

## Garden Bridge: update

Friday 1 April

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### 1 Purpose

- 1.1 This note provides an update on the Garden Bridge project and sets out the remaining issues to be addressed before construction commences which are:
- Outstanding planning approvals
  - Securing the land
  - Funding for construction
  - Delivering the GLA guarantees
  - Garden Bridge Trust cash flow position

### 2 Outstanding planning approvals

- 2.1 GBT has discharged all pre-commencement planning conditions in Westminster, and the discharge of a further five pre-commencement conditions was approved in Lambeth on 8 March. There are two final pre-commencement conditions to approve by Lambeth – these are going to Committee on the 3 May. **This would see all planning approvals to be secured by early May.**
- 2.2 The Section 106 agreement is in agreed form with Westminster and subject to ongoing negotiations with Lambeth. The aim is to have this ready for signing the point at which the GBT secure the land interests. **Section 106 Agreements will be agreed and ready for signing by the end of June.**
- 2.3 **Risk of these final planning issues not being resolved is very low. However, each planning decision is subject to possible legal challenge (as with any planning decision).**

### 3 Securing the Land

#### *South Side*

- 3.1 Lambeth Council's Cabinet Member for Jobs & Growth approved an important Key Decision on 24 March, to allow the variation of the existing lease of land to Coin Street Community Builders to allow a sub lease to be put in place with the GBT.
- 3.2 The next step is for Lambeth to agree the form of this variation with Coin Street and for Coin Street to agree the terms of the sub lease with the GBT. This depends entirely on Coin Street agreeing terms with both Lambeth and Coin Street. **The deadline for having these land agreements in place is the end of June.**

- 3.3 The key risk is that Coin Street do not want to cooperate or seek an excessive ransom or position that Lambeth or the GBT cannot live with. To date Coin Street have indicated that this will not be the case but there remains an ongoing risk that securing these agreements may not be possible or may be delayed. The next month will be critical in getting agreement from Coin Street to the timescale for closing this out.**

#### *North Side*

- 3.4 On the north side the land agreements need to be agreed between Westminster, TfL and the GBT. There is an agreed process in place between the parties that involves a number of complex steps requiring Westminster to exercise its statutory powers to deliver the necessary land arrangements on the north bank. This requires a Cabinet Member decision which is due to be made by the end of April. **This would then trigger a process which would see the land being transferred to GBT by end June.**
- 3.5 The risk of Westminster not cooperating is very low, but any decision by Westminster is subject to possible legal challenge.**

#### *River Section*

- 3.6 There are two principal agreements required to secure the land and rights on the river section. A lease and River Works Licence has to be agreed with the PLA. **This is in near final form and due to be completed by the end of April.** A licence also needs to be secured from the Marine Management Organisation (MMO). The application is currently with them at the moment and subject to consultation. **The aim is to have this agreed by the end of May.**
- 3.7 The risk of not securing the PLA agreement is very low. The risk of not securing the MMO approval is slightly higher because the application is currently out to consultation and the MMO will need to consider all responses.**

## **4 Funding for Construction**

- 4.1 The Trust has raised a total of £145 million, of which £85 million is from the private sector. This is enough to fully cover the cost of the bridge's construction contract. The £105m construction contract to a joint venture of Bouygues Travaux Public and Cimolai SpA was awarded in March – subject to termination clauses.
- 4.2 Funding from the private sector towards the bridge is secured through a range of funding agreements which limit the draw down of funds until the point when it is clear the project is going to proceed. In practice, this means the date at which the GBT has secured the land and final planning approvals, which is currently programmed for early July. Almost all of the costs associated with developing the project to this stage have been met by the public sector.

- 4.3 The public sector funds have been used to get the project to a point where it can go ahead and the private sector funding can be drawn down. Our funding has been used for the most risky stage of the project and has always been at greater risk than the private sector funding.
- 4.4 The public sector's £60 million contribution to the project is comprised of three parts:
- £10 million grant from TfL
  - £20 million loan from TfL, to be repaid over fifty years at a rate of interest equal to RPI capped at 2%
  - £30 million grant from the Department for Transport
- 4.5 In accordance with the funding schedule set out in the funding agreements between TfL and the Garden Bridge Trust, the public sector has so far spent **£36.405 million** on the project. Payments to the Trust have only been released following the provision of evidence against a number of payment conditions, focussed on the demonstration of project progress.
- 4.6 The remaining payments in the schedule are:
- From September 2016 -- the Trust may call upon up to £10.0 million, as the first half of TfL's loan facility
  - From September 2017 -- the Trust may call upon a further £10.0 million, as the second half of TfL's loan facility
  - Late 2018 -- £3.595 million, as the final grant payment due on project completion
- 4.7 The Trust is continuing to raise funds to cover the remainder of its £175 million total project cost, which includes roughly £20 million in tax which will be paid back to the Government. All further money the Trust secures above this level as it carries on fundraising will go towards reducing the public sector contribution to the project.
- 4.8 Over the last six months, the Trust has secured more than £20 million in private sector contributions to the project including a fundraising gala on 1 March which raised over £1 million. This is an impressive achievement for a capital project that hasn't even begun construction yet, and every expectation is that fundraising will accelerate even further once works commence later this year. The Trust is actively pursuing a range of other opportunities as part of this work, and will be announcing further major funders shortly.
- 4.9 The risk of not having sufficient funding secured to cover the cost of construction is low.**

## 5 Delivering the GLA Guarantees

- 5.1 In June 2015 the Mayor approved Mayoral Decision 1472, "Garden Bridge Guarantees". This Mayoral Decision approved the provision of the three necessary guarantees (to Westminster, Lambeth and the PLA) and delegated authority to the Executive Director of Resources to agree and execute the guarantees, subject to certain conditions.

- 5.2 One of these conditions is that the Mayor must be satisfied that the Garden Bridge Trust has secured a satisfactory level of funding to operate and maintain the Garden Bridge for at least the first five years from its completion. This is evidenced by the detailed Operations and Maintenance Business Plan (OMBP) that has been produced by the Garden Bridge Trust and will be formally submitted to the local authorities for approval.
- 5.3 A separate decision paper sets out a summary of this OMBP and the request for the Mayor to confirm he is satisfied that the Trust has demonstrated the required level of funding. We are currently planning to take this paper to the Mayor during the week of 11 April.
- 5.4 Following this confirmation, the GLA's Executive Director of Resources will consider the draft guarantees and the set of additional security documents which have been negotiated, and decide whether to approve the execution of the guarantees.
- 5.5 **It is expected that this will all be completed by the end of April at the latest, allowing the guarantees to be executed as and when they are required.**

## **6 The Garden Bridge Trust**

- 6.1 The GBT has entered into a design and build construction contract for the bridge that allows it to terminate at 28 days notice if for any reason the project does not proceed. The Trust has entered into the contract at this point in order to secure a good contractor at a reasonable price, and allow the project to continue to progress (e.g. in terms of detailed design) to the required schedule. The GBT retains an ability to terminate if it is clear the project will not go ahead, and has agreed termination penalties for each month up to a point when all consents have been secured.
- 6.2 The Trust's cashflow projections show that it has sufficient funding secured to meet its contractual obligations under the construction contract for the foreseeable future (into 2017) and that it can have confidence in raising the remaining funds to reach its overall funding target.
- 6.3 However, as outlined above there are a number of steps still required before construction can commence. Some of these are critical steps that are affected by factors outside of the Garden Bridge Trust's control, such as the exercise of statutory powers in Westminster; the granting of a licence from the MMO; and the successful completion of negotiations with Lambeth and Coin Street.
- 6.4 All of these major risks are expected to be removed by **July 2016**, after which the Trust will only need to secure the discharge of pre-commencement section 106 obligations on either side of the river before they can fully implement the planning consent. Discharging these obligations is a 'business as usual' activity for the boroughs and is not considered to be a significant risk. It is expected to be complete by the end of **September 2016**.
- 6.5 Given these outstanding risks and the Trust's lack of control over them, the Trustees have been advised that it could be considered reckless if they were to proceed without ensuring that, while these risks are outstanding, the Trust retains sufficient assets in reserve to meet its contractual obligations in the event of project termination.
- 6.6 These contractual obligations would be principally made up of:

- contractor payments for work to date;
  - penalties payable to the contractor for early termination of contract;
  - running costs of the Garden Bridge Trust incurred to date;
  - administrative costs for winding-up the Garden Bridge Trust; and
  - return of private funding to certain donors and sponsors, who have negotiated claw-back rights if construction does not begin
- 6.7 The Trust's cashflow projections show that it would be able to meet all of these contractual obligations if the project were to be cancelled from 1 May 2016. The Trust is therefore seeking an underwriting from a third party to cover any liabilities to contractors which it is unable to meet (both for work carried out and termination penalties).
- 6.8 If the Trust is not able to secure an underwriting by the end of April, the Trustees will be obliged to call an end to the project. In practice the deadline for resolving this is the Trust's next Board meeting, on **27 April**.
- 6.9 The Chairman of the Trust, Lord Davies, will be writing in the next couple of days to the Transport Minister, Lord Ahmad, to ask if the Government would be willing to provide an underwriting to allow the project to proceed. The requested underwriting would be capped at £10m and would only continue until the Trust's pre-commencement section 106 obligations have been discharged by both Westminster and Lambeth, with a long-stop date of 30 September 2016.
- 6.10 We understand that the Minister will now take advice from officials before answering the Trust's request.
- 6.11 It is possible that the Government will ask for the Mayor's support in providing such an underwriting. If the Mayor were minded to agree then a new Mayoral Decision would be needed to direct the GLA and/or TfL to provide the necessary underwriting.
- 7 Position if the project does not proceed**
- 7.1 If the project does not proceed for any reason then the funding provided by the public sector towards the project of **£36.405 million** will be lost and cannot be recovered.
- 7.2 In this scenario the Government will not receive the c£20m of VAT it is due if the project proceeds nor will TfL be entitled to have £20m of its contribution repaid as a loan over 50 years.
- 7.3 On the face of it, although the balance from the £60m total contribution of £23.6m will not be spent on the Garden Bridge, this has to be offset against the £40m loss of tax income/loan repayments that will be lost, meaning the public sector is worse off overall if the project does not now go ahead.

**Timeline of key dates described in this note**

