

# LONDON BOROUGH OF BRENT

EXECUTIVE - 7<sup>TH</sup> JANUARY 2004

FROM THE DIRECTOR OF ENVIRONMENT

FOR INFORMATION / ACTION

NAME OF WARD  
All Wards

**REPORT TITLE : WEMBLEY HIGH ROAD, ENHANCEMENT SCHEME**

FP REF: ES-03/04-193

## 1.0 SUMMARY

- 1.1 This report seeks the consent of the Executive for an exemption from Contract Standing Orders in order to allow for the award by the Director of Environment of a contract for Phase 3 of the Wembley High Road Enhancement scheme to McNicholas plc, without the need for prior competition.

## 2.0 RECOMMENDATIONS

- 2.1 That the Executive agrees that there are good operational and financial reasons (set out in this report) for not complying with the requirements of Contract Standing Orders with respect to the Phase 3 works and accordingly agrees to an exemption from Contract Standing Orders in respect of the award of a contract for the Phase 3 works.

## 3.0 FINANCIAL IMPLICATIONS

- 3.1 Earlier this year, Transport for London provided £120,000 to the London Borough of Brent through the West London Transportation Strategy (WLTS) for improvements to High Road Wembley. This funding was used for Phase 2 of a programme of works, and included enhancements to the area of the footways outside "Argos".
- 3.2 Unfortunately, due to the limited finance available, the Council has been unable to undertake Phase 3 of the works, which includes the area referred to as "The Café Quarter". The estimated value of Phase 3 works is £150,000.
- 3.3 Recent negotiations between officers and Transport for London (TfL), have indicated that TfL may now be willing to fund Phase 3 of the works, provided that the Council can undertake the work before 31<sup>st</sup> March 2004. Should it not be possible to do so, then the proposed funding could be lost.

## **4.0 LEGAL IMPLICATIONS**

- 4.1 The contract for the Phase 3 works would fall within the definition of a works contract for EU public procurement purposes. However, the value of the works is below the relevant threshold (approximately £3.9M), and the award need not therefore comply with the requirements of the Public Works Contracts Regulations 1991 (Regulation 7(1)).
- 4.2 The Council's Contract Standing Orders normally require all works contracts valued at £150,000 and above to be let through competitive tender (CSO 97). The contract for Phase 3 works would therefore normally be required to be advertised and subjected to competition.
- 4.3 However, Contract Standing Order 85(a) provides an exemption from compliance with Contract Standing Orders and the Council's Financial Regulations where there are good operational and/or financial reasons for doing so, with which the Executive agrees.
- 4.4 Should the Executive so agree, then the Director has power to proceed with the award as proposed under paragraph 2.5 of Part 4 of the Constitution.
- 4.5 Notwithstanding the absence of the tender process, the Phase 2 works would be awarded by the Director on the (ICE-5<sup>th</sup> Edition) standard form of contract terms and conditions, the works would be properly specified and the rates and prices properly documented.

## **5.0 STAFFING IMPLICATIONS**

- 5.1 The Council's Transportation Service unit will supervise the contract using existing staffing resources within the unit.

## **6.0 DIVERSITY IMPLICATIONS**

- 6.1 The proposed works will include dropped curbs at crossing points and tactile paving where necessary. They will replace the existing surfaces which are in poor condition. The proposals contained in this report, have in other respects, been subject to screening and officers believe that there are no diversity implications.

## **7.0 DETAILS**

- 7.1 Improvement to the Wembley High Road is already well under way. Street lighting and signs have mainly been replaced by a new and modern type to reflect the importance of the Town Centre to the borough and in relation to the Wembley Stadium and the regeneration area. Officers are keen to improve the whole length of the High Road between Wembley Triangle and Ealing Road which includes changes to the pavements and the carriageways to provide better facilities for pedestrians, and other users and reduce congestion.

- 7.2 Phase 1 of the enhancement was completed in 2001/02. which area is located outside the old post office, as shown on Appendix A of this report.
- 7.3 McNicholas was awarded the contract for the Phase 2 works after advertisement and competitive tender. The work has been carried out and McNicholas's performance has been generally satisfactory both financially and in terms of quality and workmanship and Phase 2 was delivered on time and within budget.
- 7.4 Unfortunately due to the limited finance available, Phase 3 of the work could not be commenced. Recent negotiations between officers on behalf of the Council and TfL have indicated that TfL may be able to provide up to £150,000 for Phase 3 if the Council can undertake such work before 31<sup>st</sup> March 2004.
- 7.5 Although the design of the Phase 3 works has been completed, there is insufficient time available to advertise, tender, award the contract and allow a reasonable lead-in period for the purchase of materials by the appointed contractor by the TfL deadline of 31st March 2004. However, it should be possible to undertake the work within the TfL timetable if an exemption from Contract Standing Orders is granted by the Executive.
- 7.6 The proposed Phase 3 works are similar to the Phase 2 works in nature, scope and budget (the at Appendix A shows the location of phases 1, 2, 3 and 4) and officers think it reasonable to assume that McNicholas can perform equally well if awarded Phase 3. Members are advised that TfL have recently allocated funds to commence work on Phase 4 during 2004/05.
- 7.7 As mentioned earlier in this section, officers were satisfied with the performance of McNicholas on Phase 2 as they delivered the work on time and within budget. Prices for Phase 3 would be held at Phase 2 prices, with an increase for inflation.
- 7.8 Officers feel that awarding this contract to McNicholas plc based on the previous prices having already been compared and tested against other contractors is in line with the Council's Best Value Policy. The contractor has already demonstrated an efficient and professional approach to their work through working closely with officers to deliver and complete the project on time and within agreed budge thus offering good value for money,
- 7.9 Having considered matters carefully, the Director of Environment therefore wishes to award the contract for Phase 3 works to McNicholas.

7.10 The Director of Environment considers that there are good operational and financial reasons for granting and exemption from Contract Standing Orders in order that an award of the Phase 3 works can be made to McNicholas, without the need for prior competition, that this option is the Council's Best Value option and the Executive is hereby requested to grant such an exemption.

## **8 BACKGROUND INFORMATION**

High Road Wembley North Footway Imp. Phase 3  
Master Plan – Section A/B  
DWG.No. Cq/TS/10a/b

8.1 Any person wishing to inspect the above papers should contact Qassim Kazaz, Transportation Service Unit, Brent House, 349 High Road, Wembley, Middlesex HA9 6BZ, Telephone: 020 8937 5127

**Richard Saunders**  
**Director of Environment**