

Drivers Jonas Deloitte.

HCA Delivery Partner Panel

Southern Cluster

OJEU Reference 2009/S 144-211068

Mini Competition Stage 3

Invitation to Tender for: South Oxhey Initiative
Site, Hertfordshire

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Project Overview

Project Aims and Objectives

The Council is seeking to deliver a mixed use regeneration opportunity within the heart of South Oxhey and the aspiration is that this scheme should include significant new private and social residential accommodation, a food store, new retail unit shopping together with community facilities. A development partner, from the HCA's Delivery Partner Panel, is being sought to work with the Council to deliver this scheme and maximise the economic benefits arising from this. The Council is seeking to select the development partner that can offer the most economically advantageous tender for delivering a scheme in accordance with the Council's aspirations.

Governance

A structure chart setting out the Council's internal governance is included at Appendix A.

The Council envisages that its role as landowner will be primarily in supporting the Preferred Developer in preparing a scheme for the site.

The Council will be the contracting authority for this project. Both the Council Officers and its Members are fully committed to this project and regard it as strategically important to the regeneration of the South Oxhey area.

The Council's Officers and its Members have worked closely with the Council's consultants in developing the Brief for this project and also agreeing the key evaluation requirements against which Tender submissions will be assessed.

Professional Team

The Council's professional team for this exercise comprises its Officers, who are supported by the Council's property consultants, Drivers Jonas Deloitte and its external legal advisers, Clarke Willmott.

The provisional selection of a Preferred Developer will be undertaken by the evaluation team which comprises:

- Council Officers (Property)
- Drivers Jonas Deloitte (Commercial Property)
- Clarke Willmott (Legal Agreement)

The Council aims to report to its Executive Committee on the selection of a Preferred Developer by the end of March 2013.

1 Introduction and Instructions to Tenderers

Introduction

This Invitation to Tender (ITT) has been issued by Three Rivers District Council (the Council) as the third stage of the tender process for the selection of a Preferred Developer for the South Oxhey Initiative site (the Site).

The Council has received and evaluated completed Sifting Briefs from Panel Members and shortlisted parties have been issued with this ITT.

Please read this ITT and all supporting information very carefully and return all required information requested in the format set out within Section 4.

Prior to commencing our evaluation process, submissions will be checked to ensure compliance i.e. that they fully meet the instructions for submission as set out in this ITT. Submissions that do not do so may be rejected by the Council without being evaluated further.

Submissions will be evaluated using the scoring system detailed in Section 5.

Following any required clarification by Tenderers and the Council's evaluation process and any further shortlisting, the Council intends to appoint a Preferred Developer.

The Council also reserves the right to appoint a Reserve Developer, receiving the second highest score, based on the same criteria as that of the Preferred Developer. The Council will seek to proceed with this Reserve Developer should acceptable terms not be agreed with the Preferred Developer within a reasonable period.

The Council reserves the right not to select any shortlisted party as a result of the current procurement process.

Weblink

All Tenderers will be provided with a weblink to access all supporting information relating to this procurement process via a secure part of the Drivers Jonas Deloitte website. Please note that given the sensitive nature of some of the supporting information contained on the website and, in order to receive a weblink, all Tenderers will be required to sign and return the Confidentiality Undertaking attached at Appendix B of this ITT. An email version with a scanned signature is acceptable

All Tenderers will be advised, by e-mail, of any updates that are made to the website during the tender process.

Anticipated ITT and Delivery Programme

Set out below is the proposed ITT and delivery programme. This is intended as a guide and, whilst the Council does not intend to depart from the timetable, the Council reserves the right to amend the timetable at any stage:

Stage	Timescale
ITT issued to shortlisted parties	By 1 st November 2012
Pre submission clarification meetings	13 th November, 28 th November and 11 th December 2012
Pre submission legal workshop	Date to be confirmed
Latest date for enquiries/questions	To be confirmed
ITT returns	12:00 hours on 20 th December 2012
Post submission presentations	15 th and 16 th January 2013
End of ITT shortlisting process	End of January 2013
Legal meetings with end of ITT shortlisted parties (detailed Heads of Terms with a maximum of 2 parties)	February 2013 to March 2013
Confirmation of Preferred Developer (subject to Council approval)	End of March 2013
Council enters into legal agreements with Preferred Developer	End of June 2013
Detailed design for planning application(s)	April 2013 to September 2013
Submission of planning application(s)*	September 2013
TRDC commence CPO process (in tandem with developer preparation of planning applications)	September 2013
Planning permission secured	March 2014
Anticipated timescale for CPO Inquiry	March 2014
CPO confirmed	September 2014

*It is anticipated that the preferred developer will prepare and submit an outline application for the entire site and a detailed application for the first phase.

Pre Submission Clarification Meetings

Each of the Tenderers will be given an opportunity to meet with the Council and its advisors to seek clarification on any matters relating to the ITT and its requirements. Currently, the following dates have been reserved – **13th November, 28th November and 11th December 2012.**

Representatives from the following departments within the Three Rivers District Council will be available to attend these meetings:

- Asset Management
- Planning Policy
- Development Control
- Housing

The following departments within Hertfordshire County Council will be available to attend these meetings:

- Transport

If appropriate, representative(s) from Thrive Housing Association will also be available to attend these meetings.

These meetings are primarily intended to provide Tenderers with an opportunity to pose specific questions and seek clarification on any issues in relation to their submissions. All Tenderers will be invited to provide any specific questions/areas for discussion (or request representation from other Officers of the Council not mentioned above) that they wish to be raised **at least 3 working days in advance of the anticipated clarification meeting date**. This will ensure that appropriate Council officers are in attendance.

In addition, the Council is also intending to organise a specific legal workshop session with Tenderers to discuss their preferred legal structure for scheme delivery. Whilst the Council's preferred legal structure is set out in Section 6 of this document, this is not fixed. As part of the ITT submission response, Tenderers are requested to provide their comments on this (restricting this to areas that raise cause for concern and/or the Tenderer is not prepared to agree) or outline an alternative approach.

The purpose of the legal workshop will therefore be to explore either a) the Tenderers amendments to the Council's preferred structure or b) the Tenderers alternative approach. This is to ensure that at the End of ITT Shortlisting stage, the Council is able to negotiate Heads of Terms that are acceptable to both parties. **The date for this session is to be agreed with Tenderers.**

The Council reserves the right to require and offer further clarification meetings prior to the Tender submission date.

Post Submission Presentations

Tenderers will be required to present their Tenders to the Council after submission and the following two dates have been reserved for this purpose – **Tuesday 15th and Wednesday 16th January 2013**. Please ensure that these dates are blocked out in your teams' diaries. The purpose of these presentations will be to provide the Council with an opportunity to seek clarification of any aspects of the submissions. Tenderers will be advised of any specific points that need to be discussed at least 5 days in advance of their allocated presentation date and time.

Following Tenderer presentations, and where any clarifications to submissions have been agreed with the Council, Tenderers will be required to confirm any agreed clarifications, by email or letter, within a time period to be agreed.

End of ITT Shortlisting

As previously mentioned elsewhere within this ITT, the Council has reserved the right to split the Tender process further, i.e. into 2 stages, at a later date to minimise potential abortive work. This means that in order to negotiate detailed Heads of Terms the Council may, at its absolute discretion, reduce the number of shortlisted parties further, to 2, following the 'Post Submission Presentation'.

Enquiries and Communication

During the Tender preparation period, Tenderers may submit questions and/or requests for clarification or further information.

All communications from Tenderers (including their consortium members) must be directed to Davena Wilson (davenwilson@djdeloitte.co.uk Tel. **020 7303 4160**) of Drivers Jonas Deloitte **by email or phone**. The deadline for communications to be confirmed.

All communications should be clearly headed **ITT for South Oxhey Initiative** and include the name, contact details and position of the person making the communication.

Please do not approach third parties on the Site directly; the Council's preference is for all communication to be directed via Davena Wilson in the first instance.

In order to ensure equality of treatment of Tenderers, the Council intends to publish the questions and clarifications raised by Tenderers together with the Council's responses (but not the source of the questions) to all participants on a regular basis. This includes any questions raised during the pre submission clarification meetings.

Where questions and points of clarification are considered commercially sensitive by Tenderers, this should be identified prior to any discussions taking place so the Council's representatives can consider whether they can be omitted from the published schedule of responses.

When submitting an enquiry or request for clarification or further information, Tenderers should indicate clearly if a query is of a commercially sensitive nature or where disclosure of such a query and the answer would or would be likely to prejudice its commercial interests. This should be done through marking the enquiry or request for clarification or further information 'Confidential – not to be circulated to other Tenderers'. At its absolute discretion, the Council will respond to that specific request privately, providing that the principle of equal availability of information to all Tenderers need not be breached.

If the Council considers that, in the interests of open and fair competition, it is unable to respond on a confidential basis, it will inform the Tenderer that has submitted it.

The Council reserves the right not to respond to a request for clarification or to circulate such a request where it considers that the answer to that request would or would be likely to prejudice its commercial interests.

The Council, and its advisors, will answer all questions as quickly as possible, but cannot guarantee a minimum response time.

Instructions for Submitting Tenders

The deadline for submission of Tenders is **12:00 hours (noon) on 20th December 2012**.

Completed Tenders are to be returned by post to Three Rivers District Council Offices, Rickmansworth to arrive by the deadline date and time above. Your completed Tender should be returned sealed securely in an opaque envelope/parcel, with the enclosed address labels affixed to the front and back of the envelope/parcel and bear no distinguish marks that identify the sender. Address labels are enclosed at Appendix D.

The covering letter accompanying your postal submission must include your company contact details for future correspondence.

2 The Site

Introduction

The Site is located within the heart of South Oxhey, very close to Carpenters Park mainline station and is bounded by Fairfield Avenue to the north, Station Approach and Prestwick Road to the east, Oxhey Drive to the south and Henbury Way to the west, as illustrated on the site boundary plan at Appendix C.

The Site includes a mixture of retail unit shopping, social housing, community uses and surface car parking. South Oxhey functions as a District Centre and therefore serves the local community's basic, day to day shopping needs. There are 74 existing retail units (spread across 68 individual outlets) a significant proportion of which are small national convenience outlets e.g. Greggs, Co-op, Nisa and McColls. There are no national multiples trading as comparison outlets as these tend to be small independent operators.

In response to queries raised during the Sifting Brief the Council have removed the reference to 'Core Site' and 'Comprehensive Site' from this document and refined its approach by stating its aspirations.

The Council's aspiration is for a comprehensive site redevelopment as a wider scheme is better able to deliver economic, social and environmental enhancement of the area, in addition to increased housing (which is in line with planning policies within the Core Strategy). Tenderers should note that a comprehensive site redevelopment would include community facilities that do not fall within the Council's land ownership and these would require replacement within any new scheme. Appendix C highlights the boundary of the site.

General Site Constraints/Available Technical Reports

The Drivers Jonas Deloitte website includes a Preliminary Feasibility Report. This report provides background information on general site constraints and includes the following technical information:

- Spot level survey
- Desk top environmental report
- Services information (water, gas, electricity and telecommunications)
- Highways
- Foul and surface water drainage

In addition, the website also includes an abridged version of the Lambert Smith Hampton Retail Report. A report on the local residential market, prepared by Site Sales Ltd, will be available from the 7th November 2012.

Thrive Homes

Thrive Homes own all of the social housing units within the site. There are 98 flats in total, arranged in blocks, the majority of which are located above the retail unit shopping. Tenderers will already be aware that the Council is in the process of seeking agreement on terms for the purchase of Thrive's existing stock and provision of new stock to replace their 98 social rented flats. Whilst the working assumption has been that any replacement units would be acquired by Thrive, given that negotiations with Thrive have not been concluded, the Council advises that Tenderers are free to put forward alternative proposals for this aspect of the scheme. In other words, proposals setting out how any replacement units would be delivered and managed will be given full consideration by the Council.

Tenderers should note that the final number of social housing units will be subject to any property sales under the RTB/RTA process.

Levitt Bernstein Capacity Study

The Council instructed Levitt Bernstein to undertake a capacity study to establish the broad quantum of development that could be accommodated on site. A copy of this study was made available to all panel members at Sifting Brief stage (email from Davena Wilson dated 25 September 2012). The study shows in excess of 500 residential units in addition to a 25,000 sq ft (net) food store and approximately 40,000 sq ft of additional retail accommodation. Please note that this additional retail is higher than the figures suggested by the Council (see development aspirations at Section 3), this is because the architect was specifically instructed to test the maximum capacity that could be accommodated on site, should sufficient demand exist.

The Levitt Bernstein scheme is therefore intended to provide an indication of development capacity and is not fixed. The study has been prepared as a means of better understanding the mix of uses and quantum of development that may be achievable and to gain the Council planning team's views at an early stage in the process. Initial consultation with the planning team has recently been undertaken and early feedback is positive.

A report, prepared by Levitt Bernstein, summarising the capacity study, consultation process and outcome is available to view on the Drivers Jonas Deloitte website.

3 The Council's Aspirations

Development Aspirations

As previously mentioned, the Council's aspiration is to achieve a comprehensive redevelopment of the South Oxhey area. The Council has itemised its aspirations so that Tenderers may better understand the Council's priorities:

- Mixed use redevelopment of the site;
- An anchor food store (s) totalling 25,000 sq ft. net sales area;
- Additional 25,000 sq ft.net of complimentary retail unit shopping;
- An affordable housing component of 98 replacement homes on a like for like mix of social rent, with a minimum of 50 being delivered as a first phase to facilitate the decant of the first block;
- The maximum level of additional new residential accommodation that planning requirements, amenity levels and site constraints will allow;
- Provision of a new Community Hub that will reflect all current occupants but provides a more efficient use of space; and
- A financial offer to the Council (see below for further detail on this point).

Community Engagement

The local community has been consulted extensively on the proposals for regeneration of the Site including the development of a site wide Masterplan.

Following the capacity study undertaken by Levitt Bernstein, a consultation event was held on the 27th September 2012. The purpose of the event was to consult with the local community and stakeholders on the extent and quality of transformation that could be achievable on site and, in particular, to introduce potential concepts and design formats that may need to be considered during any planning application consultation period.

The general outcome of the consultation event has been positive. The Council will continue to manage the process of community consultation during the developer procurement process. Following selection of the Preferred Developer, the Council anticipates that it will jointly approach relevant stakeholders and the local community as part of any subsequent planning application process.

Financial Expectations

The Council, as landowner, is prepared to use its assets to achieve the regeneration of the area. The Council is expecting to receive a return for this and is requesting that Tenderers put forward a financial offer (on any suitable basis) that maintains overall viability of the scheme.

The Council is not intending to input any further capital into the project; however it expects its reasonable costs in promoting this opportunity to be recovered as a capital payment *in the event that a transaction proceeds*. An appropriate cap on these costs will need to be agreed between the Council and its preferred developer partner.

The Council's preference is to minimise its exposure to risk with respect to planning and land assembly, however The Council is prepared to underwrite the costs associated with the preparation of a planning application and pursuing a compulsory purchase order *in the event that a transaction does not proceed*. An appropriate cap on these costs will need to be agreed between the Council and its preferred developer partner.

4 Tender Requirements

Explanation of Tender Requirements

The Council's preferred vision is for a comprehensive development incorporating the site shown in Appendix C. A comprehensive redevelopment of the SOI area has the potential to deliver not only a re-invigorated and more relevant shopping area but to replace out-dated community facilities and social housing and to complement this with additional housing for sale or rent. Tenderers should note that the replacement of out-dated community facilities will require the acquisition of existing community facilities and their replacement within a Community Hub.

The wider scheme is better able to deliver economic, social and environmental enhancement of the area, in addition to increased housing which is in line with planning policies within the Core Strategy.

However, recognising that the Council needs to be flexible in the face of any delivery or viability issues that Tenderers may highlight and, in recognition of the potential risk associated with assembling the existing community facilities, there is an opportunity to develop and deliver a smaller scheme. For the avoidance of doubt The Council will consider Tenders based on a *smaller site area as an alternative*.

Information Required

Part 1 – Company and Consortium Information (Not scored, for information only)

Tenderer's company name, registered address and principal contact details (name, position, contact telephone number, postal address and email address).

Part 2 – Scheme Concept (Scored)

Short **scheme concept statement** to provide those assessing your submission with an explanation of your vision, a summary of the various uses (including those that have been re-provided/relocated) within it and how the scheme responds to the Council's delivery aspirations as set out within Section 3 of this document as well as the Council's planning policies and Design Brief (see the Drivers Jonas Deloitte website for links to relevant policy documents and the Design Brief). In addition, the scheme concept statement should also include:

- an outline of the Tenderer's approach to sustainable design and construction to include the anticipated BREEAM rating for the food store and other commercial uses and any other **sustainable design measures** proposed; and
- a statement setting out your proposals for **long term estate management**.

Scheme plans highlighting:

- The extent of the scheme – clearly showing the site boundary
- Mix of uses, on a floor by floor basis, in block plan form
- Phasing of development
- Car parking areas including access and egress
- Indicative retail servicing arrangements
- Any other aspects likely to impact on local roads and transport
- Active frontages and entrances to dwellings
- Indicative sections and elevational treatment – to demonstrate bulk and massing only (the Council is not expecting to receive detailed elevations and sections for individual buildings etc.)
- 3D and eye level perspective drawings illustrating scale and massing, including in relation to adjoining areas

- Any additional illustrative material may be submitted by Tenderers where considered appropriate.

Please note that the Council is not expecting to receive this information as individual plans. Please overlay this information onto as few plans as possible to reduce the volume of information submitted. For example, the plan showing the extent of the scheme could also include the mix of uses at ground floor, indicative phasing, car parking locations, retail servicing arrangements and the location of active frontages. Additional plans could be submitted to illustrate upper floors. Sections/elevations and eye level perspectives could be submitted as separate plans.

A **floor area schedule** showing the split between uses/tenure type/sizes and proposed car parking numbers.

Part 3 – Physical Deliverability (Scored)

Outline design and planning statement specifically responding to Design Brief. This document is available on the Drivers Jonas Deloitte website. The design and planning statement should include:

- precedent images, only where relevant, for any specific design elements proposed (including the location and developer);
- the approach to the inclusion of affordable housing including mix of tenure, quality of landlord services and track record (for the avoidance of doubt this relates to affordable housing in addition to the replacement of 98 existing social housing units);
- a planning statement setting out your approach to securing planning consent for the scheme and engagement with the local community throughout this process; and
- a transport statement which should focus solely on any significant issues that the scheme may pose and how you would address these in a Transport Assessment.

Retail letting statement. This should focus on the identity of the proposed food store operator, any national multiple retailers and existing retailers.

A **decant plan** for the replacement of 98 social housing units, currently owned by Thrive Homes.

A statement on the intended approach to **land assembly** of the existing retail units and, potentially, community uses.

An overall **development programme** showing key dates and development phasing, from preferred developer appointment through to project completion. The programme should be prepared using Microsoft Project.

A statement on non financial **project risks**, ideally in bullet point form, with proposed control and possible mitigation measures.

Part 4 – Financial and Legal Deliverability (Scored)

A **Financial Schedule** in the format set out in Appendix E. The schedule provides Tenderers with the opportunity to clearly set out scheme costs and values in a format that can be easily assessed. Tenderers should include an explanatory statement setting out developer profit margins and the basis of the financial offer to the Council. All parts of the Financial Schedule must be completed. Failure to complete and return the Financial Schedule will result in your Tender being disqualified.

A **Development Cashflow**, in excel format, that includes a profile of all costs (including profit margins, fees and finance), commercial revenue, residential revenue (on a phased basis if appropriate) and the timing of any financial offer to the Council. Formulas may be restricted to protect commercial and intellectual property.

A **Funding Structure Chart** (and accompanying explanatory statement if necessary) that sets out:

- the entity that will be entering into a legal agreement with the Council;
- proposed funding sources and the timing of draw down for these funds; and
- confirmation that the Tenderer is willing to provide a parent company guarantee (to guarantee physical and financial performance throughout the duration of this project). Please provide details of the proposed parent company guarantee.

Draft **Head of Terms** for a Conditional Development Agreement will be available on the Drivers Jonas Deloitte website during week commencing 5th November. As previously mentioned elsewhere within this document, whilst this is the Council's preferred legal structure, it is not fixed. Please **provide comments on areas that raise cause for concern and/or you are not prepared to agree or outline an alternative approach.**

In addition, a short statement is required detailing the Tenderers **approach to planning and CPO fees**, including internal costs.

Part 5 – Economic Development and Wellbeing (Scored)

It is important that the Council's preferred developer partner is able to demonstrate that their scheme will positively impact on the social environment within South Oxhey. A statement is therefore required setting out the following:

- Proposals to provide more social, employment and economic opportunities for South Oxhey, including apprenticeships;
- Proposals for establishing and maintaining an effective structure to involve the local community in the project; and
- Sustainable funding for the existing community facilities, their relocation and long term funding.

Part 6 – Resourcing (Scored)

Confirmation of the **project team** and roles/responsibilities of individual members of the team, ideally in bullet point form. Please do not include corporate CVs as your team's general experience has already been assessed at Sifting Brief stage. We are interested in understanding how you intend to resource the project, particularly those individuals that will have day to day contact with the Council team.

Submission Format

Tenderers should supply the following information:

- 8 bound hard copies. Parts 1, 2, 3, 5 and 6 should be bound as a single document. Part 4 should be bound separately.
- 4 electronic copies on CD
- A minimum of two A3 sized presentation boards to illustrate the scheme layout and elevations (bulk and massing only, not detailed elevations).

5 Tender Evaluation

Evaluation and Scoring Process

Submissions will be evaluated and scored in accordance with the award criteria included within Appendix F.

Each evaluation area includes a series of technical sub-criteria that will be marked out of 5, in accordance with the criteria within Appendix F. Different weightings have been applied to these technical sub-criteria reflecting the relative importance of these areas to the Council.

The successful Tenderer will be the Tenderer that achieves the highest score and so, in the opinion of the Council at the conclusion of the evaluation, offers the Most Economically Advantageous Tender to the Council having regard to the criteria set out at Appendix F. However, where the difference between two highest scoring Tenderers is marginal or tied, then these Tenderers will be invited to participate in an End of ITT Shortlisting Process to agree detailed Heads of Terms for a Conditional Development Agreement. The evaluation criteria area relating to legal matters (within the Financial and legal deliverability evaluation area) will be the only area that is re-scored at this point. A summary of the maximum un-weighted and weighted scores is included in the table below:

Evaluation area	Maximum un-weighted score	Maximum weighted score	Weighted percentage of total score
Part 2 - Scheme concept	25	80	20%
Part 3 - Physical deliverability	35	130	33%
Part 4 - Financial and legal deliverability	35	135	33%
Part 5 – Economic Development and Community Involvement	15	40	10%
Part 6 – Resourcing	5	15	4%

Mandatory Standstill and De-Briefing

Following the conclusion of the procurement process there will be a standstill period before the award and Tenderers will be notified of information in relation to the award in accordance with the Public Contracts Regulations 2006 (as amended).

6 Legal Documentation

Role of the Preferred Developer

As highlighted at Sifting Brief stage, the Preferred Developer will be responsible for:

- Assembling a team with a record and capability of delivering the high quality scheme required for this site, in line with the Council's aspirations;
- Managing the development process;
- Securing all requisite planning permissions;
- Completing a S106 agreement with the Council, in its capacity as Planning Authority, together with any other necessary statutory agreements;
- Carrying out the overall marketing and branding of the development and subsequent sales activity;
- Engaging with existing retail tenants and the local community;
- Working with Thrive or alternative RP to reach agreement on the commercial transaction (to determine the value of existing housing stock and cost to re-provide this housing stock) and manage the decant process;
- Undertaking and managing the entire land assembly/CPO process, including any acquisitions by agreement; and
- Delivering the scheme.

The Preferred Developer is expected to have the capacity to enter into a Conditional Development Agreement within 3 months from the date of appointment (end of June 2013) and, in tandem with this, commence the preparation of all necessary planning applications. These planning applications should be submitted within 6 months from the date of appointment (September 2013). On submission of the planning applications, the Council will commence the CPO process (September 2013).

Structure of the Legal Transaction

It is intended that the Council will enter into a Development Agreement with the Preferred Developer which will be conditional on, but not limited to, the achievement of certain preconditions by specific longstop dates to be agreed. Once the Development Agreement has gone unconditional, the Developer will be obliged to complete the comprehensive redevelopment, but the Council's obligation to give possession (by way of a building licence or lease) of each subsequent phase will be subject to the discharge of site specific conditions. This is to ensure that comprehensive development occurs, once commenced, but also to address the decant issues on each phase.

Whilst not fixed, the Council's preferred sequence of events is as follows:

The preferred developer will simultaneously apply for outline planning permission for the entire site and detailed planning permission for phase 1 with a view to both applications being heard simultaneously.

Following the grant of outline planning consent the developer will satisfy the following conditions:

- site assembly (putting in place, with the occupational tenants, suitable agreements for termination of their leases and giving vacant possession by the required date with a compulsory purchase order for those parts of the site that cannot be acquired by private treaty or in accordance with the 1954 Act)
- evidence of satisfactory funding in respect of the whole site; and
- a highways agreement (and stopping up orders in respect of the whole site where required).

Once all the above site wide conditions have been satisfied (or along side) the developer will then discharge the Phase Conditions in respect of Phase 1, namely:

- obtain any Statutory Consents required before Phase 1 detailed planning permission can be implemented; and
- procure vacant possession of Phase 1 either via the CPO, or the third party agreements or through possession proceedings under the 1954 Act.

Upon satisfaction of the phase 1 preconditions, the Council will grant to the preferred developer a building licence or (if required for funding purposes) a building lease followed by the long lease at wind and watertight stage or, as an alternative, a hybrid lease, restricted in use to carrying out the development and containing building obligations up until the date the certificate of practical completion has been issued, and thereafter converting to an FRI lease. The Council must be satisfied that it has a robust mechanism for recovery of its land if the developer is in breach and/or development is not progressing.

The Council intends to retain the freehold interest of the site.

All subsequent phases will require satisfaction of phase preconditions (detailed planning permission, statutory consents and implementation of Stopping up Orders and vacant possession) before the Council will grant possession of the relevant phase

Each of the building licences/ leases will contain provisions for land value receipts to the Council.

Tenderers should note that the structure of the financial transaction agreed between the parties will ultimately determine the form of the resulting Development Agreement.

Where a compulsory purchase process is pursued, the preferred developer will be expected to enter into an agreement to fully indemnify the Council against all costs associated with the assembly of the site.

It is a Council requirement that the whole development transaction is to be carried out on an open book basis for the proper identification of development costs.

The agreement will put obligations on the preferred developer to:

- Progress technical investigations on the site; and
- Undertake all steps necessary to satisfy the conditions precedent. Once the conditions have been satisfied, to undertake the development which will include (at least) obtaining planning approvals, securing development funding, satisfying financial viability criteria and drawing down building leases and subsequent long-leases from the Council.

The agreement will put obligations on the Council to:

- grant licences;
- grant long leases (subject to satisfaction of conditions precedent);
- support negotiations with landowners; and
- where appropriate, use compulsory purchase powers to facilitate site assembly.

In addition, the Council will be obliged not to dispose of its land and/or any land that has been compulsorily acquired.

Costs

The preferred developer will be responsible for the Council's (in its role as landowner) reasonable and proper legal, surveying and other professional costs and expenses in relation to the negotiation of the Development Agreement.

7 Disclaimers and Important Information

General

The All material issued in connection with this ITT shall remain the property of the Council and shall be used only for the purpose of this procurement exercise. All due diligence information shall be either returned to the Council or securely destroyed by the Tenderer (at the Council's option) at the conclusion of the procurement exercise. The Tenderer shall ensure that each and every sub-contractor, consortium member and adviser abides by the terms of these instructions and the Conditions of Tender.

The Tenderer shall not make contact with any other employee, agent or consultant of the Council who are in any way connected with this procurement exercise during the period of this procurement exercise, unless instructed otherwise by the Council. The Council shall not be committed to any course of action as a result of:

- issuing this ITT or any invitation to participate in this procurement exercise;
- communicating with a Tenderer or a Tenderer's representatives or agents in respect of this procurement exercise; and/or
- any other communication between the Council and any other party.

Tenderers shall accept and acknowledge that by issuing this ITT the Council shall not be bound to accept any Tender. The Council reserves the right to amend, add to or withdraw all or any part of this ITT at any time during the procurement exercise.

Preparation of Tender

Tenderers must obtain for themselves, at their own responsibility and expense, all information necessary for the preparation and submission of Tenders and all other stages of the evaluation and selection process. Under no circumstances will the Council, or any of their advisers, be liable for any costs or expenses borne by Tenderers, sub-contractors, suppliers or advisers in this process.

Tenderers must form their own opinions, making such investigations and taking such advice (including professional advice) as is appropriate, regarding the proposed development and their Tenders, without reliance upon any opinion or other information provided by the Council or their advisers and representatives. Tenderers should notify the Council promptly of any perceived ambiguity, inconsistency or omission in this ITT, any of its associated documents and/or any other information issued to them during the procurement process.

Submission of Tenders

The Council may, at its own absolute discretion, extend the closing date and the time for receipt of Tenders specified in Section 1 and any extension granted will apply to all Tenderers. Tenders received before the deadline will be retained in a secure environment, unopened until the opening date. The Council does not accept responsibility for the premature opening or mishandling of Tenders that are not submitted in accordance with these instructions.

Confidentiality

Subject to the exceptions referred to in this document, the content of this ITT is being made available by the Council on the strict condition that:

- Tenderers shall at all times treat the contents of the ITT and any related documents (together called the 'Information') as confidential, save in so far as they are already lawfully in the public domain;
- Tenderers shall not disclose, copy, reproduce, distribute or pass any of the Information to any other person at any time or allow any of these things to happen;
- Tenderers shall not use any of the Information for any purpose other than for the purposes of submitting (or deciding whether to submit) a Tender; and
- Tenderers shall not undertake any publicity activity in relation to this matter within any section of the media.

Tenderers may disclose, distribute or pass any of the Information to the Tenderer's advisers, sub-contractors or to another person (the definition of 'person' includes but is not limited to any person, firm, body or association, corporate or incorporate) provided that either:

- This is done for the sole purpose of enabling a Tender to be submitted and the person receiving the Information undertakes in writing to keep the Information confidential on the same terms as if that person were the Tenderer; or
- The Tenderer obtains the prior written consent of the Council in relation to such disclosure, distribution or passing of Information; or
- The disclosure is made for the sole purpose of obtaining legal advice from external lawyers in relation to the procurement or to any agreement arising from it; or
- The Tenderer is legally required to make such a disclosure.

The Council may disclose detailed information relating to Tenders to its officers, employees, agents or advisers and the Council may make any of the documents available for private inspection by its officers, employees, agents or advisers. Without prejudice to the foregoing paragraphs, Tenderers are required to complete the Confidentiality Undertaking on behalf of themselves and any consortium members or named sub-contractors.

Freedom of Information

In accordance with the obligations and duties placed upon public authorities by the Freedom of Information Act 2000 (the 'FoIA') and the Environment Information Regulations 2004 (the "EIR"), the Council may, acting in accordance with the Secretary of State's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FoIA Act, be required to disclose information submitted by the Tenderer to the Council.

In respect of any information submitted by a Tenderer that it considers to be commercially sensitive the Tenderer should follow the protocol set out in Section 1 of this ITT, explain the potential implications of disclosure of such information and provide an estimate of the period of time during which the Tenderer believes that such information will remain commercially sensitive.

Where a Tenderer identifies information as commercially sensitive, the Council will endeavour to maintain confidentiality. Tenderers should note, however, that even where information is identified as commercially sensitive, the Council may be required to disclose such information in accordance with the FoIA or the EIR. In particular, the Council is required to form an independent judgment concerning whether the information is exempt from disclosure under the FoIA or the EIR and whether the public interest favours disclosure or not. Accordingly, the Council cannot guarantee that any information marked 'confidential' or "commercially sensitive" will not be disclosed.

Canvassing

Any Tenderer who directly or indirectly canvasses any officer, member, employee, or agent of the Council concerning the Tender or who directly or indirectly obtains or attempts to obtain information from any such officer, member, employee or agent concerning any other Tenderer, Tender or proposed Tender will be disqualified.

Disclaimers

Whilst the information in this ITT and further information and supporting documents have been prepared in good faith, it does not purport to be comprehensive nor has it been independently verified.

Neither the Council, nor its advisers, nor their respective directors, officers, members, partners, employees, other staff or agents: (a) makes any representation or warranty (express or implied) as to the accuracy, reasonableness or completeness of the ITT; or (b) accepts any responsibility for the information contained in the ITT or for the fairness, accuracy or completeness of that information nor shall any of them be liable for any loss or damage (other than in respect of fraudulent misrepresentation) arising as a result of reliance on such information or any subsequent communication.

Any persons considering making a decision to enter into contractual relationships with the Council following receipt of the ITT should make their own investigations and their own independent assessment of the Council and its requirements and should seek their own professional financial and legal advice.

Property Misdemeanors Act 1991

The Council (and its advisers) give notice that:

- The particulars are set out as a general outline only for the guidance of Tenderers and do not constitute, nor constitute any part of, an offer or contract;
- All descriptions, dimensions, references to condition and necessary permissions for use and occupation, and other details are given without responsibility and any intending Tenderer should not rely on them as statements or representations of fact but must satisfy themselves by inspection or otherwise as to the correctness of each of them; and
- No person in the employment of the Council (or engaged by it in an advisory capacity) has any authority to make or give any representation or warranty whatever in relation to the properties referred to herein.

Collusion

Any Tenderer who:

- fixes or adjusts the amount of its Tender by or in accordance with any agreement or arrangement with any other party; or
- communicates to any party other than the Council the amount or approximate amount of its proposed Tender or information which would enable the amount or approximate amount to be calculated (except where such disclosure is made in confidence in order to obtain quotations necessary for the preparation of the Tender or insurance or any necessary security); or
- enters into any agreement or arrangement with any other party that such other party shall refrain from submitting a Tender; or
- enters into any agreement or arrangement with any other party as to the amount of any Tender submitted; or
- offers or agrees to pay or give or does pay or give any sum or sums of money, inducement or valuable consideration directly or indirectly to any party for doing or having done or causing or having caused to be done in relation to any other Tender or proposed Tender, any act or omission shall (without prejudice to any other civil remedies available to the Council and without prejudice to any criminal liability which such conduct by a Tenderer may attract) be disqualified.

Withdrawal of Tender

Tenderers may withdraw their Tender at any time prior to the deadline. The notice to withdraw the Tender must be in writing and sent to the Council by recorded delivery or equivalent service and delivered to the Council at the address set out in Appendix D.

Misrepresentation Act 1967

Whilst all the information in this ITT is believed to be correct, the Council cannot guarantee its accuracy nor is it intended to form part of any contract.

Appendix A – Council Governance/Structure Chart

[See Drivers Jonas Deloitte Website – ITT Sub Folder](#)

Appendix B – Confidentiality Undertaking

Three Rivers District Council – South Oxhey Initiative, DPP Procurement

Agreement relating to use of the confidential information

In consideration of being granted access to the Confidential Information, we on behalf of the Tenderer and that of its employees and any key sub-contractors and/or consortium members (as named in our Sifting Brief response) and on behalf of its professional advisers and their employees and any key sub-contractors' and/or consortium members' professional advisers agree to be bound by and comply with the following terms.

Signed on behalf of (state name of Tenderer):

Name and position:.....

Date:

Terms and Conditions

1 Definitions

The "Agreement" means this agreement governing the use of the Confidential Information.

The "Confidential Information" means the information and documentation given to the Tenderer by the Council and/or their advisers or any of them.

The "Council" means Three Rivers District Council.

The "ITT" means the "Invitation to Tender " issued by the Council on [insert date, 2012].

The "Tenderer" means the person, firm, company that has been invited to commence negotiation with the Council in response to the requirements set out in this ITT.

2 Confidentiality

- 2.1 The Confidential Information is strictly confidential and is made available to the Tenderer and/or its professional advisers for the sole purpose of assisting the Tenderer in preparing its tender.
- 2.3 In consideration for the supply of the Confidential Information the Tenderer shall indemnify the Council and their advisers and hold them harmless against any actions, claims, costs, proceedings, expenses, losses or damage (including legal costs or any other liability) which any of them incur, however they accrue, in the event of any unauthorised disclosure of any Confidential Information by the Tenderer, its advisers or any person to whom the Tenderer or they have disclosed Confidential Information.
- 2.4 The Tenderer will, on request:
- return or procure the return of the Confidential Information from any professional adviser without retaining any copies in whatever form; and
 - destroy any notes, analysis or memoranda or other stored information of any kind prepared by the Tenderer or on its behalf to the extent that they contain or are based on the Confidential Information.

3 Nature of the Confidential Information

- 3.1 The Confidential Information is being made available by the Council on condition that:
- the Tenderer shall at all times treat the Confidential Information as confidential;
 - subject to the exceptions referred to in clause 3.2, the Tenderer shall not disclose, copy, reproduce, distribute or pass the Confidential Information to any other person at any time; and
 - the Tenderer shall not use the Confidential Information for any purpose other than for the purposes of making (or deciding whether to make) a tender.
- 3.2 The Tenderer may disclose, distribute or pass the Confidential Information to another person (including, but not limited to, for example, employees, consultants, subcontractors or advisers to the Tenderer, the Tenderer's insurer or the Tenderer's funder) if either:
- this is done for the sole purpose of enabling a tender to be made and the person receiving the Confidential Information undertakes in writing to keep the Confidential Information confidential on the same terms as set out in this ITT; or
 - the Tenderer obtains the prior written consent of the Council in relation to such disclosure, distribution or passing of the Confidential Information.
- 3.4 The Council may disclose detailed information relating to tenders to its members, directors, officers, employees, agents or advisers and may make the Tender available for inspection by its members, directors, officers, employees, agents or advisers.

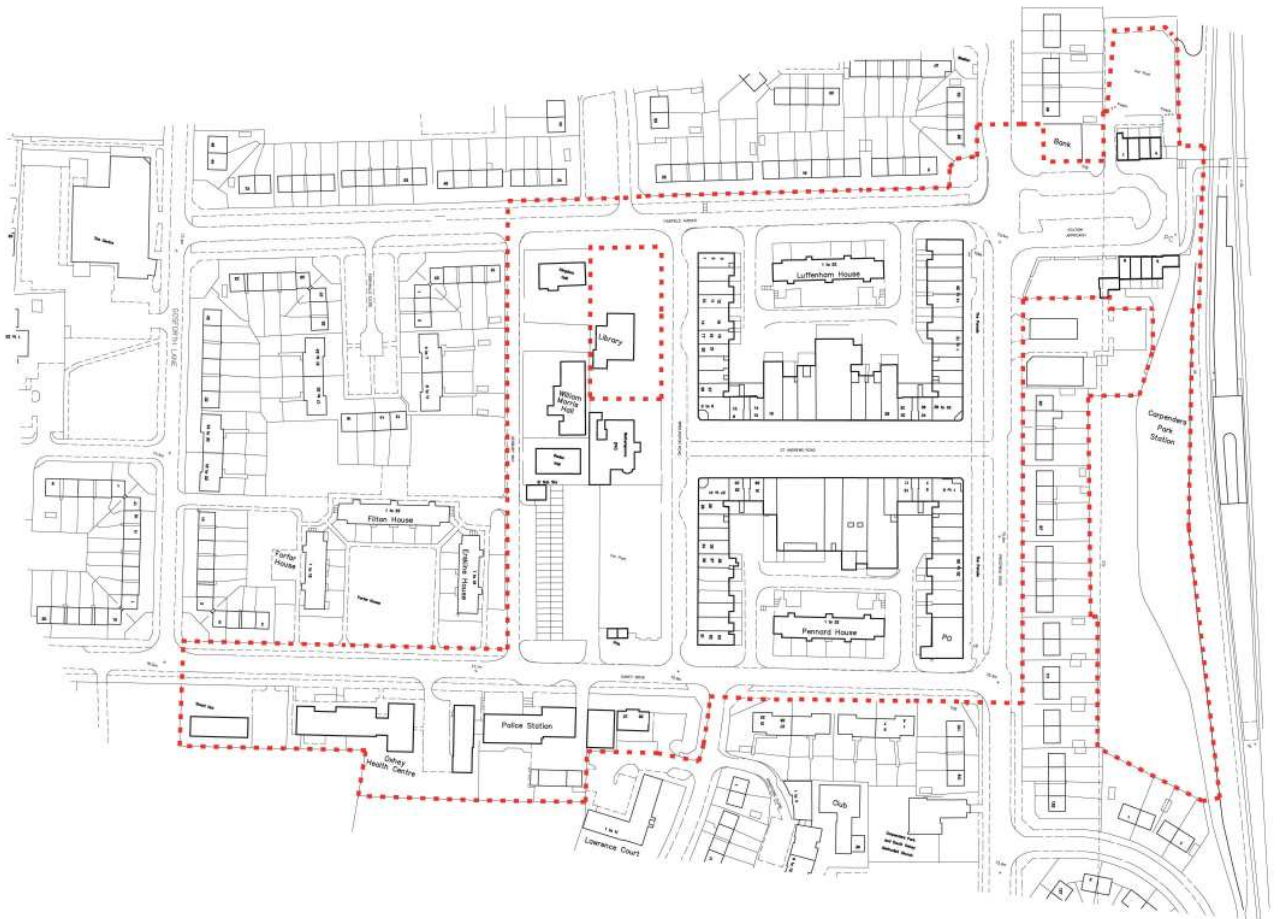
4 Breach of these terms and conditions

Without prejudice to any other remedies which may be available to the Council, if the Tenderer breaches these terms and conditions in any material respect it may be excluded from participating further in the procurement process.

5 Governing law and jurisdiction

- 5.1 These terms and conditions are governed by and construed in accordance with the law of England and Wales. Each of the parties irrevocably submits for all purposes in connection with these terms and conditions to the exclusive jurisdiction of the courts of the jurisdiction of England and Wales.

Appendix C – Site Boundary Plan



0 50 m

Appendix D – Three Rivers District Council Address Labels

See Drivers Jonas Deloitte Website – ITT Sub Folder

Appendix E – Financial Schedule

[See Drivers Jonas Deloitte Website – ITT Sub Folder](#)

Appendix F – Scoring and Evaluation Criteria

[See Drivers Jonas Deloitte Website – ITT Sub Folder](#)

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