

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD1472

### Title: Garden Bridge Guarantees

**Executive Summary:** A new footbridge (the “Garden Bridge”) is being developed for central London by the Garden Bridge Trust (“the Trust”). It will connect Temple with the South Bank, provide a new pedestrian crossing of the Thames in central London and result in a major new public space. The Mayor is supporting this proposal on the basis it will help deliver his objectives for transport, the environment and social and economic development. This Mayoral Decision approves the provision of guarantees by the Greater London Authority (“GLA”) in relation to the Garden Bridge, subject to suitable terms and arrangements being agreed. It directs Transport for London (“TfL”) to perform such activities as are necessary or expedient to fulfil the obligations to be set out in those guarantees, other than those relating to the establishment, upkeep, maintenance and operation of the gardens and public spaces; to undertake activities in relation to the Garden Bridge to protect the interests of the GLA and TfL; where appropriate, to provide limited support to the delivery of the Garden Bridge project; and to provide funding of up to £60m (incorporating £30m from the Government) to the Trust, for the purposes of securing the delivery and construction of the Bridge.

**Decision:** Subject to agreement as to the terms of the guarantees and to appropriate arrangements being in place between the GLA and the Trust giving the GLA appropriate rights in the event such guarantees are called upon, and the Trust demonstrating to the Mayor’s satisfaction that it has secured a satisfactory level of funding to operate and maintain the Garden Bridge for at least the first five years from its completion, the Mayor:

- Approves the GLA’s provision of a guarantee to the Port of London Authority in respect of the obligations on the Garden Bridge Trust as a result of the river works licence;
- Approves the GLA’s provision of a guarantee to Westminster City Council to secure the ongoing maintenance of the Garden Bridge; and
- Approves the GLA’s provision of a guarantee to the London Borough of Lambeth to secure the ongoing maintenance of the Garden Bridge.

The Mayor:


- Delegates to the Executive Director of Resources the authority to agree the terms and conditions of the guarantees and the related arrangements, and to execute or authorise the execution of the guarantees and any related documentation;
- Delegates to TfL the exercise of the Mayor’s powers under sections 30 and 34 of the Greater London Authority Act 1999 in accordance with the Delegation contained in the Appendix to this Decision; and
- Directs TfL to use its powers and the powers delegated to it by the GLA in accordance with the Direction contained in the Appendix to this Decision.

### Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision, and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

The above request has my approval.

Signature:



Date:

4 JUNE 2015

## **PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR**

### **Decision required – supporting report**

#### **1. Introduction and background**

- 1.1 MD1248 (August 2013) directed TfL to undertake activities to develop and help enable the Garden Bridge. The Mayor was keen to support the proposal on the basis that TfL would take the role of “enabler” but with no expectation that the GLA or TfL should take ownership of the structure or responsibility for its ongoing operation and maintenance.
- 1.2 Construction, operation and maintenance of the Garden Bridge are the responsibility of the Garden Bridge Trust, an independent charity specifically set up for the purpose. The Trust has secured £120m of funding in principle towards their overall target for construction of £169m (inclusive of VAT) and there are a number of live conversations with other potential funders. Annual operating, maintenance and fundraising costs are estimated at £2.8m.
- 1.3 MD1355 (June 2014) directed TfL to provide funding of up to £30m to the Trust for the purposes of securing the delivery and construction of the Garden Bridge.
- 1.4 Planning consent for the Garden Bridge was granted by Lambeth Borough Council (“Lambeth”) on 19 December 2014 and by Westminster on 22 December 2014. An application for judicial review of the Lambeth decision has been made by a local resident. The substantive hearing of this application is due to take place on 10 and 11 June. The Trust is now leading the next stage of the project, including progressing work on discharging the various planning conditions, continuing with the procurement of the contractor and securing the various land agreements.
- 1.5 This MD covers three issues that need to be resolved before the Trust can progress the project further:
  - The Port of London Authority (“PLA”) guarantee;
  - The guarantee required by Westminster City Council (“Westminster”) (as a condition to its planning permission) to secure the ongoing maintenance of the Garden Bridge; and
  - A guarantee to Lambeth, in similar format to that to be given to Westminster, to secure the ongoing maintenance of the Garden Bridge.

#### PLA guarantee

- 1.6 The PLA owns and controls the airspace and river bed within which the Garden Bridge will pass. This requires a river works licence to be granted which will effectively give the Trust the authority (in perpetuity) to construct over and into the river. The licence will place a series of obligations on the Trust to maintain the structure so it complies with the PLA’s statutory requirements to keep the river open for shipping. Similar licences were agreed for the Emirates Air Line, the Hungerford Bridges and the Millennium Bridge, which involved either Transport for London or the local Boroughs providing the level of guarantees required with the River Works Licence.
- 1.7 The PLA is requiring another body to guarantee the obligations of the Trust. The licence will require the Trust to comply with obligations in respect of the construction and ongoing operation and maintenance of the Garden Bridge. While the PLA is content for the Trust to be the signatory of the river works licence, they are seeking a guarantor who would be able to meet the terms of the licence in the event the Trust could not. Without a guarantee a river works licence will not be granted to the Trust and the Garden Bridge will not be built.
- 1.8 It is proposed that the GLA should give such a guarantee. Under the Greater London Authority Act 1999 (“the GLA Act”), TfL could only provide a limited guarantee (subject to an appropriate

delegation of the GLA's functions), and this would be restricted to financial obligations only. This would not meet the PLA's requirements for the guarantee to extend to the performance of the obligations of the guarantee (i.e. making good the situation) – not just the cost of making good the situation. The GLA has broader powers (under section 30(1) and (2) of the GLA Act) to guarantee both the financial and non-financial obligations of the Trust under the licence.

- 1.9 In accordance with the Delegation and Direction set out in the Appendix, TfL will be directed by the Mayor to fulfil the obligations placed on the GLA by the PLA guarantee, other than those relating to the establishment, upkeep, maintenance and operation of the gardens and public spaces, and to make appropriate budgetary provision in that regard.

#### Westminster and Lambeth Guarantees

- 1.10 Each planning consent for the Garden Bridge (from Westminster and Lambeth) has numerous planning conditions attached to it, including a requirement for the Trust to enter into separate Section 106 agreements with the boroughs before construction commences.
- 1.11 In addition, Westminster has imposed a condition which requires a guarantee to "secure the on-going maintenance of the proposed bridge". Westminster's concern is similar to that of the PLA, i.e. the long-term ability of the Trust to operate and maintain the Garden Bridge as required. Without a guarantee the planning condition will not be met and the Garden Bridge will not be built. On 7 May 2015 the Trust wrote to Lambeth to confirm that it is prepared to commit itself to provide an equivalent guarantee to that required by Westminster, "to secure the ongoing maintenance of the Development" (i.e. the Garden Bridge).
- 1.12 It is proposed that the GLA should provide guarantees to Westminster and Lambeth to cover the maintenance of the bridge structure and maintenance and operation of the garden and public space should the Trust not be able to do so. As with the PLA guarantee, this needs to be provided by the GLA rather than TfL because TfL would be restricted to guaranteeing financial obligations only, which would be unlikely to meet Westminster's and Lambeth's requirements.
- 1.13 In accordance with the Delegation and Direction set out in the Appendix, TfL will be directed by the Mayor to fulfil the obligations placed on the GLA by the Westminster and Lambeth guarantees, other than those relating to the establishment, upkeep, maintenance and operation of the gardens and public spaces, and to make appropriate budgetary provision in that regard.

#### Garden Bridge Trust funding position and likelihood of guarantees being called upon

- 1.14 The Garden Bridge Trust has done a detailed analysis of bridge costs and income to demonstrate that its funding plans are robust. Income is projected to exceed operating costs by £1.025m each year. This balance in funds will be used to cover the operating costs of the Trust. Annual income is projected to be £3m including from retail, events, merchandise, ongoing fundraising, a patrons' scheme, corporate memberships and an endowment fund. The estimated annual operating and maintenance costs for the bridge are £1.975m.
- 1.15 Given the Trust's projected annual revenue surplus, it is the clear expectation that the guarantees described above will not need to be called upon. It is expected that income will exceed costs for the life of the bridge. There will also be a five yearly assurance process to incorporate any changes to the annual position. The Trust will articulate any changes to costs or income through a five yearly business plan, approved by the Mayor, which will demonstrate how future operating and maintenance costs will be covered.

#### Other matters

- 1.16 In accordance with the Delegation and Direction set out in the Appendix, TfL will also be directed to undertake activities in relation to the Garden Bridge to protect the interests of the GLA and TfL; where appropriate, to provide limited support to the delivery of the Garden Bridge project; and to

provide funding of up to £60m (incorporating £30m from the Government) to the Trust, for the purposes of securing the delivery and construction of the Garden Bridge.

- 1.17 As stated above, MD1355 (June 2014) directed TfL to provide funding of up to £30m to the Trust for the purposes of securing the delivery and construction of the Garden Bridge. TfL will now be providing £60m of grant funding to the Trust, and this is reflected in the Delegation and Direction set out in the Appendix. This £60m incorporates the £30m contribution from the Government, which for administrative convenience is being made through TfL. There is no additional cost to TfL.

## **2. Objectives and expected outcomes**

- 2.1 The strategic objective is:

“To provide an iconic new pedestrian garden bridge across the River Thames, linking Temple Underground station to the South Bank, with construction and maintenance funded by third parties.”

- 2.2 A number of other objectives have been identified as follows:

- To improve the walking links between Temple station and the South Bank, and between Waterloo station and the Temple/Fleet Street area;
- To provide a new garden and amenity space over the River Thames, accessible to the general public;
- To encourage greater interaction between the visitor economy on either side of the Thames in this area; and
- To encourage new visitor trips to this part of central London.

## **3. Equality comments**

- 3.1 Under section 149 of the Equality Act 2010, as public authorities, the Mayor and TfL must have due regard to the need to eliminate unlawful discrimination, harassment and victimisation as well as to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not. In addition, the Mayor has a duty to have due regard to the principle that there should be equality of opportunity for all people.

- 3.2 The footbridge will be accessible to pedestrians with restricted mobility, including ramps and/or lifts to allow access at each end for pedestrians in wheelchairs, with pushchairs, and with difficulty using steps. Currently the adjacent bridges (Waterloo and Blackfriars) are not directly accessible from the South Bank without the use of steps or a lengthy diversion to the nearest step-free route. As well as providing a step-free route across the river for pedestrians, the bridge will provide a new garden in the centre of London, a new amenity space for both residents and visitors, and will better link the communities on the South Bank with the rest of central London. There will be no charge to access the bridge, allowing its enjoyment by all Londoners.

- 3.3 The Garden Bridge is designed for pedestrians and it is not possible to integrate facilities for cycling in the design, given the number of pedestrians expected to use the bridge and its function as a garden. As part of the broader cycling work across London and the delivery of the Mayor's Cycling Vision, initiatives are being developed to improve facilities for cycling in the area, including on the neighbouring Blackfriars Bridge through the North-South Cycle Superhighway. This will provide a safe, convenient segregated route over the Thames at the adjacent bridge for cyclists where the potential conflict with pedestrians is less. Waterloo Bridge, Blackfriars Road and Upper Ground are identified as routes signed or marked for use by cyclists.

- 3.4 To support the planning application for the Garden Bridge a full Environmental Assessment was carried out supported by an Equalities Impact Assessment and Health Impact Assessment. The Environmental Statement highlights some temporary and permanent significant adverse effects on the environment, although these need to be balanced against the significant beneficial effects. Adverse effects include a temporary impact on the ITV studios as a result of construction works and a permanent impact on some London's views (although this should be balanced against the creation of new views and viewing points from the Garden Bridge). The HIA and the EqIA concluded that there are no significant impacts that cannot be satisfactorily mitigated.

#### 4. Other considerations

##### Links to strategies and Mayoral and corporate priorities

- 4.1 The bridge furthers Proposal 60 of the Mayor's Transport Strategy (MTS) by improving the walking experience, enhancing the urban realm and ensuring safe, comfortable and attractive walking conditions.
- 4.2 It will contribute towards the Mayoral objectives and policies set out in the London Plan. Policy 2.10 of the London Plan states that the Mayor will improve infrastructure for walking within the Central Activities Zone. It will provide additional capacity for pedestrians and encourage walking by ensuring an improved public realm, which is supported by Policy 6.1 of the London Plan. The cultural, environmental and urban realm benefits are supported by Policies 2.18 (Green Infrastructure), 4.6 (Support for Arts, Culture, Sport and Entertainment Provision), and 7.18 (Protecting Local Open Space).

##### Consultation

- 4.3 The GLA has consulted TfL regarding these proposals.
- 4.4 Public consultation on the Garden Bridge was held from 1 November 2013 to 20 December 2013. The Consultation Report detailing the key issues from the consultation can be found on the Garden Bridge Trust's website at <https://www.gardenbridge.london/files/Garden%20Bridge%20Consultation%20Report%20V1%203.pdf>  
The report also explains how these issues were considered in developing the design of the scheme.
- 4.5 In considering the exercise of the Mayor's Section 30 powers, further consultation is not regarded as either appropriate or necessary.

##### Risk

- 4.6 Where TfL exercises the Mayor's powers under delegation, it is the GLA that retains legal liability for TfL's exercise of those delegated powers.
- 4.7 There is a risk that the Trust is unable to meet its obligations to the PLA or to Westminster and the GLA is required to meet the obligations set out in the PLA guarantee and/or the Westminster guarantee. The Trust is taking steps to limit and manage its own risks, which in turn will limit the likelihood of either the PLA guarantee or the Westminster guarantee being called:
- (i) The bridge structure has been designed and specified for a 120 year life in accordance with current design codes, without the need for unplanned maintenance and with maintenance implications being a critical criterion for design and specification decisions.
  - (ii) The construction contract will not be let until the Trust is satisfied that it has adequate funds to cover its obligations under the contract, including appropriate levels of risk.

- (iii) The contract will be placed with a major international contractor who will also be required to provide a bond, parent company guarantee or equivalent to offer a margin of protection against insolvency or other grounds for non-performance.
- (iv) The contract will be placed on a design and build basis, with the contractor carrying the performance, cost and defects liability risk.
- (v) The warranty for certain critical elements (eg the stainless steel deck/drainage tray within the bridge structure, and the cupro-nickel finish to the structure) will be extended beyond the normal 12-year period for contracts executed under seal to 20 years.
- (vi) Routine maintenance in the short/medium term, and the more intensive maintenance that will be required as the bridge ages beyond the warranty period is factored into the Trust's annual budget of £2.8m pa for whole life operating cost.
- (vii) The bridge will be covered against accidental loss or damage by an Owner Controlled Insurance Policy with appropriate levels of cover throughout its construction and operation.

## 5. Financial comments

- 5.1 For the Garden Bridge to proceed, the GLA needs to provide guarantees to the PLA and Westminster, given the conditions imposed by those bodies. The guarantees do not necessarily mean that there will be any further call on the public purse but they do create a contingent liability, i.e. a potential obligation that may be incurred depending on the outcome of a future event.
- 5.2 If any of the guarantees were called upon, obligations relating to the establishment, upkeep, maintenance and operation of the gardens and public spaces in both Guarantees would be the responsibility of the GLA. Accordingly, if either of the Guarantees were called upon, the GLA could be exposed to the costs of meeting those obligations. However, the GLA is in discussions with the Corporation of London and other bodies about the most appropriate way of meeting and funding these obligations alongside the existing revenue generating opportunities that would be associated with the running of the Garden Bridge. All other obligations under the Guarantees would be TfL's responsibility to fulfil and fund, in accordance with the Delegation and Direction set out in the Appendix.
- 5.3 The Trust's income is projected to exceed operating costs by £1.025m each year. Annual income is projected to be £3m and the estimated annual operating and maintenance costs for the bridge are £1.975m (although costs should be lower than this initially and would increase with the age of the structure). The balance in funds will be used to cover the operating costs of the Trust.

## 6. Legal comments

### Provision of guarantees by the GLA

- 6.1 The delivery of the Garden Bridge falls within the GLA's s.30(2) principal purposes (promoting in Greater London economic development and wealth creation, social development and the environment) under the GLA Act. Providing the PLA guarantee and the Westminster guarantee falls within the GLA's general powers under s.30(1) – *"The Authority shall have power to do anything which it considers will further any one or more of its principal purposes"*.

### Delegation and Direction

- 6.2 This Mayoral Decision asks the Mayor to delegate to TfL his powers under sections 30 and 34 of the GLA Act to perform such activities as are necessary or expedient to fulfil the obligations to be set out in those guarantees; to undertake activities in relation to the Garden Bridge to protect the

interests of the GLA and TfL; and (where appropriate) to provide limited support to the delivery of the Garden Bridge project.

Section 38 of the GLA Act provides that the Mayor may delegate the exercise of his section 30 and 34 powers to TfL.

- 6.3 The proposed activities referred to in the delegation and direction are within the scope of section 30 (1–2) of the GLA Act, in that they further one or more of the principal purposes of promoting economic development wealth creation, promoting social development and promoting the improvement of the environment in Greater London.
- 6.4 Section 32 of the GLA Act requires the Mayor to consult in accordance with that section when exercising his powers under section 30 of the GLA Act. Consultation on the principle of entering into the guarantees or TfL fulfilling its obligations is not considered appropriate in the circumstances
- 6.5 Section 155 of the GLA Act provides that the Mayor may direct TfL to exercise its functions (which include those delegated to it) in any manner specified in a direction and may issue specific directions to TfL as to the exercise of its functions.
- 6.6 Both the delegation and direction must be in writing and are attached at the Appendix. GLA has consulted TfL regarding the delegation and direction.

#### Liability

- 6.7 Where TfL exercises the Mayor's powers under delegation, it is the GLA that retains legal liability for TfL's exercise of those delegated powers.
- 6.8 Paragraph 2 of the Delegation to TfL attached at the Appendix requires TfL to exercise the powers delegated to it in accordance with the requirements of sections 30-34 of the GLA Act.

#### TfL's powers

- 6.9 TfL has various powers concerning the provision of transport and transport related matters, which are contained in sections 156 – 160, and Schedule 12 of the GLA Act.

#### PLA, Lambeth and Westminster guarantees

- 6.10 The guarantees and any related documentation will be structured in such a way as to protect the GLA's and TfL's interests.

## **7. Investment & Performance Board**

- 7.1 This decision falls outside the terms of reference of the Investment & Performance Board.

## **8. Planned delivery approach and next steps**

- 8.1 The Garden Bridge Trust is responsible for leading the delivery of the bridge, should it raise sufficient funding to allow the project to proceed. TfL may provide some limited assistance but delivery is the responsibility of the Trust.
- 8.2 If other guarantees are sought from the GLA, a further Mayoral Decision will be prepared.
- 8.3 Subject to the issues in this paper being resolved, the timescale for next steps with the Garden Bridge are as follows:
- Acquisition of land interests – June 2015

- Section 106 agreements completed – September 2015
- Construction contract award – September 2015
- Commence construction – early 2016
- Complete construction – mid 2018.

**Appendices and supporting papers: Appendix – Delegation and Direction**



**Public access to information**

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after approval or on the defer date.

**Part 1 Deferral:**

**Is the publication of Part 1 of this approval to be deferred? NO**

If YES, for what reason:

Until what date: (a date is required if deferring)

**Part 2 Confidentiality:** Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

**Is there a part 2 form – NO**

**ORIGINATING OFFICER DECLARATION:**

Drafting officer to confirm the following (✓)

**Drafting officer:**

Claire Hamilton has drafted this report in accordance with GLA procedures and confirms the following have been consulted on the final decision.

✓

**Assistant Director/Head of Service:**

Tim Steer has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

**Sponsoring Director:**

Fiona Fletcher Smith has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

**Mayoral Adviser:**

Isabel Dedring has been consulted about the proposal and agrees the recommendations.

✓

**Advice:**

The Finance and Legal teams have commented on this proposal.

✓

**EXECUTIVE DIRECTOR, RESOURCES:**

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature

*M. D. Allee*

Date

*28.5.15*

**CHIEF OF STAFF:**

I am satisfied that this is an appropriate request to be submitted to the Mayor

Signature

*Edward Hill*

Date

*01:06:2015*

