

<b>Committee(s):</b>	<b>Date(s):</b>	<b>Item no.</b>
Hampstead Heath, Queen's Park and Highgate Wood Projects Sub-Committee	27 January 2014 Urgency	
<b>Subject:</b> Issue Report: Hampstead Heath Ponds Project – Contractor Tender Report <b>CS 026/14</b>		<b>Public</b> (other than Appendices 1 & 2 which are circulated separately under non-public cover).
<b>Report of:</b> Hampstead Heath Ponds - Project Board		<b>For Decision</b>
<p><u>Summary</u></p> <p>This report summarises the process for appointing the contractor, and seeks release of funding for the stages of work up to and including a planning application.</p> <p>The aims of the Hampstead Heath Ponds Project are to reduce the current risk of pond overtopping, embankment erosion, failure and potential loss of life downstream; ensure compliance with the existing requirements of the Reservoirs Act 1975 together with the additional expected requirements under the Flood and Water Management Act 2010 while meeting the obligations of the Hampstead Heath Act 1871; and improving water quality.</p> <p>Wider non-statutory public consultation commenced late November 2013 and is programmed to be complete by February 2014. At this point we need to have the contractor appointed so he can provide detailed technical design input into the 'preferred' option and also develop the Construction Environmental Management Plan to be included with the planning application. Members will recall that early contractor involvement in this way was important so we could show to Heath stakeholders that we had continuity, and that how we went about the work was as important as what we were planning to do. For this reason the form of contract proposed is a partnering contract.</p> <p>The tender evaluation criteria and scoring matrix for the Invitation to Submit Outline Solution (ISOS) was approved by the City of London Project Board. The project requirements were outlined in the tender documents and 12 technical questions posed. Due to the sensitivity of the project the technical submissions that dealt with the works and the impact upon the Heath were given a total weighting of 80%. The financial section was given a total weighting of 20% of the evaluation.</p> <p>All contractors were required to submit their proposals based upon a format and project assumptions and context supplied by us.</p> <p>An evaluation team consisting of officers from City Surveyors, Hampstead Heath, Atkins, Capita, two representatives from the Stakeholder group and the Strategic Landscape Architect was formed to assess the submissions.</p> <p>A tender report, produced by Capita, as part of their role as client representative</p>		

and cost consultant is appended to this report as non-public (Appendix 1). It should be noted that the order of cost estimates included in the Capita tender report are based on out-turn costs at mid-point of construction (end of 2015) whereas the previously advised estimated cost was set at Q4 2010 price level.

Following the initial scoring by the evaluation team and the subsequent moderation, the results of both the Technical and Financial submissions are summarised below. The identities of the contractors are in the non-public Appendix.

	<b>Contractor A</b>	<b>Contractor B</b>	<b>Contractor C</b>	<b>Contractor D</b>
<b>Quality Score (80%)</b>	47.41%	63.94%	52.66%	55.18%
<b>Quality Ranking</b>	4	1	3	2
<b>Financial Score (20%)</b>	13.54%	7.96%	17.44%	3.65%
<b>Financial Ranking</b>	2	3	1	4
<b>Total Score (100%)</b>	60.95%	71.90%	70.10%	58.83%
<b>Rank</b>	3	1	2	4

The costs for site overheads and preconstruction phase activities are summarised within Table 1 (Appendix 2)

Estimated costs based on Capita's order of cost estimate – subject to post contract discussions:

	Estimated cost at last Gateway	Revised estimated cost
Preliminary Evaluation Costs	271,000	271,000
Works	11,188,000	12,322,000
Fees	2,855,000	2,906,000
Staff Costs	802,000	802,000
Pre-construction & surveys	--	663,000
	15,116,000	16,964,000

At this stage the estimated overall project costs exceed the previously estimated cost of £15.12m (at Q4 2010 prices) but are within the 20% tolerance. No allowance for inflationary increases has been included for the lifetime of the project (2010 – 2016).

It is recommended that Contractor B is appointed for the Hampstead Heath Ponds Project, with a tender evaluation score = 71.90%.

At the moment we are proposing only the release of funds for the pre-construction phase. The release of funds for the construction phase will be subject for a further report to your Committees when the design is finalised. Other funds recommended for approval are needed for the works and submissions we have to do between now and finishing the design, which are the site investigation and representations (pre-application submissions) to the planning authority (Camden) in advance of the formal planning application meeting.

## Recommendations

- Approval is requested to appoint Contractor B for the Hampstead Heath Ponds Project and authorise the Comptroller and City Solicitor to enter into the PPC2000 ACA Standard Form of Contract for Project Partnering.
- Approval is requested to release in advance of the main contract a sum of £593,376 from the works provision for pre-construction phase activities only.
- Approval is requested to release £70,000 from the provisional works budget to fund Environmental survey works (for the Environmental Impact Assessment) to be undertaken by Contractor B.
- Approval is requested to release £50,000 from the provisional works budget to fund the Planning Performance Agreement and associated meetings and venue costs.
- Approval is requested to release £30,000 from the provisional works budget to fund CoL support, external to progress detailed technical design.

## Overview

<b>1. Success Criteria</b>	The aims of the project are to reduce the current risk of pond overtopping, embankment erosion, failure and potential loss of life downstream; ensure compliance with the existing requirements of the Reservoirs Act 1975 together with the additional expected requirements under the Flood and Water Management Act 2010 while meeting the obligations of the Hampstead Heath Act 1871; and improving water quality.
<b>2. Project Scope and Exclusions</b>	The chains of ponds on Hampstead Heath, which are a significant liability under the 1975 Reservoir Act and other legislation.  Approval was given by the Court of Common Council on 14 July 2011 for the project to upgrade the pond embankments on the Hampstead and Highgate chains
<b>3. Link to Strategic Aims</b>	The works support the strategic aim 'To provide valued services to London and the nation'. The scheme will improve community facilities, conserve/enhance landscape and biodiversity and contribute to a reduction in water pollution whilst meeting the City Corporation's legal obligations. The risk of any dam breach and serious downstream flooding of communities (and consequent harm to the City's reputation) is mitigated.

<p><b>4. Within which category does the project fit</b></p>	<p>1. Health and Safety</p>
<p><b>5. What is the priority of the project?</b></p>	<p>A. Essential</p>
<p><b>6. Governance arrangements</b></p>	<p>The Project Board meets monthly. The Director of the Built Environment was appointed as new Project Board Chairman in December 2013. Other representatives include City Surveyors, Open Spaces, Chamberlains, Comptrollers, Public Relations Office and Capita.</p> <p>Capita has been appointed as Client Representative and Cost Consultant for the Ponds Project with specialist consultants Atkins appointed as Designers.</p> <p>In recognition of the importance of consultation to the progression of the Hampstead Heath Ponds project, a stakeholder group was formed in addition to the statutory consultative committee. This group is made up mainly of representatives of local groups that have an interest in the Heath. It meets approximately monthly and has been in receipt of all key documentation.</p> <p>A Strategic Landscape Architect has been appointed to assist the project and provide further advice to stakeholders.</p>
<p><b>7. Resources Expended To Date</b></p>	<p>At this stage the estimated overall project costs exceed the previously estimated cost of £15.12m (at Q4 2010 prices) but are within the 20% tolerance applied. Which is currently made up of</p> <p style="padding-left: 40px;">Pre evaluation costs - £0.27m Works and external fees - £14.05m Staff costs - £0.80m</p> <p>Against an agreed fee budget of £2,855,000 (excluding COL staff costs), current spend sits at £1,108,775 with further orders placed for £382,229.</p>
<p><b>8. Last Gateway Approval</b></p>	<p>4b – Approval of the Court of Common Council - 14 July 2011.</p> <p>Progress Report – Delegated decision – Appointment of Design team and Strategic Landscape Architect – 5 October 2012</p> <p>Delegated decision – Survey fees – 30 April 2013</p> <p>Delegated decision – Reallocation of budget – 5 August 2013</p>

## Issues

### 9. Issue Description

#### **The Tendering Process**

Members will recall that there was a delay incurred first time around in the tendering for the main contractor. This was previously reported to Committee in February 2013 where it was noted that during the first tender process three out of four tenderers withdrew within a short space of each other due to the level of conditionality imposed by City of London.

The City of London Procurement Service was consulted on the procurement strategy. Their preferred option was to advertise again to remove the risk of challenge. This is the result of this retendering exercise.

Following the PQQ process the top four contractors were selected to progress to the next stage of the tender process, and the Invitation to Submit Outline Solution (ISOS) was drafted and issued. Given the nature of the project, it was agreed that the evaluation would have a high quality element.

The ISOS document outlines the project requirements and set out 12 technical questions, which accounts for 80% of the evaluation, and a financial section, 20% of the evaluation.

Two rounds of dialogue meetings were held with the contractors to ensure that they understood the project and to ensure relevant submissions were posted.

The first round of half day dialogue meetings took place in August. For the second round, each contractor was allocated half a day for technical aspects and half a day for financials.

Site visits to examples of completed work took place at the end of September, and these visits form part of the evaluation process.

An evaluation team consisting of officers from City Surveyors, Hampstead Heath, Atkins, Capita, two representatives from the Stakeholder group and the Strategic Landscape Architect attended these meetings and the site visits.

The contractors were invited to submit a final bid document (ISFB); these were returned on 7 October 2013. These were distributed to the evaluation team so that the relevant sections could be independently scored. Financial and insurance sections were separately checked, with all four contractors passing.

The evaluation team met on 21 October to moderate the scores. The quality and financial sections were scored separately; the results of both sections were combined during the second half of the moderation day. Subsequently a number of clarifications were sought from each contractor to confirm the content of the financial proposals, resource allocation and Construction Environmental Management Plan methodology.

	<p>After combining the quality and financial scores no alterations have been made to either score.</p> <p><b>Programme</b></p> <p>A revised programme has been agreed, which allows for an extended period for non statutory consultation with the public and stakeholders to February 2014. Once complete the intention is to submit a formal planning application. During this period of time the appointed contractor will have time to input into the design development and undertake surveys and investigations required by the design team; essentially this includes organising ground investigations.</p> <p>Following this period a final design will be presented within a Gateway 4c report. Subject to this, the site works commence early April 2015.</p> <p>The timetable remains challenging and has no 'programme contingency' and it is possible it will need further revision as we move forwards and some of the "unknowns" are identified.</p> <p>The involvement of the contractor at this stage is crucial as they will assess the buildability. Also a Construction Management Plan will be developed by the appointed contractor; this will show how we plan to go about the work, as setting out in a clear way the logistics, disruption, vehicle routes, reinstatement, pedestrian arrangements and the like will be crucial to gaining local support. This document will form part of the planning submission.</p>
<p><b>10.Last Approved Limit</b></p>	<p>The budget is currently made up of</p> <p>Pre evaluation costs - £0.27m  Works and external fees - £14.05m  Staff costs - £0.80m  Total £15.12m, with an estimated 'confidence' range of <math>\pm 20\%</math>.</p> <p>Of this total estimated budget, pre-evaluation costs of £271,000, fee budgets of £2,855,000 and staff costs of £802,000 have been approved</p> <p>The fees are made up of:</p> <ul style="list-style-type: none"> <li>• Atkins have been appointed for the complete design package (except Cost Consultant and Client Representative packages) at a cost of £1,793,000.</li> <li>• Capita Symonds have been appointed as Cost Consultant and Client Rep at a cost of £385,000.</li> <li>• Wilder Associates have been appointed as the Strategic Landscape Architect at a cost of £48,000.</li> <li>• Trowers and Hamlins have been engaged to provide legal support and counsel has been consulted at a cost of £124,000.</li> </ul>

- Archaeological costs expected to be in the region of £35,000.
- Provision for surveys, document management system and project support at a cost of £429,000.
- Statutory fees £41,000.

So the total scheme estimated cost now looks like, as estimated by Capita

	Estimated cost at last Gateway	Revised estimated cost
Preliminary Evaluation Costs	271,000	271,000
Works	11,188,000	12,322,00
Fees	2,855,000	2,906,000
Staff Costs	802,000	802,000
Pre-construction & surveys	--	663,000
	15,116,000	16,964,000

This revised estimated cost is within the confidence range.

**11. Tolerance Granted**

The estimated cost of the recommended option was reported with an estimated 'confidence' range of  $\pm 20\%$ . The £15.12m does not include inflationary increases.

**12. The delay in tendering**

There has been a delay incurred in the tendering for the main contractor. This was caused when three out of four tenderers withdrew within a short space of each other during the first tender process for the contractor.

The opportunity was been readvertised utilising the London Tenders Portal and a shortened version of the competitive dialogue process completed.

**13. The Project Status**

Wider public consultation commenced late November 2013 on the preferred design solutions. This stage is due to finish in February. During the consultation period the data needed for the design to be progressed further, in particular the site investigation. This will allow us to eliminate the largest construction risk remaining, and allow detailed designs to be done. It is important that the contractor is appointed at this stage to input into the design process to assist in achieving the Agreed Maximum Price (AMP).

Further, the Construction Environmental Management Plan needs to be developed by the appointed contractor and should be submitted with the planning application.

To assist the production of the Environmental Impact Assessment, which forms part of the planning application a number of surveys need to be undertaken by Contractor B to assist the design team.

	<p>Following a preliminary meeting attended by officers and Atkins with London Borough of Camden (LBC) Planning Department it has been recommended that the City of London enters into a Planning Performance Agreement (PPA).</p> <p>The PPA provides the opportunity to address LBC Members before the planning application is submitted. Prior to this the City would take part in two public meetings.</p>
<p><b>14. Tender Evaluation</b></p>	<p><b>Method</b></p> <p>The contractors were asked to provide Technical Solutions to twelve questions which were to be scored on a scale of 0 – 5. Three of the Solutions (8, 9d and 10) were judged on a Pass/Fail basis. The City evaluated these three Solutions and advised the Evaluation Team that all of the tenderers achieved a Pass for these three questions.</p> <p>The tenderers also submitted a Financial Submission that was scored on a quantitative basis except the non-fixed price element which is shared saving and incentive were scored on the basis of qualitative basis. This scoring was conducted by the Cost Consultant, Capita. The methodology they used for this is at the back of their report, in the non-public Appendix.</p> <p>In order to assess the contractors approach to the project, twelve technical solutions were developed for the tenderer to respond to, these were:-</p> <ol style="list-style-type: none"> <li>1. Sustainable Project Delivery</li> <li>2. Working in a Public Space</li> <li>3. Phasing of Project/Users/Partnering Timetable</li> <li>4. Flood Risk and Water Quality</li> <li>5. Environmental Impact</li> <li>6. Term Programme Delivery</li> <li>7. Stakeholder Involvement and Public engagement</li> <li>8. Insurance – Pass/Fail</li> <li>9. Construction Team; parts a, b and c only Construction Team; part d only – Pass/Fail</li> <li>10. Confidentiality Undertaking – Pass/Fail</li> <li>11. Visit to Completed Project</li> <li>12. Risks and Risks Register</li> </ol> <p>The Participants were asked to respond to two solutions in order to assess their approach to finance, these were:-</p> <ol style="list-style-type: none"> <li>13. Project Partnering Contract Price</li> <li>14. Term Partnering Contract Price</li> </ol> <p><b>Evaluation of Quality</b></p> <p>The basis of the quality evaluation methodology adopted was</p>



clear in the invitation documents; all participants understood the process and appeared to engage with it enthusiastically.

The evaluation team agreed that the process seemed both rigorous and scrupulously fair, and indeed one of the stakeholders involved has commented publically to this effect. The scores were moderated, as is the usual practice, on a day when all the evaluation team got together.

The representatives of the stakeholder group and Strategic Landscape Architect's involvement included scoring solutions 1 to 4 and the site visit only (they were excluded from all matters financial) this was understood by them.

In terms of the technical solutions Contractor B out of the ten solutions which drew marks, Contractor B had the top answer for five questions, joint top for two and had the second best marks for the remaining three questions.

Contractor D technical submission 55.18% was above average (54.80%) however only one of the answers they presented to the solutions was assessed as the best.

Contractor C submitted two of the best solutions and joint top for another two.

Contractor A submitted a solution which displayed a basic understanding of all the issues without expanding to provide specific details, none of the solutions offered was evaluated as the best.

### **Evaluation of Price**

The tender price contained two main elements; the cost of the pre-construction phase input and then for the construction phases a percentage to be added to the cost of the works for overheads and profit. The pre-construction phase was essentially the cost of their people in helping to shape the works; you will see below what we expect to get for this with the two best contractors.

For the construction phase, the actual cost of the work will be decided on an open-book basis between the contractor and our representative, Capita. The percentage in the tender will then be applied to these agreed costs.

For the financial solutions Contractor C submitted a solution which ranked as the best, with 17.44%. Contractor A was ranked second, Contractor B third and Contractor D fourth.

Scores for fixed percentages or price elements were awarded in accordance with their proximity to the lowest figure, according the formula set out in Capita's report.

## Discussion

Members will note that Contractor B wins heavily in quality but for a much greater cost. Officers therefore sought further clarifications to establish what the City of London would be getting for this additional cost, and this would be a much greater input by their staff, as shown the following table.

### What we would be getting for Pre-Construction Activity

	Contractor B	Contractor C
	Person day	Person day
<b>Project Manager</b>	<b>Total 370 days</b>	<b>Total 161.75 days</b>
<b>Environmental manager</b>	<b>185 days</b> (50% time during preconstruction)	<b>24 days</b>
<b>Stakeholder/public liaison</b>	<b>185 days</b> (50% time during preconstruction)	Time allocation not identified but Contractor C confirmed who will provide input in the stakeholder manager role and costed in their local area overhead.
<b>Planner</b>	<b>65 days</b>	By Project Advisor,
<b>QS/Estimator</b>	<b>157.5 days</b>	<b>17.5 days</b>

Officers felt that Contractor B had much more clearly understood the need for significant input to the project and the issues that would be faced in putting a proper construction plan to local people. Further, if we do not need all this resource, we will not need to have it, nor to pay for it.

Within the tender submission contractors have identified site overhead costs and undertaking pre-construction phase activities. As Table 1 (Appendix 2) illustrates the overall price difference between Contractor C and Contractor B is currently £1,258,115.

If Contractor B is appointed, officers plan to discuss with them how the works are carried out and to see if their site overhead percentage for the construction phase can be reduced. We would wish to ensure that Contractor B has not included resources which may duplicate the services provided by the consultants and over and above the project requirement.

The estimated costs for the pre-construction phase for each contractor are detailed in the non-public section in Table 2 (Appendix 2) are subject to further review.

## Budget

In order to establish whether or not the Contractor B financial proposal is affordable, Capita have calculated an Order of Cost Estimate (OCE) based on the Preferred Options and Contractor B financial proposals on Profit, Central Office Overheads, Site Overheads and Fees for Pre-construction phase activities.

As detailed within Appendix 1 when reconciled against the previous estimate of cost £15.115m (+20%). Contractor C's solution exceeds the estimate by 1.42% to 3.23% depending on the option selected. Contractor B's solution exceeds the estimate by 10.94% to 12.77% depending on the option selected. However, both solutions are still within the +20% (£18.138m) confidence level, which is subject to final design.

It should be noted that the order of cost estimates are based on out-turn costs at mid-point of construction (end of 2015) whereas the budget was set at Q4 2010 price level.

## 15. Recommendation

### The appointment of the preferred contractor is sought

Following the initial scoring by the evaluation team and the subsequent moderation, the results of both the Technical and Financial submissions are summarised below:

	Contractor A	Contractor B	Contractor C	Contractor D
Quality Score (80%)	47.41%	63.94%	52.66%	55.18%
Quality Ranking	4	1	3	2
Financial Score (20%)	13.54%	7.96%	17.44%	3.65%
Financial Ranking	2	3	1	4
Total Score (100%)	60.95%	71.90%	70.10%	58.83%
Rank	3	1	2	4

Despite the low scores gained for the financial section, on the basis of award criteria, Contractor B have submitted the best evaluated Final Bid, which wins heavily in quality but at the 'expense' of additional cost.

**It is recommended that Contractor B are appointed as contractor for the Hampstead Heath Ponds Project, with a tender evaluation score = 71.90%**

	<p>Within the tender submission Contractor B identified the cost of undertaking pre-construction phase activities</p> <p><b>Approval is requested to release in advance of the main contract a sum of £593,376 from the works provision for pre-construction phase activities only.</b></p> <p>It should be noted that the release of funds for the construction phase will be subject for a further report to your Committees when the design is finalised.</p> <p>To assist the production of the Environmental Impact Assessment, which forms part of the planning permission a number of surveys need to be undertaken by Contractor B to assist the design team.</p> <p><b>Approval is requested to release £70,000 from the provisional works budget to fund survey works to be undertaken by Contractor B.</b></p> <p>The London Borough of Camden (LBC) Planning Department has recommended that the City of London enters into a Planning Performance Agreement (PPA). Which provides the opportunity to address LBC Members before the planning application is submitted.</p> <p><b>Approval is requested to release £50,000 from the provisional works budget to fund the Planning Performance Agreement</b></p> <p><b>Approval is requested to release £30,000 from the provisional works budget to fund CoL support, external to progress detailed technical design and Site investigation works</b></p>
<p><b>16.Risks</b></p>	<p>The largest, most immediate risks are:-</p> <ul style="list-style-type: none"> <li>i. Challenge from unsuccessful contractors, minimised by keeping to the approval process as originally set out.</li> <li>ii. The unknown construction of the dams, to be addressed once the contractor is confirmed, through site investigation.</li> </ul> <p>There are of course further risks in relation to the project but these are the most immediate in relation to the procurement costs.</p>

## **Appendices**

<b>Appendix 1</b>	Capita Tender Report (Non-Public)
<b>Appendix 2</b>	Budget Summary (Non-Public)

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