


<p style="text-align: center;">London Borough of Hammersmith & Fulham</p> <p style="text-align: center;">CABINET</p> <p style="text-align: center;">3 JUNE 2019</p>	
<p>ALTERNATIVE ECOLOGICAL MITIGATION DESIGN CONSULTANTS APPOINTMENT</p>	
<p>Report of the Cabinet Member for the Environment – Councillor Wesley Harcourt</p>	
<p>Open Report with Exempt Appendix Appendix A to this report is exempt from disclosure on the grounds that it contains information relating to the financial or business affairs of a particular person (including the authority holding that information) under paragraph 3 of Schedule 12A of the Local Government Act 1972, and in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>	
<p>Classification - For Decision Key Decision: Yes</p>	
<p>Consultation The Wormwood Scrubs Charitable Trust has been consulted.</p>	
<p>Wards Affected: “All”</p>	
<p>Accountable Director: Mahmood Siddiqi – Director of Transport, Highways, Leisure & Parks</p>	
<p>Report Author: Richard Gill – Wormwood Scrubs Development Manager (Leisure Services)</p>	<p>Contact Details: Tel: 07833482119 E-mail: Richard.Gill@lbhf.gov.uk</p>

1. EXECUTIVE SUMMARY

- 1.1. Cabinet approved on Monday 8th October 2018 the business case and procurement strategy appointing consultants for the Alternative Ecological Mitigation (AEM) design at Wormwood Scrubs. The AEM design is required to fulfil a legal agreement between the Council and High Speed Two Limited (HS2) to improve biodiversity.
- 1.2. Improving biodiversity will play a part in the H&F Health and Wellbeing Strategy. Access to good and varied leisure activities is proven to support the strategy’s key aims of; supporting good mental health for all, supporting

children and their families to be healthier, and reversing the rising numbers of acquired long term health conditions.

- 1.3. The AEM design will support the H&F Business Plan 2018/22, in particular the priority of ‘taking pride in Hammersmith and Fulham’ by supporting the aims to; make the borough the greenest in Britain, support endangered bat and beetle populations, plan the best places for trees and dedicate space for long grass and wildflowers as the basis for educational opportunities for children and schools.
- 1.4. HS2 is providing funding for the project of £3,885,657, including budgets to procure consultants. Approval of this proposal should have no financial impact on the Council or the Wormwood Scrubs Charitable Trust (WSCT)
- 1.5. The pre-tender estimate of the 8th October Cabinet report was £266,000 to appoint a design consultant. As the successful tender was priced more than 10% below this estimate, under the Council’s Contract Standing Orders (“CSO”) 17.3.2, the award decision must be taken by the Cabinet.
- 1.6. The Council has a statutory duty under regulation 69 to investigate any tender that appears abnormally low so this report includes an explanation of the difference and confirmation that Land Use Consultants (LUC) can fulfil the contract for their tendered sum.

2. RECOMMENDATIONS

- 2.1. To award the contract for appointment of the design consultants of the Alternative Ecological Mitigation works to Land Use Consultants to the amount of £142,150.

3. REASONS FOR DECISION

- 3.1. The procurement procedure was a restricted two staged procedure. In the first stage nine completed questionnaires were received and, following evaluation, seven applicants were invited to tender (ITT). Six tenders were received and evaluated. The technical quality weighting was evaluated against a set of criteria in the ITT, and the commercial price weighting was evaluated in relation to the lowest priced submission, as shown in Table 1.

Table 1

Tender	Commercial Score	Technical Score	Total Score %
Bidder 1	100	72	83.2
Bidder 2	71.275	64.5	67.21
Bidder 3	57.6	72	66.24
Bidder 4	48.05	65.5	58.52

Bidder 5	48.809	61.5	56.42
Bidder 6	41.799	63	54.52

- 3.2. A check for errors revealed an arithmetical error and an omission by the third lowest bidder. The bidder confirmed the mistake and a revised price is taken into consideration in Table 1.
- 3.3. The best tender is LUC who had the lowest price and joint best offer in terms of quality.
- 3.4. The Tender Evaluation Panel (TAP) independently assessed the quality of each part of LUC's tender and agreed a moderated score. The TAP evaluation confirmed a consistently high score for LUC (highest or second highest) for all elements and a comprehensive methodology.
- 3.5. LUC's tender of £142,150 is more than 15% below the Council's estimated cost of £266,000. The Council has a statutory duty under Regulation 69 to investigate any tender that appears to be abnormally low. As this tender is recommended for acceptance, a report to the Cabinet Member in paragraph 3.6 explains the reasons for the difference and paragraph 3.7 confirms that the contractor is able to fulfil the contract for their tendered sum.
- 3.6. Tenderers were invited to propose a methodology to deliver the AEM design and then price the 13 elements of it. These individual methodologies have resulted in a wide range of prices but LUC's tender does not appear to be abnormally low. A comparison has been made of LUC's price and the next closest price for each element in Table 3 of the exempt Appendix. In most areas the prices are comparable with three exceptions:
- for the production of the masterplan LUC are distinctly more competitive. LUC has a great deal of experience in producing such plans and confirmed in their methodology that they have considered each part of the work so this is not a concern.
 - for the production of the detailed draft proposals LUC are distinctly more competitive. LUC has a great deal of experience in producing such proposals and confirmed in their methodology that they have considered each part of the work so this is not a concern.
 - for the continued biodiversity surveys LUC has offered a considerably lower price. Within their methodology they have only priced for the minimum survey work required where other consultants have offered additional surveys. LUC is experienced in this type of work and, since the Conservation Management Plan (CMP) has not been agreed, this seems a sensible approach and is not a concern. Additional surveys will only be conducted if required.

- 3.7. LUC has provided a valid form of tender to confirm their price and further provided written confirmation that they are able to fulfil the contract for their tendered sum.

4. PROPOSAL AND ISSUES

- 4.1. The construction of the HS2 line adjacent to Wormwood Scrubs has led to a legal agreement setting out the requirements of the AEM works. Approval of the design of these works by HS2 will require the appointment of suitable consultants. Designing and implementing suitable AEM works funded by HS2 is the best available opportunity the Council has to deliver and manage improvements for biodiversity at Wormwood Scrubs.
- 4.2. During the procurement process the Council received an offer of additional funding from the Old Oak and Park Royal Development Corporation. The scope of the work was varied to include this work and all tenderers have priced for this additional work. This will give additional value to the AEM works and improve access to biodiversity.
- 4.3. The procurement of cost consultants, also approved in the Cabinet report of the 8th October, is currently underway. An Officer Delegated Decision is planned once a recommendation to appoint the cost consultant can be made giving greater cost certainty to the design, implementation and management of the AEM works.

5. OPTIONS AND ANALYSIS OF OPTIONS

- 5.1. LUC has provided the best tender, considered by the TAP to be high quality, with good experience of delivering similar projects. The tender is not considered to be abnormally low and so provides best value.

6. CONSULTATION

- 6.1. Consultation for this appointment of design consultants for the AEM works has taken place with the WSCT who manage the whole of Wormwood Scrubs Park, including the Linford Christie Stadium. The AEM works are planned for any part of Wormwood Scrubs except the Stadium and must recognise the significance of recreational and sporting opportunities here for the public.
- 6.2. Hammersmith and Fulham Council and the Trust have launched a consultation with local residents on the future of the Linford Christie Stadium <https://lbhf.citizenspace.com/growth-and-place/linford-christie/>. The Council wants to find a new plan that provides exercise and recreational facilities for the public, while protecting the valuable flora and fauna of the Scrubs.

7. EQUALITY IMPLICATIONS

- 7.1. The Council has given due regard to its duties under Section 149 of the Equality Act 2010 and it is not anticipated that there will be any negative

impacts on any groups with protected characteristics by approval of the award of the contract for appointment of the design consultants.

- 7.2. Implications verified by: Fawad Bhatti, Social Inclusion Policy Manager, tel. 07500 103617.

8. LEGAL IMPLICATIONS

- 8.1. Under the Council's Contract Standing Orders ("CSOs"), table 10.2a, "high value services contracts" (i.e. services contracts with a value of £181,302 or greater) must be procured through the use of an existing framework agreement, or by publishing a contract notice in the Official Journal of the European Union ("OJEU") along with an opportunity listing on the Council's e-tendering system webpage (capitalesourcing.com) and publication of a contract notice on the government's Contracts Finder website. The design consultant contract in this report was awarded following a restricted procurement process, which complies with this requirement.
- 8.2. The successful tenderer's tendered sum has been investigated and, as set out in paragraphs 3.6 and 3.7 above, it is considered that the sum is not abnormally low.
- 8.3. In the Cabinet decision of 8 October 2018 which approved the procurement strategy for this design consultant contract, the authority to award the contract was delegated to the Director of Transport, Highways Leisure &, Parks in consultation with the Cabinet Member for the Environment. However, as the successful tenderer's tendered sum was more than 10% below the pre-procurement estimate, the award decision must be taken by the Cabinet (per CSO 17.3.2).
- 8.4. This proposed contract award exceeds £5,000 and therefore must be published in the Council's Contracts Register in accordance with CSO 18.6.1. Furthermore, as the contract value exceeds £25,000, regulation 112 of the PCR 2015 requires the Council to publish the decision on the government's Contracts Finder website within a reasonable time.
- 8.5. *Legal comments completed by Hector Denfield, associate at Sharpe Pritchard LLP, on secondment to the Council (hdenfield@sharpepritchard.co.uk)*

9. FINANCIAL IMPLICATIONS

- 9.1. This report seeks approval of the award of the contract for appointment of the design consultants of the Alternative Ecological Mitigation (AEM) works (at Wormwood Scrubs) to Land Use Consultants (LUC) in the amount of £142,150,
- 9.2. The overall consultants budget (design, management, and implementation) is £782,000 over the 10-year projected lifetime with £344,000 as the pre-tender estimate for the design consultant (£266,000) and cost consultant (£78,000).

VAT will apply and this will be recoverable as the Council will be the party entering into the contracts.

- 9.3. The proposed contract price of £142,150 is within the design consultant budget of £266,000 as set out in the procurement strategy.
- 9.4. Approval of this contract award should have no financial impact on the Council or The Wormwood Scrubs Charitable Trust. This is because the costs to design, implement and maintain the AEM proposals and management plans, together with any reasonable costs properly incurred by the Council, will be reimbursed by High Speed Two Limited Ltd (HS2). The Council is required to ensure that all costs are reasonable and properly incurred.
- 9.5. HS2 funding includes maintenance of the new works for up to ten years. After ten years additional funding would be required to progress any activities beyond the AEM works. If the work does progress additional funding will be explored via CIL, S106 or other funding opportunities nearer the time.
- 9.6. *Implications completed by: Gary Hannaway, Head of Finance, 020 8753 6071.*
- 9.7. *Implications verified by Emily Hill, Assistant Director, Corporate Finance, Tel. 020 8753 3145.*

10. IMPLICATIONS FOR LOCAL BUSINESS

- 10.1. Implications for local business were identified for the Procurement strategy approved in the 8th October 2018 Cabinet report as follows:
- 10.2. This proposal could potentially create supply opportunities for local businesses and skills/employment opportunities for local residents. Most of these are likely to be identified with the procurement of the contractor and the consultants' brief will be to develop and encourage this.
- 10.3. Community engagement will form part of the evaluation criteria and it is expected that the masterplan will include an activities plan, encouraging volunteering and a range of community engagement events.
- 10.4. Procurement will follow the usual Council procurement processes via Capital E-Sourcing and suitable local consultancies will be identified and actively encouraged to apply.
- 10.5. *Implications verified/completed by: Albena Karameros, Economic Development Team, tel. 020 7938 8583.*

11. COMMERCIAL IMPLICATIONS

- 11.1. The contract has been procured in accordance with the agreed procurement strategy that was presented to Cabinet prior to the commencement of the tendering exercise. A contracts opportunity listing was published on the

Council's e-tendering system, in Tenders Electronics Daily (TED) and Contracts Finder, in accordance with PCR 2015 and CSOs. The estimated value of the contract was £266,000 (over statutory threshold) but the most economically advantageous tenderer bid £142,150 (under the statutory threshold). Because the value of the contract is more than 10% under the estimated value, the decision shall be taken by Cabinet, in accordance with CSOs17.3.2 requirements

- 11.2. The procurement undertaken followed a restricted (two stage) procedure. First stage ensured all suppliers invited to bid at the second stage meet all the Council's minimum standards. The tenders were evaluated on a 60%-40% quality-price ratio during the second stage of the tender. A TAP was organised to evaluate and moderate the tenders received.
- 11.3. The recommended supplier is the most economically advantageous tenderer: highest quality score and highest commercial score. Moreover, the bid price received is lower than expected but the quality of the submission and the provision has not been compromised. Therefore, the recommendation provides best value for money.
- 11.4. A contract award notice will be published for the award and a contract entry will be registered in the corporate Contracts Register to ensure compliance with statutory transparency regulations.
- 11.5. *Implications verified/completed by: Andra Ulianov, Head of Contracts and Procurement, tel. 07776672876*

12. IT IMPLICATIONS

- 12.1. There are no IT implications contained within this proposal. The contents of the proposal do not refer to any personal data being held therefore there are no implications under the requirements of the Data Protection Act 2018 (GDPR).
- 12.2. *Implications verified by Veronica Barella, Chief Information Officer, tel. 020 8753 2927.*

13. RISK MANAGEMENT

- 13.1 The Tender Appraisal Panel's conclusion was that the successful bidder met the Council's requirements and has therefore delivered a procurement that contributes to the Council Priority; Being ruthlessly financially efficient.
- 11.2 *Implications verified by: Michael Sloniowski Risk Manager tel. 020 8753 2587.*

14. BACKGROUND PAPERS USED IN PREPARING THIS REPORT (all published)

Alternative Ecological Mitigation Consultants Procurement. Cabinet Decision Report 8th October 2018

Hammersmith & Fulham Joint Health and Wellbeing Strategy 2016-2021

H&F Business Plan 2018/22

LIST OF APPENDICES:

APPENDIX A - EXEMPT INFORMATION