

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD508

### Title: Squares Avian Pest Control Contract and Technical Consultancy Services

#### Executive Summary:

Following amalgamation of the Squares and Facilities Management Team in August 2009, a review of Squares contract documentation has taken place. It is now necessary to procure a contract for Trafalgar Square Avian Pest Control in accordance with the EU Procurement Regulations and to carry out a mini-competition exercise to select a contractor to perform Technical Consultancy Services under an existing OGC framework, as the Authority is currently out of contract.

#### Decision:

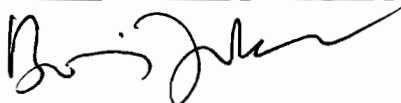
Mayoral approval is sought to:

- 1) continue to use the services of Van Vynck Avian Solutions for Avian Pest Control Services on Trafalgar Square for a period required to undertake a procurement exercise in accordance with EU Procurement Regulations;
- 2) undertake a competitive tender exercise in order to procure a new contract for Avian Pest Control Services at Trafalgar Square to commence in August 2010, for a period of 4 years with the option to extend for up to 2 years in 1 year lots and award this contract to the most economically advantageous tenderer;
- 3) continue to use the services of EC Harris for Technical Consultancy Services at Trafalgar and Parliament Squares for a period of 4-6 weeks whilst a mini competition exercise is undertaken to select a new supplier;
- 4) undertake a mini competition exercise in order to procure a new contract for Technical Consultancy Services at Trafalgar and Parliament Square under an existing OGC framework for a period of 3 years with an option to extend for a further one year; and
- 5) delegate authority for award (where required) of the above contracts and any subsequent extensions of the same to the Executive Director of Resources.

#### Mayor of London

The above request has my approval.

Signature



Date

22/3/10

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

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

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

##### Avian Pest Control

The contract for Avian Pest Control Services was awarded to Van Vynck Avian Solutions in December 2007 for a period of one year under DA1856 and was subsequently extended for six months until April 2009 under DD0089.

Van Vynck have consistently carried out the services under the contract, working closely with the Authority to reduce the pigeon population on Trafalgar Square from an estimated 4000 per day at the start of an annual programme in July 2006, to 100 to 150 per day currently. As a result the square is now, more hygienic, safer for visitors, an improved space for events and has reduced significantly the costs associated with cleaning this historic space.

The cost of the provision of these services is part funded by Westminster City Council who meet 25% of the cost incurred.

Under the new Facilities and Squares Management Team (established as part of the Organising for Delivery Programme) a complete review of Squares contract documentation is being undertaken to ensure compliance. As part of that review it has been ascertained that the procurement of a new contract prior to expiry of the original contract period with Van Vynck Avian Solutions in April 2009 was not carried out. This was an oversight but is not expected to reoccur because the Squares Team has now been integrated into the Facilities Management Team which has extensive contract management expertise and processes.

By continuing to use the services of Van Vynck Avian Solutions, the Authority has extended the contract by conduct, outside of the contract code; and we are now required to formalise the interim arrangements pending procurement of a new contract.

Procurement of a replacement contract will be carried out in the shortest timescale possible in order to ensure future compliance with the Authority's contract code.

TfL Procurement have been engaged on the process of procuring a new contract and are supportive of this approach in order to ensure future compliance.

##### Technical Consultancy

The contract for Technical Consultancy services for Trafalgar and Parliament Squares was procured via an OGC framework in February 2008 for a period of 12 months and was awarded to EC Harris under MA3350. This contract was then subject to extension from March 2009 to June 2009 under DD0092.

EC Harris have carried out the services of a technical consultant to a consistently high standard, managing a variety of projects which were delivered in a timely manner and within budget constraints.

Following the award of a framework of suppliers to provide technical consultancy services under OGC RM457, the Authority is required to undertake a mini-competition amongst the suppliers on this framework in order to ensure that best value is obtained. From 30 June 2009 to date the

services provided under the OGC framework have been provided without adhering to the Authority contract code and have therefore been extended by conduct.

TfL Procurement have been engaged on the process of procuring a new contract under the OGC Framework and are supportive to this approach to ensure future compliance.

## **2. Issues for consideration**

### **a) Links to strategies and Strategic Plan**

Efficient Facilities and Squares Management contracts support the proper operation of the GLA as an organisation and therefore support Mayoral strategy and operations.

The operations undertaken within these contracts also support the following specific Mayoral Strategies;

- Strategic Plan: A stimulating, creative, cultural London.
- The Mayor's London Plan: Central Activities Zone – Strategic Priorities: Policy 2.10c and f
- Mayor's Cultural Strategy.

### **b) Impact assessments and Consultation**

Legal, Procurement and Finance teams will be consulted at the appropriate stages of the evaluation process for this contract. It is not considered necessary or appropriate to consult within the meaning of Section 32 of the Greater London Authority Act 1999 as these arrangements relate to the Authority's procurement of support services.

### **c) Risk**

Without a suitable contract in place, Facilities and Squares Management will be unable to ensure the day-to-day pigeon population on Trafalgar Square is controlled and would therefore be at risk of damage to people, historic monuments and other property, and the reputation of the Authority, which may have a financial impact.

Without regularisation of the contract process the organisation will not be following the contract code.

## **3. Financial Comments**

### Avian Pest Control

- 3.1 The budget for 2009/10 is £41,000. Year to date spend with Van Vynck Avian Solutions stands at £46,262, with year-end estimated expenditure at £58,187. Anticipated income from Westminster City Council of £14,547 (25% of the cost) will bring the Authority's total expenditure with the current supplier to £43,640. Therefore it is proposed that the overspend of £2,640 be met from the overachievement of income on Squares letting income budget.

	<b>Estimate cost/ Budget</b>
	<b>£</b>
Year-end estimated expenditure	58,187
Income from Westminster City Council (25% of cost)	(14,547)
Estimated costs to GLA	43,640
Avian Pest Control Budget for 2009/10	(41,000)
Cost to be met from Squares letting exceeding target income	<b>2,640</b>

#### Technical Consultancy

- 3.2 The budget for Technical Consultancy is £68,000. Year to date spend with EC Harris stands at £76,220, with year-end estimated expenditure at £77,038
- 3.3 The overspend of £9,000 will be met from the Squares reserve fund as additional costs relate to restoration works.
- 3.4 Expenditure relating to both the Aviation Pest Control and Technical Consultancy contracts for 2010/11 and future years is expected to be contained within the approved budget for the Squares. Future years spend is estimated to be current years cost plus an inflation uplift of 3% per annum.
- 3.5 All budget adjustments will be made.
- 3.6 Any changes to the scope and further cost of both the contracts will be subject to further approval as per the Authority's Decision Making process.
- 3.7 The Squares and Facilities Management team within the Resource directorate will be responsible for project managing these contracts.

## **4. Legal Comments**

### **4.1 Legal Powers**

Under sections 383 and 384 of the Greater London Authority Act 1999 (the 'Act'), the Authority acting through the Mayor is responsible for the functions relating to care, control, management and regulation of Trafalgar Square (s383) and Parliament Square (s384). Section 34 of the Act gives the Mayor the power to do anything calculated to facilitate, or is conducive or incidental to the GLA's functions. The legal power to manage these Squares is satisfied under sections 383, 384 and 34.

### **4.2 Van Vynck Avian Solutions**

The extension by conduct is a breach of the Contracts and Funding Code (the 'Code'). In addition to this breach, the further extension to cover a period for the OJEU procurement (likely to be until August 2010) is not in strict accordance with the Code, however, as it is being used to perform a full procurement during 2010 whilst maintaining the service, the Mayor may consider this in determining whether to approve this further extension.

Officers have been advised that if the Mayor is minded to approve extending Van Vynck until an OJEU can be completed, the best means of formalising this is by a Variation Agreement covering the period since April 2009.

#### 4.3 EC Harris

The extension by conduct is a breach of the Contracts and Funding Code (the 'Code'). In addition to this breach, the further extension to cover a period for the mini-competition procurement (4-6 weeks) is not in strict accordance with the Code, however, as it is being used to perform a procurement whilst maintaining the service, the Mayor may consider this in determining whether to approve this further extension. TfL Group Procurement can advise on using the OGC framework. Officers should note that the call-off is proposed as 3 years plus an option to extend for a further year. TfL Group Procurement should ensure the OGC Framework terms provide that a call-off on the proposed Framework may be for this length of period.

Officers have been advised that if the Mayor is minded to approve extending EC Harris for a further 4 to 6 weeks, the best means of formalising this is by a Variation Agreement covering the period since June 2009.

#### 4.4 Avian Pest Control OJEU Tender

Officers should liaise with TfL Group Procurement who will advise on the OJEU procurement.

#### 4.5 Delegation to the Executive Director of Resources

Under Section 38 (1) of the Act "any function exercisable on behalf of the Authority by the Mayor shall also be exercisable on behalf of the bodies or persons specified in subsection (2) below, if or to the extent that the Mayor so authorises, whether generally or specially, and subject to any conditions imposed by the Mayor."

Section 38(2) goes on further to state that "those bodies and persons are- (a) the Deputy Mayor, (b) any member of staff of the Authority". This will be exercised in the delegation to the Executive Director of Resources to approve extensions to those contracts mentioned in decision 7.

### 5. **Background/supporting papers**

None.

**Public access to information**

Information in this form is subject to the Freedom of Information Act 2000 (FOI Act) and other legislation. Part 1 of this form will be made available on the Greater London Authority website within 1 working day of approval. Any facts and advice that should not be made automatically available on request should not be included in Part 1 but instead on the separate Part 2 form. Deferment is only applicable where release before that date would compromise the implementation of the decision being approved.

Is the publication of this approval to be deferred? NO

If yes, for what reason:

Until what date:

Is there a part 2 form - NO

**ORIGINATING OFFICER DECLARATION:**

*Tick to indicate  
approval*

**Sponsoring Director:**

Martin Clarke has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

**Mayoral Advisor:**

Sir Simon Milton has been consulted about the proposal and agrees the recommendations.

✓

**Legal advice:**

The Commercial Law and Projects team has commented on this proposal.

✓

**OFFICER APPROVAL****Executive Director, Resources**

I have been consulted about the proposal and confirm that Financial and Legal advice have been taken into account in the preparation of this report.

Signature

*M. J. Clarke*

Date

*5.3.10*

**Chief of Staff**

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

Signature

*Jon Owen*

Date

*9/3.10*