for the Data Centre which is proposed for another area of the site. The Council is entering into a formal option agreement for the site.

The Council has been granted LEP funding of £5 million, to assist in the design and build costs of the Centre. It is estimated that the total cost of the project will be in the region of £8.6 million (including fees). The LEP funding will be time limited, with a requirement for it to be spent by March 2022. The terms of the s106 arrangements, also include £250k for project management fees and £2 million towards the construction and other costs. However, it should be noted that the s106 monies have not yet been received.

The Council has a tight time line to achieve detailed planning, procurement and building on the site and the process needs to start immediately and the overall project needs to be closely controlled in order to ensure the project meets these deadlines and remains within budget.

G&T is already involved in the overall project for the adjacent Data Centre and business park. G&T has been involved in the planning application, negotiations on the s106 agreement and provided cost consultancy advice across the whole of the site. G&T is therefore fully conversant on the requirements of the overall planning permission, including the provision of drainage, sewerage arrangements and utilities. In addition G&T is running the procurement exercise and reserved matters planning application for the access road that will go through the site. Some of the planning requirements require collaboration with the other developers on the site as a comprehensive approach is required.

G&T is therefore well placed to provide the necessary overall project management and cost management services required by the Council. The appointment would mean that, as G&T are involved in other elements of the overall site, it will be an effective conduit for communications and dispute resolution between all parties on the site as the overall development evolves.

G&T is on the NHS Shared Business Services Framework which the Council is permitted to use for procurement purposes and this has been used to provide an

estimate of fees based on a £7 million construction cost as provided for in the preliminary cost plan for the project.

For the PM fee this is at 1.84% or £128.8k and for the CM fee this is at 1.6% or £111.9k. The percentages are therefore fixed on the overall build cost currently estimated at £7 million. Under this framework the appointment of G&T will then lead on the procurement of other service providers such as architects, structural engineers, mechanical and electrical engineers, principal designer and planning consultants following the Council's normal procurement procedures.

Financial, Legal and Risk Management Implications

The £250k within the s106 agreement for PM fees will cover the cost of this element of the work provided by G&T which is estimated to be in the region of £128.8k. However, if the s106 money has not been received by the time the payment to G&T needs to be made, the cost for the PM work will be funded from the Council's existing development projects budget which currently has a balance of £1.938m. If the development projects budget is used it will be replaced when the s106 is received. The funding provided by the LEP will cover the QS fees which is estimated to be in the region of £111.9k. The total combined fee is therefore estimated to be in the region of £240.7k.

The proposed appointment of G&T will enhance the overall continuity of the proposed developments at Maxwells and reduce the likelihood of conflicts between the end users and the need for costly arbitration procedures. It will also reduce the other risks across the whole site in managing timelines for the overall construction and achievement of reserved matters planning.

Alternative Options Considered and Rejected

The Council could carry out a tender process for these services which would be time consuming and would prejudice the loan and grant awarded by the LEP as the Council would not be able to provide comfort on the timeline required to meet the LEP's spend requirements. It would also be unlikely to produce a fee proposal better than that offered under the framework agreement. Managing conflicts between the overall users of the site will be simpler having one entity involved in all aspects with the necessary duty of care considerations to all parties as is the case with G&T and reduces the risks of costly arbitration between parties.

Contribution to the Council's Objectives

The proposal supports the following Council objectives:

A thriving Economy

2. Enable sustainable growth in local employment for residents by encouraging the creation of high-skilled, high-value jobs on identified sites.
5. Work with local business and education partners to provide a skilled workforce.

An effective Council

15. Maintain a stable financial position.
16. Build strong partnerships to deliver more for the Borough.

Conclusion

In it clearly in the best interests of the Council to approve an exception to Contract Standing Orders to allow G&T to be appointed to provide PM, CM, QS and other relevant disciplines to enable the construction of a business start-up centre on the Maxwells site.

Contact Officer: Kevin Clark

Ext: 5541

Date

26 August 2020

Action reported to the Cabinet on:
