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## Governance & Civic Services

Town Hall  
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To: Members of the Cabinet

Date: 7 November 2012  
Our Ref:  
Your Ref:

**Please contact:**

Steve Pearce

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Dear Councillor

### **CABINET - THURSDAY 8TH NOVEMBER, 2012**

I refer to the agenda for the above meeting and now enclose the following report which was unavailable when the agenda was printed.

<b>Agenda No.</b>	<b>Item</b>
8.	<b>Refurbishment of King's Gardens, Southport - Tender Award (Pages 157 - 164)</b> Supplementary report of the Strategic Director - Place

Yours sincerely,

G. BAYLISS

Director of Corporate Commissioning

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**Report to:** Cabinet **Date of Meeting:** 8<sup>th</sup> November, 2012

**Subject:** Refurbishment of King's Gardens, Southport - Tender Award  
- Supplementary Report

**Report of:** Strategic Director – Place

**Wards Affected:** Ainsdale, Birkdale, Cambridge, Dukes, Kew, Meols and Norwood

**Is this a Key Decision?** Yes **Is it included in the Forward Plan?** Yes

**Exempt / Confidential** No

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## **Purpose/Summary**

At the Cabinet meeting held 19<sup>th</sup> July 2012, Members resolved to accept a Heritage Lottery Fund grant of £4,079,000 to refurbish King's Gardens, Southport and approved commencement of the procurement and tender process for the selection of a suitable Main Contractor to undertake the works.

Subsequently Tenders were issued and have now been returned and assessed using a 'price and quality' appraisal process. The preferred contractor now needs to be formally appointed to deliver the works.

## **Recommendation(s)**

Cabinet are recommended to:

1. Note the information contained within section 2 of the report,
2. Approve the appointment of Tenderer No. 3 as preferred contractor for the project.
3. Authorise the project to proceed on the basis of the scheme cost totalling £4,834,651.32
4. Subject to the Strategic Director - Place being satisfied that the outstanding matters with the HLF have been resolved, to the extent that the Council's financial contribution to the project is not increased, and there being no formal objection to the tender process under OJEU procurement Rules the Head of Corporate Legal Services be authorised to enter into a formal Contract accordingly.

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## How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community	X		
2	Jobs and Prosperity	X		
3	Environmental Sustainability	X		
4	Health and Well-Being	X		
5	Children and Young People	X		
6	Creating Safe Communities	X		
7	Creating Inclusive Communities	X		
8	Improving the Quality of Council Services and Strengthening Local Democracy	X		

### Reasons for the Recommendation:

To comply with the Constitution and Heritage Lottery Fund (HLF) Grant Award Contract conditions to enable the project to proceed.

### What will it cost and how will it be financed?

As reported on 19<sup>th</sup> July 2012, the total project was forecast to cost **£5,559,000** and this would be financed as follows:

HLF Grant:	£4,079,000
Southport S106 contributions	£1,360,000
Marine Lake Café leaseholder contribution	£70,000
Sefton Council Café Contribution	£50,000

**TOTAL MONIES AVAILABLE** **£5,559,000**

**(A) Revenue Costs** – Included within the project's overall budget are the following provisions necessary to meet identified ongoing costs during the project delivery and for a period thereafter.

1. Employment of Community Development Officer post for a further 3 years including all associated costs: £97,047
  2. Community activities and events for 5 years: £145,275
  3. Training for park staff, volunteers and concessions £45,000
- Total Revenue Costs** **£287,322**

**(B) Capital Costs** - Construction works including all restoration and refurbishment works, professional fees, preliminaries and contingency: **£5,271,678**

**(C) Capital + Revenue costs** **£5,559,000**

## Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

<b>Legal</b> The mandatory standstill period can only commence once a decision to award the contract has been made and the call-in period for that decision has expired	
<b>Human Resources</b> None	
<b>Equality</b>	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>

## Impact on Service Delivery:

The refurbishment of King's Gardens will result in the complete overhaul of 22 acres of dilapidated and worn out public realm and gardens and strengthen Southport's Seafront offer for the enjoyment of local people and visitors. The project includes the complete replacement of end-of-life assets together with the long-term management and maintenance of the site over a period of at least 25 years to ensure the capital investment is secure. The project includes the improvement of the Marine Lake Café under the terms of a new 30-year lease and financial agreement with the leaseholder which will allow for better management of this concession.

## What consultations have taken place on the proposals and when?

The Head of Corporate Finance (FD1889/12) and Head of Corporate Legal Services (LD1207/12) have been consulted and any comments have been incorporated into the report.

## Are there any other options available for consideration?

The only other option would be to not accept any of the tenders and re-commence the procurement process. There are no grounds to do this.

## Implementation Date for the Decision

Following the expiry of the "call-in" period for the Minutes of the Cabinet Meeting and formal 'stand still' period in accordance with OJEU procurement rules.

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**Background Papers:** Cabinet Report 19<sup>th</sup> July 2012

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## 1.0 Background

- 1.1 Proposals to refurbish King's Gardens have been in development since 2007 and the project's aims are set out in detail in the 19<sup>th</sup> July 2012 Report to Cabinet.
- 1.2 At that meeting Cabinet authorised the commencement of the procurement and tender process for the selection of a suitable Main Contractor to undertake the works and for the outcome of the tender process be reported at a future meeting of Cabinet.

## 2.0 Management of Risk

- 2.1 Members will recall that, as outlined in the 19<sup>th</sup> July 2012 Cabinet report, this project has been developed following detailed investigations of the site over the course of a number of years. The project Design Team are therefore confident that it is unlikely there remain any unknown factors which will impact significantly upon the cost or delivery of the project.
- 2.2 In circumstances where the requirement for works is known, but the detail of the works cannot be fully defined at this stage, tenderers have been required to include a provisional sum to cover the cost of any work requirements. The provisional sum allowances have been established based on information from site survey and investigations and the design team are confident that these will be adequate to meet any costs likely to arise.
- 2.3 In order to understand and manage the project risks effectively a Risk Register was prepared at the commencement of the scheme and updated throughout project design development. This identifies and makes financial provision for dealing with circumstances which may have an impact on the project timescale and budget.
- 2.4 Finally, in addition to specifically identified provisional sum allowances and a costed risk register, the project will retain a further contingency sum to meet the cost of entirely unforeseeable circumstances, such as extreme inclement weather.
- 2.5 By identifying and managing risks from the outset and procuring a skilled contractor with extensive experience of this type of restoration project, the Project Team is confident that the risks associated with this project have, and will continue to be, effectively managed.

## 3.0 Procurement process

- 3.1 Following the Council's acceptance of the HLF grant award, a two-stage process to procure a main contractor commenced has been undertaken in accordance with the statutory OJEU process that governs contracts of this value. During the first stage, expressions of interest from potential contractors were invited via an advert in 'OJEU' (Official Journal of the European Union). There was a total of 38 Expressions of Interest, of which 17 were returned. Each contractor was then required to prepare an outline submission for assessment by a Panel comprising

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key members of the project delivery team with support from the Heritage Lottery Fund's Project Monitor and Sefton Council's Internal Audit Team.

3.2 A number of assessment criteria were developed in order to determine contractors' ability to deliver a project of this nature. These included contractors' experience, project management capabilities, health and safety records and their willingness to support added benefits - specifically generating training opportunities, local procurement and positive community working.

3.3 At the second stage, the six contractors making the highest scoring submissions during the initial assessment process were invited to tender. Tenders were invited on 17<sup>th</sup> August 2012 from the following contractors (in alphabetical order).

- Balfour Beatty
- Barhale
- Casey
- Dowhigh
- Galliford Try
- William Birch

3.4 All six tenders were duly returned on Friday 28<sup>th</sup> September 2012 and all were found to be compliant.

3.5 Tenders were assessed using a 'quality : cost' methodology. Each tender comprised a Quality Submission and Financial Submission and was assessed against specific criteria and awarded a score. Each contractor then attended an hour-long interview with the Project Team, which was scored accordingly and at the end of this process the final scores were combined in the ratio of price = 30%, quality = 70%.

## 4.0 Tender Evaluation

4.1 The results of the quality evaluation are as follows:

Quality Score Rank	Tenderer.	Quality Score: Total out of 70
1	3	70.00
2	1	60.21
3	5	59.34
4	2	59.23
5	6	54.10
6	4	52.37

4.2 The financial submissions have been checked arithmetically and technically. Some errors were identified and presented back to the tenderer in order that they be corrected as appropriate. The adjusted tender costs, and corresponding cost scores, are as follows:

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<b>Cost Score Rank</b>	<b>Tenderer.</b>	<b>Cost Score: Total out of 30</b>
1	3	30.00
2	6	27.72
3	4	26.30
4	5	25.74
5	2	25.09
6	1	24.15

- 4.3 The overall tender scores, which are an aggregate of the quality and cost scores, are as follows:

<b>Overall Ranking</b>	<b>Tenderer.</b>	<b>Combined Score out of 100</b>
1	3	100.00
2	5	85.08
3	1	84.35
4	2	84.32
5	6	81.81
6	4	78.68

- 4.4 Tenderer No. 3 has submitted the highest scoring, and therefore the most advantageous tender.

## 5.0 Financial Implications

- 5.1 Subject to the acceptance of the tender submitted by Tenderer No. 3, the project's capital implications can be summarised as follows:

Tenderer No. 3 Tender Cost	£3,848,274.94
Addition for professional fees, non-construction activities - events, training, community development and risk register	£ 986,376.38
<b>Total Scheme Cost</b>	<b>£4,834,651.32</b>

- 5.2 Based upon the tender cost submitted by the highest scoring tenderer the total Scheme Cost will be £4,834,651.32. This can met from the £5,559,000 funding available and the tender can therefore be considered for acceptance.
- 5.3 The HLF have indicated that, subject to the issues which remain under discussion (see below) they are content for the scheme to proceed on the basis of the tender submitted by Tenderer No. 3.
- 5.4 The balance of funding will be retained within the project funding but be deemed as unallocated at this time. Further discussions will be held with the HLF funders regarding the possible introduction of additional works to increase the scope of the current proposals.



- 5.5 Expenditure of the unallocated funding, and expenditure of contingency funding where individual costs are greater than £3,000, will be subject to HLF approval.

## **6.0 Recommended Way Forward**

- 6.1 Tenderer No. 3, having submitted the most advantageous tender is recommended for appointment as preferred contractor for the project.
- 6.2 Subject to such approval then, in accordance with OJEU procurement rules, all tendering contractors will be advised of the outcome to the tender process. There then follows a 10-day 'standstill period' during which any tendering contractors dissatisfied with the tender process can make a legal challenge prior to full contract award.
- 6.3 Subject to there being no challenge then the preferred contractor can be formally awarded the contract. It is currently intended that this appointment would be made at the end of November to allow for mobilisation and procurement of resources in advance of a start on site date during the beginning of January 2013, as always envisaged.
- 6.4 Any appointment would however be subject to the confirmation that the HLF remain content with the proposals culminating in their issue of a letter of approval to proceed. As previously stated, the HLF have indicated their continued satisfaction with the proposals, and the procurement process followed. They have however raised some concerns relating to the operation of the Café and the long term management of the Marine Lake.
- 6.5 The Project Team are seeking to address the concerns relating to the café which centre upon the leaseholder's recent planning application to further extend the building's footprint. The HLF will not support any extension that they believe will detract architecturally from the current refurbishment proposals, towards which they are making a significant financial contribution. Should this matter not be satisfactorily resolved it is possible that the HLF will withdraw its funding for the café element of the project and the café leaseholders contribution of £70,000 would not then be realised.
- 6.6 Although the Council are not required to submit details for a further 12 months, the HLF have requested that the approved Kings Gardens Maintenance Plan is extended to incorporate the maintenance proposals for the adjacent Marine Lake. It is believed that this is merely so that HLF can be reassured of the Council's long term intent to maintain the lake in its current condition, however it is the Project Team's intention to incorporate the proposals into the project wide plan now – as this will ensure that no unforeseen revenue implications arise later in the project.
- 6.7 The Project Team had been hopeful that outstanding matters could have been resolved ahead of this meeting. Unfortunately, while progress is being made, the matters in question have not yet been fully resolved.

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- 6.8 Members are therefore recommended to approve the appointment of the preferred contractor, and authorise the Head of Corporate Legal Services to enter into a formal Contract accordingly, subject to the successful conclusion of discussions with the HLF.
- 6.9 In the event that such discussions conclude that the HLF are unable to support the works to the café at this time then all works relating to the café will be excluded from the contract. The Council **will not** be required to increase its funding for the scheme, either in terms of its total contribution or as a proportion of the total scheme cost.
- 6.9 Indeed, any approval will be subject to there being no increase in the Council's capital and revenue contributions to this scheme. In the event that it is not possible for the scheme to proceed without the Council being required to increase its contributions then such circumstances will be the subject of a further report to Members.
- 6.10 Although the restoration works would be completed in phases the full contract period is expected to be approximately 60 weeks. Therefore, subject to commencement in January 2013, completion is likely to be achieved in February / March 2014.