

## **Key Decision (Officer)**

**Date: 24 August 2020**

### **Exempt or confidential report**

The following paragraph of Part 4b Section 10 of the constitution applies in respect of information given in **Appendices 1, 2 and 3** of this report and they are therefore exempt from publication. Members and officers are advised not to disclose the contents of this report:

Information relating to the financial or business affairs of any particular person (including the Authority holding that information).

Wards: Wimbledon Park Ward

## **Subject: Wimbledon Park Lake Safety Project - Design & Build Contract**

Lead officer: Christine Parsloe, Leisure & Culture Development Manager

Lead member: Councillor Cooper-Marbiah, Cabinet Member for Commerce, Leisure and Culture

Contact officer: Christine Parsloe, Leisure & Culture Development Manager

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### **Recommendations:**

- A.** Approve the award of a contract for the design build solution for the Wimbledon Park Lake Reservoir Safety project to Contractor B (Appendix 1) at a contract value of £857,743.49. The contract cost includes: (1) preliminaries (including overheads and profit additions) and (2) schedule of rates for the construction, in readiness for the stage 2 pricing submission for the build-out sum. The contract award is subject to financial checks being undertaken and contract terms being finalised, all of which will be completed to the council's satisfaction prior to entering into a contract.
  - B.** Delegate authority to the Director of Environment and Regeneration, in consultation with the Cabinet Member for Commerce, Leisure and Culture, to enter into the contract with the successful bidder on behalf of the Council.
  - C.** Approve the retention of the second highest scoring bidder in reserve for this contract, until such time that a contract is entered into with the preferred bidder, so that should it not be possible to appoint the preferred bidder the reserve bidder can be appointed. It is noted, that this would come at a higher cost, but it is also noted both these bidders submitted compliant and acceptable bids.
  - D.** Approve the setting aside in the project budgets a construction contingency sum of 10% of the contract sum (£85,774.35) for use against this contract on any unforeseen construction issues that might arise in such a project.
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## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. This report seeks approval to award a contract to carry out the design and build solution for Wimbledon Park Lake Safety project. The report outlines the processes undertaken to procure a design and build contractor.

## **2 DETAILS**

- 2.1. Wimbledon Park Lake is classed as a large raised reservoir under The Reservoirs Act 1975. The Reservoir is categorised as 'High Risk' (Category A), meaning that human life downstream from the reservoir could be endangered in the event of an uncontrolled release of water from the reservoir.
- 2.2. The statutory dam inspections are carried out every 10 years. It is also inspected every month by Merton under the Act. Moreover, an Environment Agency (EA) approved 'Supervising Engineer' undertakes annual visits, making recommendations in an annual statement based on their visits under Section 10(3)(c) of the Act.
- 2.3. Environment Agency flood mapping reveals that significant parts of the park (and surrounding residential areas to the east) are at risk from surface water flooding, which could see the centre of the park flooded around the brook and café to a depth of c.900mm in high-medium risk scenarios, with similar depths extending to include the crazy golf, bowling greens and bottom 5 tennis courts in the low risk scenario.
- 2.4. There is also a risk of reservoirs flooding (in the event of a dam breach), with the maximum extent of flooding extending over the central part of the park (towards Revelstoke Road entrance to bottom 15 tennis courts) to maximum depths of over 2 metres within the park.
- 2.5. The council has been working with neighbouring landowners, Wandsworth Council, Historic England, Thames Water, Environment Agency (Technical Steering Group for the project) and specialist companies to prepare appropriate reports and surveys in order to get sufficient information to tender for a company to create the design solution, and once having gained all approvals to build that design. This report is the culmination of the work, thus far, seeking approval to appoint the design and build contractor.
- 2.6. The tendering process has been carried out in accordance with the Council's Standing Orders and in accordance with the Public Contracts Regulations 2015.
- 2.7. The tender was managed via the Council's web based electronic tendering system, Pro-Contract. The exercise was carried out and supported throughout by the Council's Commercial Services team to ensure a robust approach that adopted good practice. Advice and expertise was also provided by the project's Project Management and Cost Consultancy Company, Gardiner and Theobald and Dams & Reservoirs Ltd., the project's appointed All Reservoirs Panel Engineer (ARPE).
- 2.8. The procedure comprised of two stages:
  - Invitation to Tender (ITT)
  - Contract Award

- 2.9. During the Invitation to Tender processes, there was an opportunity for the tendering companies to seek clarifications from the Council if they felt that any element of the specification or contract terms were unclear.
- 2.10. The Council also had the opportunity to seek further clarifications of the tendering companies, if they felt that any of the tender responses were unclear. All tenderers at ITT stage were also interviewed regarding the contract and their ITT submissions.
- 2.11. Contractor B, provided the best response against the tender criteria as detailed in Appendix 1 – Tender Evaluation Report (Exempt).

### **3 ALTERNATIVE OPTIONS**

- 3.1. There is a statutory duty to undertake the improvement works, so doing nothing is not an option, however there are a number of ways of delivering a solution. For that reason BWB Ltd. were commissioned to produce outline indicative options to satisfy the required safety standards for a category A dam and reduce the risk of a failure. Specifically, to allow the safe passage of the design flood and safety check flood, and reduce overtopping to acceptable levels.
- 3.2. This objective could be met using a combination of the following:
  - Construction of a new overflow with a greater capacity
  - Construction of a new auxiliary overflow offering an alternative route over the dam
  - Raising of the dam height, or provision of a wall or similar, to prevent overtopping of the dam by waves and flood surcharge.
- 3.3. A 'long list' of eleven options was prepared, each outlining variation of the three parameters identified above.
- 3.4. Following stakeholder consultations four of the options were shortlisted and brought forward for an outline appraisal. This included conceptual design, indicative costs, and hydraulic modelling to assess potential downstream impacts. The Technical Steering Group for the project identified their preferred option of the four.
- 3.5. These reports were provided as part of the ITT process.

### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1. The Technical Steering Group as well as officer groups within the council have reviewed and commented on the options up to date.
- 4.2. Ward councillors and the Cabinet Member have also been briefed.
- 4.3. The council has published reports and documentation from this project appropriately on the website.
- 4.4. Public consultation will be undertaken as part of the planning process and once the project is underway regular progress updates will be provided.

## 5 TIMETABLE

### 5.1. Table 1 – Implementation Plan

Date	Activity
Sept '20	Contract awarded to 'Successful Bidder'
Oct '20	Design solution submitted for Planning Approval
Nov '20	Stage 2 Cost Information produced and final price put forward for approval
Feb '21	Planning Approval
Aug '21	Commencement Works
Jan '22	Works Completed and Signed Off Approved by ARPE.

## 6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1. The cost of the Design & Build contract is £857,743.49 and this is part of the overall £1.39m Wimbledon Park Lake Safety project costs, part of the council's capital programme.

### 6.2. Table 2 – Summary of Costs

Item	Cost (£)	Spend to date (£)
Surveys	38,534	38,534
Fees	288,638	40,095
Pre-construction Services	237,282	0
Construction	620,462	0
Contingency	208,251	0
<b>Total:</b>	<b>1,393,167</b>	<b>78,628</b>

6.3. The project remains on time and on budget.

6.4. Prior to entering into a contract with the highest scoring bidder the council will progress due diligence financial checks on the selected company. Details of this is attached at Appendix 2 – Financial Check – Highest Scoring Bidder (Exempt).

## 7 LEGAL AND STATUTORY IMPLICATIONS

7.1. Wimbledon Park Lake is classed as a large raised reservoir under The Reservoirs Act 1975. The Reservoir is categorised as 'High Risk' (Category A), meaning that human life downstream from the reservoir could be endangered in the event of an uncontrolled release of water from the reservoir. The works are therefore to be procured in order to ensure that the Lake is safer.

7.2. The contract to be awarded to the design and build company is a NEC Engineering and Construction Contract with Council drafted amendments to meet the regulatory oversight required by the Reservoirs Act 1975.

7.3. The procurement of this contract is for a construction contract below the threshold of £4,733,252 and as such does not require a notice to be published

in the Official Journal of the European Union. However, the Council must comply with its Council's standing orders. The requirements are stated at CSO 13.3, which requires advertising on the e-Tendering System and also on Contracts Finder, which the Council has followed. Additionally once awarded regulation 108 of the Public Contracts Regulations 2015 requires publication of contract award information on Contracts Finder.

- 7.4. In the event that Contractor B does not enter into contract and the Council must rely on the second place bidder, it should ensure that the second place bidder is able to mobilise and has confirmed that it will keep its offer open to the Council. The Council should ensure that it has carried out all relevant check in relation to the second placed bidder's financial standing at the point of entering into contract.

## **8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 8.1. None for the purposes of this report.

## **9 CRIME AND DISORDER IMPLICATIONS**

- 9.1. None for the purposes of this report.

## **10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

- 10.1. Risk, assumptions, issues and dependencies are being actively managed as part of the programme. The project team maintain a risk register, which is reviewed and updated at the Technical Steering Group meetings.
- 10.2. The Design & Build Contract tender submission included a response on risk management and the preferred contractor's response is included at Appendix 3. (Exempt)
- 10.3. In considering contractors for this design and build contract, their Health and Safety record has been fully considered to ensure that those being considered are fully compliant and have a good track record.
- 10.4. Health and safety implications are paramount in such a reservoir safety project and these are overseen on the project's behalf by the Principal Designer / CDM, Currie and Brown Ltd.
- 10.5. The design and build contractor is responsible for insurance and will provide copies of their policies as part of the contract. Insurance levels for this contract were set for tender at - £10m Contractors Public Liability, £10m Employer's Liability and £10m Contractor's Professional Indemnity. All tender returns met this requirement.

## **11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

All appendices are Exempt as they contain information that is exempt from publication by virtue of Paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972

- 11.1. Appendix 1 – Tender Evaluation Report – Gardiner & Theobald Ltd. (Exempt)
- 11.2. Appendix 2 – Financial Check – Highest Scoring Bidder (Exempt)

11.3. Appendix 3 – Risk Management (Exempt)

**12 BACKGROUND PAPERS**

12.1. Wimbledon Park Lake Safety project files; procurement papers and tender returns.