

Committee(s):	Date(s):
Projects Sub-Committee (Under Delegated Authority) Hampstead Heath, Highgate Wood and Queen's Park Management Committee	17 <sup>th</sup> July 2012 23 <sup>rd</sup> July 2012
Subject: Flood and Water Quality Management, Hampstead Heath – Progress and Procurement Structure Report	Public with Appendix 1 Non Public
Report of: Flood Management and Water Quality Project Board	For Decision

### Summary

This report provides information to enable to Members to determine the appointment of the consultants associated with the Flood Management and Water Quality project on Hampstead Heath.

It also sets out the views received from the Hampstead Heath Consultative Committee on progress made with several key appointments associated with the implementation of the Flood Management and Water Quality Project. There is a level of commercial sensitivity with the tender evaluation process that the City Corporation has to respect, however, it was considered essential to set out for Consultative Committee the generic approach and structure of the various appointments, all aimed at ensuring that the most appropriate team is in place to meet the requirements of this complex and sensitive project. This includes the recently approved introduction of a Strategic Landscape Architect commission, together with the appointment of the design team and construction company.

Appendix 1 (Non public) of this report sets out the Recommendation and detailed tender evaluation for the appointment of the Design Team.

### **Recommendations**

That Projects Sub Committee under delegated authority and Hampstead Heath, Highgate Wood and Queen's Park Management Committee:

- receive the views of the Hampstead Heath Consultative Committee on the approach and structure of the team to be appointed to progress the fundamental review of the scheme and detailed design necessary to meet the challenges presented by this complex and sensitive project.
- consider the financial and qualitative assessments along with the officer recommendation included at the Non-Public appendix, and approve the appointment of the Design Team.
- approve delegated authority for the City Surveyor to appoint a Strategic Landscape Architect on completion of the assessment of the tenders for that role.

- approve the involvement of stakeholder representatives, should they wish this involvement, in the assessment of the Strategic Landscape Architect and Contractor tenders.

That Hampstead Heath, Highgate Wood and Queen's Park Management Committee approve the Terms of Reference for the Flood and Water Management Stakeholder Group and for Mr Harrison a member of the Hampstead Heath Consultative Committee, representing the Vale of Health Society, to act as Chairman of the Group.

## Main Report

### Background

1. At the Court of Common Council on the 14<sup>th</sup> July 2011 approval was given to the upgrade of the pond embankments on the Hampstead and Highgate chains, at an estimated cost of £15.12m, to reduce the risk of pond overtopping, embankment erosion and failure, to comply with the Reservoirs Act 1975 and the Flood and Water Management Act 2010.
2. The proposed outcome needs to recognise and overcome the tensions between the differing objectives of the reservoir legislation and the Hampstead Heath Acts. The overarching vision of the Project is to achieve a design that ***“Conserves the natural aspect of the Heath while protecting public safety”***.
3. The primary aim of the project is to ensure peak water flows pass safely through the ponds or over the dams without any collapse, ensuring the City of London meets its statutory obligations. Works include:
  - Embankment improvements - crest armouring, raising , and creation of spillways
  - Landscape amelioration in terms of preserving the semi-rural character of the Heath and habitat improvement
  - Replacement of the building currently on the embankment of the Ladies' Bathing Pond
  - Water quality improvements
4. Given the commercial sensitivity of the tender evaluation process, the City has a duty to keep confidential tenderers' identity and costs of all submissions. Whilst this made for some difficulty in terms of receiving the views of the Consultative Committee<sup>1</sup>, there are some generic issues that

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<sup>1</sup> The London Government Reorganisation (Hampstead Heath) Order 1989 requires the City to establish a committee to be known as the Hampstead Heath Consultative Committee "for the purpose of making representations to the Management Committee about any matter, which in the opinion of the Consultative Committee, affects or is likely to affect the Heath lands".

we have to be set out to ensure that the Consultative Committee understood the approach, structure and options that have to be considered in terms of ensuring that the right team is appointed to meet the challenges and complexities associated with this sensitive project.

### **Appointment of a Strategic Landscape Architect**

5. The principle of appointing a Strategic Landscape Architect has already been approved. This role will work alongside the retained Panel Engineer to ensure a holistic approach to the design solutions for the project.
6. When the initial concept images were produced the scale of works and their impact on the Heath became clear. These designs, prepared by the hydrologist, were only ever conceptual in nature and led to the realization that the landscape issue is not a subsidiary issue to the main works, but central to the designs.
7. Strategic landscape considerations are seen as being essential within the context of the Hampstead Heath Act 1871. There are perceptions that the City's intentions and interpretations of the legislation and risks are unnecessarily placing compliance with current and planned reservoir legislation over and above the provisions of the Heath's foundation legislation. Leading counsel's advice is that the City is doing what it needs to do and should "proceed with deliberate speed".
8. The City also believes that the landscape and obligations under the foundation legislation are important aspects of the project and strongly refutes the above position. The appointment of an eminent Strategic Landscape Architect is considered the right approach and is supported by the local organisations and will do much to assuage fears that the City, through its appointed Design Team, is not sympathetic to the landscape in its approach to the Flood Management and Water Quality project.
9. The Strategic Landscape Architect will be appointed independently of the Design Team and report directly to the City as Client, thereby ensuring that the person is able to influence without being prejudiced by the partnership contract arrangements. The person appointed will not (for reasons of clarity of responsibility) engage in the detailed design, but will take a holistic approach to the landscape of the two valleys suggesting interventions to ensure that impacts are minimised.
10. Tender documents for the Strategic Landscape Architect services were issued on the 26th June 2012, and an appointment will be recommended by September 2012. It is intended that two representatives of the Stakeholder Group will be involved in the selection process (see paragraph 26).

## Design Review

11. It has been accepted that following the appointment of the Design Team there will be a fundamental review of the outline design to date. This will include verifying (or amending) hydrology studies, including the design flood, downstream impacts, potential options for spillway/dam design that are viable and comparing the existing landscape situation with the proposed changes. It will be important for the Project Board to clearly establish the scope and methodology to be adopted by the Design team in this review, before it commences.
12. Given the importance of this fundamental review in determining the level of intervention and potential design solutions to meet the vision and primary aim of the project, the outcome of this review will be reported to both the Heath Consultative and Management Committees.

## Approach to the Procurement Process

13. Given the complexity of the project it was decided that a “partnering contract” would provide the best approach. This style of contract has been used successfully on a number of major City Corporation projects. One of the main benefits against other forms of engineering contract is that it enables early involvement of the main contractor; this is seen as essential in the development of the most sustainable and sensitive design solutions for this project.
14. The outline costs for the project are set out in Table 1 below:

<b>Item</b>	<b>Evaluation Budget £000's</b>	<b>Spend £000's</b>
Pre- Evaluation	271	243
Works	11714	0
Fees	2354	41
Staff Costs	777	45
<b>Total</b>	<b>£15,116</b>	<b>£329</b>

Table 1 –Outline Costs Approved at Evaluation Stage

Given the engineering nature and stage of the project the budget agreed at Evaluation Stage has a ‘confidence range’ of  $\pm 20\%$ .

15. Over the past eight months extensive work has been undertaken in preparing the contracts and specifications necessary to ensure that the following Design Team services are comprehensive:
  - Engineering Design, Consultation and Planning Services
  - Client Representative and CDM Co-ordinator (Project Management)
  - Building Architect
  - Landscape Architect and Ecology Consultant
  - Mechanical and Electrical
  - Cost Consultant (companies expressing an interest for this commission were excluded from tendering for other work packages).
16. All tenders have been individually analysed with 25% of the mark allocated to price and 75% to quality. The tenders were scored independently by another Panel Engineer together with officers from the appropriate Departments within the City Corporation. These individual tender scores are included at Appendix 1.
17. The City has developed a robust approach in taking decisions associated with major projects. In addition to a report being taken to the Hampstead Heath, Highgate Wood and Queen's Park Management Committee, the project will also be subject to scrutiny and decision by the City's Project Sub Committee, a sub committee of the City's Policy and Resources Committee.
18. Approval was given at Evaluation Stage for the Engineering Design, Consultation and Planning Services to be negotiated with WS Atkins, the company who employ the incumbent Panel Engineer, who through his statutory duties will ultimately be required to sign off the detailed design solution to meet the project aim and vision set out above.
19. The tender for the appointment of the Construction Contractor is currently being prepared. It is envisaged that once the appointment is made this contractor will remain with the project until completion, and will also provide an emergency response service. This appointment is due to be made by November 2012 and will also need formal approval by the Management and Projects Sub Committees. It is intended that two members of the Stakeholder Group will also be involved in any formal interviews from the prospective contractors, together with the Strategic Landscape Architect.

## **Appointment Options**

There are two options that the City Corporation has evaluated and considered in reaching a decision regarding the appointment of the most appropriate Design Team for this project.

### ***Option A***

One approach the City could take is to appoint several different companies for each separate professional discipline; there are both advantages and disadvantages to this approach:

#### *Advantages*

- Several companies will receive the commission and the fees associated with this project, as opposed to just one company (see disadvantages under Option B).
- This approach will potentially offer the lowest tender price.

#### *Disadvantages*

- Split responsibility, this could be potentially very difficult, particularly in terms of the Project Management function that would need to control a multi-disciplined team, potentially based at several locations across the country.
- Potentially less co-ordinated approach, as several companies will be trying to get their voices heard, particularly as some of the tenderers have indicated that they would sub-contract services.
- Landscaping and Ecology has been identified as a critical service in terms of detailed design process. If the heritage significance of the Heath and its landscape is to be respected, it will be essential for the landscape and ecology team to strongly influence and challenge the detailed engineering design solutions on a day to day basis, ensuring that the vision and outline scheme developed with the support of the Strategic Landscape Architect is adhered to throughout the design and construction phases. The appointment of separate companies may compromise this integrated design approach and make it much more difficult.
- Possible tensions between Design Landscape Architect and Strategic Landscape Architect if Design Landscape Architect commission is that company's only appointment on this project.

### ***Option B***

The alternative approach is to make a sole appointment. There are again advantages and disadvantages to such an approach and many present the converse of those points outlined above:

*Advantages*

- Single point of responsibility – in terms of controlling the project this presents a much more attractive approach for the City, with one company reporting to the City as client and controlling all the design services the risk of any dispute over responsibility is reduced, together with potential claims.
- Ensures better co-ordination of the project, which given the multi-disciplined approach will ensure that even where work some might be subcontracted there is still control through the main company.
- It would ensure that the critical relationship between landscape and ecology and the engineering design is completely integrated throughout the whole project. With an in-house team existing working relationships between different disciplines will be developed and this is also likely to result in greater rigour and challenge, particularly if landscape and ecology are leading the project. This is likely to present the best approach in terms of safeguarding the heritage landscape of Hampstead Heath.
- There is potential to further negotiate reduced fees because each package of work has been priced completely separately.

*Disadvantages*

- Public perception that one company has undue control of the detailed design, although this mitigated by the appointment of the Strategic Landscape Architect.
- Given the scale of the project, a single company is unlikely to have the required range of services and will need to sub-contract some elements.
- This is likely to be more expensive.

**Programme**

20. The following outline timetable has been prepared:

<b>Task</b>	<b>Current Estimate</b>
Designers Appointment	<i>September 2012</i>
Strategic Landscape Architect Appointment	<i>September 2012</i>

Contractors Appointment	<i>November 2012</i>
Design Review	<i>Sept – Dec 2012</i>
Detailed Design	<i>January – June 2013</i>
Design/ Authority to Proceed with Work	<i>July 2013</i>
Planning Determination	<i>Aug 2013 – Jan 2014</i>
Start on Site	<i>March 2014</i>
Finish on Site	<i>August 2015</i>

Given the level of consultation required and the potential for Judicial Review, this is a challenging timetable.

### **Stakeholder Group**

21. The formation of a Stakeholder Group comprised of representatives from thirteen interest/community groups is an integral part of delivering the Communication Strategy for this project. Composition of this group has to be kept manageable and it has not been possible to accommodate all requests. This list represents communities north and south of the Heath, together with key user groups. The representatives are from the following organisations:

- Brookfield Mansions
- Dartmouth Park CAAC
- Fitzroy Park Residents' Association
- Hampstead Heath Anglers Society
- Heath & Hampstead Society
- Highgate Society
- Kenwood Ladies Pond
- Mansfield CAAC
- Men's Pond
- Mixed Pond
- Oak Village Residents' Association
- South End Green Association
- Vale of Health Society

22. The draft Terms of Reference for the Group are appended to this report and Ian Harrison a member of the Hampstead Heath Consultative Committee representing the Vale of Health Society has been asked to act as Chairman of the Group.

23. A number of comments were provided by the Consultative Committee and Heath & Hampstead Society on the draft Terms of Reference; where appropriate their views have been incorporated into the document and Stakeholder Group composition.



24. It is expected that the Group will meet regularly to discuss the project and will be closely involved throughout all stages providing advice and views to help influence the design and implementation of the scheme.
25. Given the importance of the Strategic Landscape Architect in representing the Stakeholder Group it has been suggested that two members, the Chairman and one other nominated by the Group, attend a formal presentation (with officers of the City Corporation) given by the prospective candidates on their approach and previous experience. The views of these Stakeholder representatives will then be taken into account in the selection making process.

### **Corporate & Strategic Implications**

26. 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.

### **Implications**

27. The risk of embankment failure at Hampstead Heath is assessed as a high risk on the City's strategic risk register. A detailed report was submitted to the Audit and Risk Management Committee. In addition to the current measures to mitigate risks, the report also highlighted other risks that the City need to consider, including the resources needed for on-going consultation and the potential threat of legal challenge that could delay the project. If the right team is appointed to take forward the basic review and detailed design then hopefully this will provide a level of reassurance to the local community that will assist with reducing these risks and ultimately costs associated with them.

### **Consultation**

28. At the Hampstead Heath Consultative Committee on the 9<sup>th</sup> July 2012, the Project Director set out the timetable for the project and explained the advantages and disadvantages of the two options available for the appointment of the Design Team. He also explained the role of the Strategic Landscape Architect and the benefits of involving the construction contractor early in the design process. The following comments were received:

- clarification was sought about the involvement of either Consultative Committee or Stakeholder representatives in the appointment of the

Design Team, Strategic Landscape Architects and Construction Contractor. This has been dealt with under paragraph 19 above.

- discussion took place about the duration of the Stakeholder Group and it was considered essential that this should continue until the completion of the project.
- the concept of a 'fundamental review' was welcomed; the Heath and Hampstead Society also requested that a Quantifiable Risk Assessment and ALARP assessment be undertaken as part of this review.
- the appointment of a Strategic Landscape Architect was supported, although more clarity was sought on the relationship between this appointment, the Stakeholder representatives and the Design Team.
- involvement of the Strategic Landscape Architect in the appointment of the construction contractor was considered very beneficial.
- there appeared at the meeting to be an understanding of the benefits for the project in proceeding with Option B, although there were concerns that such an approach might prevent transparency about the design process. The Heath and Hampstead Society have subsequently stated their preference for Option A, although they have qualified this approach stating that "possible co-ordination problems with Option A would be greatly reduced if the dam designers and the separate landscape/ecology consultants could work under the same roof".
- concern was raised about the need to ensure that the impact on the local community of the construction works was fully assessed as part of the detailed design stage.

## **Conclusion**

29. This is a major project for the Heath and the City and every effort must be made to ensure it succeeds in both meeting current and planned reservoir legislation, while also preserving the natural aspect and state of the Heath as far as possible, in accordance with the Hampstead Heath Act 1871.

## **Appendices**

Appendix 1 Non Public Tender Evaluation

Appendix 2 Draft Terms of Reference for the Water Management Stakeholder Group

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