

## PART 2 – CONFIDENTIAL FACTS AND ADVICE

**MD3123**

**Demolition Contract for Rank Hovis Building, Royal Victoria Dock, London**

**This information is not suitable for publication until the stated date because:**

This part 2 contains commercially sensitive details of the arrangements of GLAP and third parties, disclosure of which could prejudice their interests; and, therefore, such information should not be in the public domain.

**Date** at which Part 2 will cease to be sensitive or when this information should be reviewed with a view to publication: September 2023 (to enable conclusion of commercial arrangements with the contractor).

**Legal adviser recommendation on the grounds for not publishing information at this time:**

Under section 43(3) of the Freedom of Information Act, information is exempt if its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the GLA or GLA Land and Property Limited (GLAP)). Under section 42 of that Act, information is exempt if its disclosure would, or would be likely to, involve the disclosure of advice that is legally privileged.

These are both qualified exemptions, meaning that information captured under sections 42 and 43 can only be withheld if the public interest in withholding it outweighs the public interest in releasing it. The information below contains information relating to confidential financial arrangements between GLA, GLAP, Rhodar Industrial Services Limited and The Silvertown Partnership (TSP). This is commercially sensitive information that would, or would be likely to, prejudice the commercial interests of these organisations. While there is a public interest in understanding the circumstances in which public money is managed with other bodies, it is considered that in these circumstances the public interest lies in maintaining the exemption and withholding the information.

If this information is considered for release pursuant to the provisions of the Environmental Information Regulations 2004, this information should be considered exempt information under regulation 12(5)(e) – where disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest. The information below also contains legally privileged advice relating to the above, particularly in relation to procurement risk. It is also considered that, in the circumstances, the public interest lies in maintaining the exemption and withholding the information.

**Legal Adviser** – I make the above recommendations that this information is not suitable for publication at this time.

**Name:** TfL Legal

**Date:**

*Once this form is fully authorised, it should be circulated with Part 1.*

**Decision and/or advice:**

The Mayor:

- approves additional expenditure on the project of **£3,273,635** – taking the overall gross cost to **£5,301,358**
- notes that income from an insurance claim (£550,000) and an agreed future contribution from The Silvertown Partnership (£3,000,000) will reduce GLA Land and Property's net cash position to **£1,751,358**
- approves the entry into a variation to the contract with Rhodar Industrial Services Ltd (company re: 6426331) to enable them to complete the demolition.

MD3013 secured approval for a budget position of £2,027,723. Further costs (as set out in Part 1 and below) require increased approval to £5,301,358. The financial position is as follows:

<b>MD3013 approval</b>			<b>£2,027,723</b>
which covered	Rhodar contract sum	£1,116,112	
	risk allowance for asbestos	£700,000	
	risk allowance for removal of material	£100,000	
	additional contingency	£111,611	
<b>Additional expenditure approval requested</b>			<b>£3,273,635</b>
which covers	asbestos removal	£2,398,000	
	Natural England licence requirement	£172,000	
	weather stoppage costs due to Natural England licence	£258,000	
	inclusion of basement demolition costs	£300,000	
	additional security costs	£160,000	
	additional traffic management costs	£70,000	
	removal of material	£123,600	
	miscellaneous variations (RoDMA licence, testing soil piles)	£35,000	
	deducting previous risk allowance and contingency	(-)£911,611	
	historic consultancy fees	£142,846	
	additional consultancy fees including contingency	£135,000	
	further contingency on works (15%)	£390,800	
<b>Revised total gross expenditure for GLAP</b>			<b>£5,301,358</b>
Income received from Insurance Claim			(£550,000)
Income due to be received from TSP (note this is due in Phase 4 in 2029, so is contingent on TSP proceeding)			(£3,000,000)
<b>Revised total net expenditure for GLAP</b>			<b>£1,751,358</b>

## **1. Tender award**

- 1.1. With assistance of TfL Procurement and Supply Chain, the Demolition Lot of the CCS Construction Framework was used to identify suitable contractors to bid for this project.
- 1.2. The invitation to tender invited bidders to submit bids for two options: one for retaining all building arisings on site for use in future development; the other for removing all arisings from site and disposing of them appropriately (with an assumption that it would likely include a significant amount of hazardous waste). These two options were included to allow the developer time to come to a decision on whether or not they wished to retain building material. During the tender window, the developer confirmed that they would want to retain all building arisings on site for use in future development. Bidders were therefore then instructed to only bid for that option.
- 1.3. Five bids were received in total. Two of these received a technical score below the minimum threshold, and could not be considered further. Of the three that passed all technical criteria, bid prices for the demolition were £1.12m (Rhodar), £1.2m (Erith) and £2m (DSM Demolition).
- 1.4. Following a detailed clarification exercise to ensure that the pricing submission was robust (allowing for the fact that only limited site information was available, as most of the building was too great a health and safety risk to be surveyed) the contract was awarded to the highest scoring overall bidder, Rhodar, who had received a total score of 80.63 per cent.
- 1.5. The inability to safely access a large part of the building meant that there was a significant amount of unquantifiable risk – particularly in regard to dealing with asbestos on the site. Therefore, an additional £900k (approx.) of contingency spend was requested as part of contract award, on top of the £1.12m in the bid itself.

## **2. Other considerations: confidential and legally privileged**

- 2.1. The variation(s) to the contract increase its value to above the applicable procurement threshold for works.
- 2.2. It is helpful that the contract was originally mini-competed under an existing CCS framework; and that the additional works are considered to be within the scope of that framework. However, due to the significant value of some of the variations (particularly the disposal of contaminated material from the site and the demolition of the basement, which were not expressly included in the original scope of the contract), such variations carry risk of potential procurement challenge from the other framework suppliers.
- 2.3. The GLA's procurement officers do not consider a procurement challenge to be, in practice, very likely. This takes into account that it would not be practicable for another supplier to deliver the disposal of the contaminated material and demolition of the basement, for logistical and health and safety reasons. In relation to the demolition of the basement, GLA's procurement officers also consider that there may be a basis to support that this is a permitted modification under the relevant procurement regulations, noting that the value of those works is less than 50 per cent of the original contract value.
- 2.4. The variations to the contract relating to Natural England requirements for bat nesting and enhanced site-security measures are not considered to be variations in a procurement law sense, because they relate to how the works are delivered and do not change the core scope of the contract. In any case, the GLA's procurement officers consider that these variations would be permitted modifications under the relevant procurement regulations.

### **3. Financial comments**

- 3.1. The required gross expenditure of £5,301,358 can be met from the existing cash resources of GLAP.
- 3.2. The gross expenditure is not included in GLAP's 2023-24 approved Budget and is therefore an additional call on GLAP's resources.
- 3.3. As noted above, the contribution from TSP of £3,000,000 – agreed under a side letter in October 2022 and forecast to be received by GLAP in 2029 – is dependent on TSP proceeding with the Master Development Agreement. GLAP's net cash position of £1,751,358 will therefore only be reached when the contribution of £3,00,000 is received from TSP.