

# LONDON BOROUGH OF NEWHAM

## MAYORAL PROCEEDINGS

|                                   |                               |
|-----------------------------------|-------------------------------|
| <b>Is it a key decision?</b>      | No                            |
| <b>Is it in the Forward Plan?</b> | No                            |
| <b>Date report published</b>      | 23 November 2011              |
| <b>Date of Decision</b>           | 1 <sup>st</sup> December 2011 |

**Subject:** Consultancy Services for Plashet Park Landscape Design and Heritage Lottery Fund Application (Proposed procurement above EU threshold)

**Source:** Executive Director Adults, Community and Leisure

**Wards affected:** East Ham North , Manor Park & Green Street East

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### Procurement Code

In line with the requirements of the revised Contract Standing Orders, set out in this report for the Mayor's information and consideration are details of a proposed future procurement for supplies and services which is above EU thresholds but under £500,000.

The proposed tender would result in a contract for services that exceeds EU thresholds over approximately 3 years. The first stage of the contract will last until September 2012 and culminate in the submission of a Stage 2 application to the Heritage Lottery Fund (HLF). Subject to a successful outcome the final stage of the contract will run from December 2012 and include the management of works on site.

A break clause will be included in the contract that allows LBN to terminate if the Stage 2 funding application is unsuccessful or the consultant does not perform satisfactorily during the initial stage. Procuring a single contract provides project continuity while also minimising costs of future procurement activity.

Approval of the tender acceptance report falls under the delegated authority of the Executive Director – Adults, Culture & Community in consultation with the Executive Director – Resources.

### Purpose of Report

The purpose of the report is to seek Mayoral approval, in line with the Scheme of Delegations, to begin the process of procuring a contract for Landscape Design consultants to lead on the development of an agreed master plan for Plashet Park (developed to RIBA Stage D) and the production of associated documents including a Cost Plan and Conservation Management Plan. This work will directly support a Stage 2 application to the Heritage Lottery Fund in August 2012..

### Recommendations

The Mayor is requested to approve:

1. the procurement of landscape design and associated services in support of a Heritage Lottery Fund Stage 2 application for Plashet Park.

### **Reason for Recommendation**

Following a successful Stage 1 application to the HLF 'Parks for People' programme, grant funding of £65,700 has been awarded to progress a Stage 2 application for Plashet Park. The grant funding meets all of LBN's professional and project management costs for the Stage 2 application. It is a funder's requirement that consultancy support must be procured through a competitive tendering exercise.

If the Stage 2 application were successful the appointed consultants could be retained on this contract to develop construction drawings and manage the construction works on site. If the Stage 2 application were unsuccessful and the works do not take place, a break clause written into the contract would allow LBN to release the design consultants from service.

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**POSITION:** Executive Director Adults, Community and Leisure

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### **Local Government (Access to Information) Act 1985**

#### **Background papers used in preparing this report:**

- None

#### **List of enclosures:**

- None

## **Report – Part A**

### **Proposed EU procurement**

**Early submission of broad outline information to the Mayor:** Consultancy services for Plashet Park Landscape Design and Heritage Lottery Fund application (Proposed procurement above EU threshold but below £500,000)

#### **1. Introduction and Background**

1.1 Following the successful completion of the Central Park Restoration Project funded by the Heritage Lottery Fund (HLF) a Stage 1 application for Plashet Park was submitted to the HLF 'Parks for People' programme in February of 2011. The application was successful and LBN has been awarded £65,700 of revenue funding to further develop the application to a Stage 2 bid.

1.2 The HLF grant of £65,700 covers all professional fees associated with this stage of the project including project management and specialist Landscape Design Consultancy fees.

1.3 The Stage 2 bid is scheduled for submission in August 2012 to meet with HLF decision-making timelines. This deadline has challenging but achievable timelines for procurement, consultation and preparation of designs and associated reports.

#### **2. Key considerations**

##### **2.1 Reasons for outsourcing**

2.1.1 It is an HLF requirement that all goods, works and services worth £10,000 or more (including professional consultancy support) must be procured through a competitive tendering process and that all relevant EU procurement regulations are adhered to. It is also a requirement that professional consultancy support must have demonstrable experience of heritage design work of appropriate scale and complexity. These factors exclude the use of the 'in house' Landscape Architect.

2.1.2 The likely contract is valued above the EU threshold for supplies and services due to the desire to recruit consultancy support for the potential full duration of the project through to completion of works on site. This approach will obviate the need to procure again following a successful Stage 2 submission.

2.1.3 Delivery of the full project is reliant on a successful Stage 2 application with consequent HLF grant award to meet the capital costs of delivery. Therefore a break clause will be written into the tender to permit the council to terminate the contract should the Stage 2 application be unsuccessful.

##### **2.2 Potential use of proposed contract over life of contract**

2.2.1 The RIBA Stage D designs and associated reports to be delivered under the terms of the contract will all be used to support a Stage 2 application to the HLF in August 2012. It is currently estimated that this application will be for a grant in the region of £1.1m.

2.2.2 The designs and associated reports will also be used to support applications to other funding bodies for delivery of specific improvements that may fall outside the approved purposes of any HLF funding.

## **2.3 Estimated value of the proposed procurement over the life of the proposed contract**

2.3.1 The estimated total value of the contract is in excess of £200,000 over a contract term of approximately three years.

## **2.4 Duration of the contract**

2.4.1 The duration of the contract will be approximately three years with a break clause to coincide with notification of the outcome of the Stage 2 HLF application.

## **2.5 If it is a service contract what type of service**

2.5.1 The service contract is for the provision of Landscape Design services to develop the master plan for Plashet Park to RIBA stage D with associated Cost Plan. The full scope of works is also likely to include but not be limited to the production of material and attendance at consultation events, development of draft and final design work, and production heritage research reports and conservation plans.

## **2.6 If outsourcing is proposed could this affect other areas of the council?**

2.6.1 The decision to seek external consultants for this project will not adversely affect services in any area of the council. The 'in-house' Landscape Architect is not eligible to carry out this work due to the HLF funding conditions.

## **2.7 Anticipated tenderers where market is known**

2.7.1 There is a well-developed market for Landscape Architecture services both nationally and across the EU, many of whom have experience of similar projects and whom we would reasonably anticipate to have an interest in the contract opportunity. The relative strength of the market should ensure a competitive process and deliver a value for money option for the Council.

## **2.8 Other options considered**

2.8.1 A condition of the HLF funding is that the Landscape Design consultancy support must be procured through a competitive procurement process which selects candidates with the relevant experience and expertise. That precludes use of the 'in-house' option.

## **2.9 Corporate / Council contracts already in existence**

2.9.1 The Urban Design Group (Environment Directorate) offers 'in-house' Landscape Architecture services who have successfully carried out parks improvement projects on behalf of Leisure. However they do not possess the requisite experience of working on heritage restoration projects and the funder's conditions require the services to be procured via a competitive tendering process.

## **2.10 Framework Agreements**

2.10.1 Officers have explored the framework agreements available including the Homes and Communities Agency framework and the East London Solutions framework. Both options have been discussed with the funding body for approval however neither satisfied the HLF that they included a sufficiently broad range of practices with the relevant experience.

## **3. Procurement Timetable**

3.1 The following is a broad outline of the procurement timetable:

| <b>Key date</b>   | <b>Milestone / Action</b>               |
|-------------------|---|
| December 15 2011  | Pre-procurement report agreed           |
| December 15 2011  | Deign brief and tender pack agreed      |
| Dec /January 2012 | Tender period for OJEU tender (45 days) |
| February 2012     | Tender evaluation and acceptance        |
| March 2012        | Stand Still Period (Alcatel) (10 days)  |
| March 2012        | Contract commencement                   |

#### **4. Comments of the Head of Procurement**

- 4.1 The value of this service, being over £156,442, is subject to full EU tendering procedures. The EU Open Procedure has been selected as the procurement route so the Tender Award Criteria will need to include a Business Questionnaire. The procurement will be carried out using NECTR, the Council's e-procurement system.
- 4.2 In accordance with the Council's new governance procedures, the client will be required to submit a checkpoint form (stage 2), in support of the business case and chosen procurement route for this project.

#### **5. Risk Management**

- 5.1 The Risk Management Officer has reviewed the report and considers that all important risks surrounding the project appear to be duly identified and mitigated as necessary. The timetable for delivery of the project will need to be carefully considered in line with the capacity of services to deliver. There is a risk to delivery of the projects if the additional costs of project management beyond Stage 2 are not incorporated into overall project costs.
- 5.3 If implemented the project will require ongoing revenue support over and above the current levels. There is a risk that, without adequate revenue support, the improvements delivered may not be sustainable. For this reason the level of revenue funding available should determine the scale of capital investment.
- 5.4 The proposed project approach to improvement involves a significant level of local consultation. The managing of community expectations will need to be carefully considered.
- 5.5 All capital projects are subject to risk in terms of quality, budget and programme. Detailed risk assessments will be prepared for each project stage and subject to regular review by the project team..

#### **6. Comments of the Finance Officer**

A grant of £65.7k is available from the Heritage Lottery Fund to meet the cost of preparing a bid for a stage 2 application. A further £2k is required which will be contained within the existing Leisure services budget G27392.

A successful second stage application could generate £1.1 million of external funding . However a match funding contribution of £440k would be required from Newham. Of this sum, the revenue contribution would be £20k per annum for 5 years. No source of funding has yet been identified for this amount.

The capital contribution would be £340k, of which £90k would be via an existing S106 contribution. The remaining £250k is part of the funding bids to be considered as part of the Capital programme review at December Cabinet. Should the review allocate £250k the scheme could progress. Without this there would need to be further consideration of how to fund the capital contribution. This would need to be concluded before committing to the project."

### **7. Comments of the Legal Officer**

The Service is a Part A Service under the public Contracts Regulations 2006 and as the proposed contract value is above the EU threshold needs to be procured in full compliance with the Regulations and the EU treaty principles.

The Council's standard consultancy terms and conditions will need to be included with the tender documents with an appropriate break clause to allow the Council to terminate the contract should the stage 2 application for HLF funding be unsuccessful.

### **8. TUPE and other staffing implications**

No HR comments.

### **9. Consultation**

The Lead Member for Manor House Community Forum area and all ward Councillors have been consulted and involved in the development of improvement proposals for Plashet Park. Public and stakeholder consultation events took place in 2010 which actively involved local Councillors in developing the proposals. More recently Councillors have been updated through on the HLF project through meetings and are being updated by monthly report.

### **12. Conclusions**

The project will enable submission of a Stage 2 HLF application within tight but achievable deadlines working with a leading industry Landscape Architecture practice to achieve a successful bid with the potential to unlock in excess of £1million of external funding.