
Report to: Cabinet **Date of Meeting:** 8th November, 2012

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

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

Purpose/Summary

At the Cabinet meeting held 19th 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)

1. the highest scoring tenderer based on a price and quality assessment be appointed as the preferred contractor;
2. the information contained within section 2 of the report be noted; and
3. subject to the satisfactory resolution of outstanding matters with the Heritage Lottery Fund to the extent that the Council's financial contribution to the project is not increased, the Head of Corporate Legal Services be authorised to enter into a formal Contract accordingly.

Implications:

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

Legal 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	
Human Resources None	
Equality	
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: None

1. 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 19th 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. Management of Risk

- 2.1 Members will recall that, as outlined in the 19th 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 and the like.
- 2.5.1 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. Procurement process

- 3.1 Following the Council's acceptance of the HLF grant award, a two-stage process to procure a main contractor commenced and 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

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 17th 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 28th 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 Current Situation and Way Forward

- 4.1 The above quality evaluation has now been completed but detailed consideration of the cost submissions are ongoing. Details of both the cost and quality submissions will be provided on the day of the meeting.
- 4.2 Initial analysis of tender cost submissions indicates that the project is deliverable within the budget available. Details of the full scheme cost, including risk, contingency and professional fee allowances will be reported on the day of the meeting.
- 4.3 The contractor that has submitted the highest scoring tender, based on the combined price and quality assessment, will be recommended for appointment as the preferred main contractor.
- 4.4 Subject to approval, the highest scoring tenderer will be appointed as Preferred Contractor in accordance with OJEU procurement rules. These rules stipulate that a 10-day 'standstill period' must then commence to allow for any legal challenge by the unsuccessful parties prior to full contract award.

- 4.5 Assuming there is no challenge, the successful contractor could then be appointed. It is currently intended that this appointment will 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.
- 4.6 Any appointment will 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. Generally the HLF have indicated their continued satisfaction with the proposals, and the procurement process followed, but have raised some concerns relating to the operation of the café and the long term management of the Marine Lake.
- 4.7 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 believe that the proposed extension 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 offer of funding for the café element of the project. However, should the planning application not be approved, the Council will not be liable to for the loss of the £70,000 contribution as the project would proceed without the café.
- 4.8 Although the Council are not required to submit to them 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 nearly 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.
- 4.9 The Project Team are hopeful that outstanding matters can be resolved ahead of the date of this report, in which case it is anticipated that the project will be free to proceed as planned. Members will therefore be recommended to approve appointment of the preferred contractor and, subject to call in, the formal award of the contract to undertake the full scope of the works.
- 4.10 However, in the event that any matters are not fully resolved with the HLF Members will be requested to approve appointment of the preferred contractor, and formal contract award, subject to the outcome of ongoing discussions and on the basis that the café element may have to be deleted from the scope of the works.
- 4.11 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.
- 4.11 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.