



**Lambeth**

## **OFFICER DELEGATED DECISION REPORT 8 OCTOBER 2021**

**Report title:** 2021/22 Services by SBEG under London Eye S106 Agreement

**Wards:** Bishop's

**Report Authorised by:** Bayo Dosunmu, Strategic Director, Resident Services

**Portfolio:** Councillor Sonia Winifred, Cabinet Member for Equalities and Culture

**Contact for enquiries:** Wendy Goodman, Head of Environment and Streetscene Programmes

### **REPORT SUMMARY**

Under the terms of a S106 planning agreement, since 2003 the South Bank Employers' Group (SBEG) has provided specified operational and community initiatives in the South Bank area on behalf of the Council. These are financed by payments that the Council receives annually from the operator of the Coca-Cola London Eye. The Council makes payment to SBEG in arrears on the basis of goods provided and services rendered according to an agreed programme of work. In 2021/22 this programme of work will comprise:

1. South Bank Patrolling Service;
2. South Bank Clean Team and Graffiti Removal;
3. South Bank Neighbourhood Services; and
4. Maintenance of Jubilee Gardens.

### **FINANCE SUMMARY**

Provision for the recommended expenditure has been made in the 2021/22 budget. It is financed by payments already received from the operator of the Coca Cola London Eye under a S106 agreement. In respect of these goods and services, this report requests authority to pay SBEG quarterly payments due in 2021/2022 totalling £469,217.

### **RECOMMENDATIONS**

1. To waive the Council's Contract Standing Order 9.2 requiring competitive tendering for contracts over £100,000 for the goods and services under an Agreement with South Bank Employers' Group Ltd (SBEG) dated 4 September 2019
2. To note the payment of £234,608.50 to SBEG from 1 April 2021 to 15 October 2021
3. To approve the payment of £234,608.50 to SBEG from 15 October to 31 March 2022, for a total contract value of £469,217

## **1. CONTEXT**

- 1.1 In 2002 the Council granted planning permission for the London Eye to remain on the South Bank of the River Thames adjacent to County Hall for a period of 25 years.
- 1.2 In 2003, as part of that planning permission's mitigation of the negative effect that visitors to the London Eye would have on the area, the Council entered into an agreement under S106 of the Town and Country Planning Act 1990 obliging the operator to make an annual payment to the Council equivalent to 1% of turnover. The agreement specifies that this income is to be spent on measures to mitigate against the impact that visitors have on the South Bank. The agreement further requires the Council, the South Bank Board Ltd and the operator of the London Eye to establish a Commissioning Body to deliver those measures. Whilst it was agreed at the outset that the Board's South Bank Employers' Group (SBEG) would fulfil this role, it was not until 4 September 2019 that this was formalised by way of a contractual Agreement.
- 1.3 Responsibility for agreeing the scope of the measures to be funded by the S106 receipts rests with the South Bank Visitor Management Group (VMG). The Council is represented on the VMG by the Director of Environment and Streetscene. On an annual basis, the VMG considers proposals from SBEG and from the Council that seek to mitigate against the impacts that visitors have on the South Bank environment.

## **2. PROPOSAL AND REASONS**

- 2.1 At a meeting of the VMG on 17 March 2021, the Director of Environment and Streetscene agreed that the goods to be provided and services to be procured in 2021/22 by SBEG as the Commissioning Body for the London Eye S106 receipts should be those listed in Table 1.
- 2.2 The 2019 Agreement between the Council and SBEG sets out that, subject to due diligence, the Council is required to reimburse the costs that SBEG incurs in delivering these measures using receipts accrued under the 2003 London Eye S106 agreement. Payment is to be made in arrears. Prior to the final (Q4) payment being made, the Council will undertake an audit of the goods and services that VMG have provided during 2021/22 in order to verify that the final account payment should be the amount claimed.

## **3. FINANCE**

- 3.1 As of 9 August 2021, in the balance sheet for S106 London Eye obligation, there remains an uncommitted £545,788 to fund the £469,217 expenditure recommended by this report for Q1, Q2, Q3 and Q4 2021/22.
- 3.2 It should be noted that, the total cost for the years' service is £469,217. Table 1 below shows the breakdown of that total cost:

**Table 1. Schedule of Goods and Services Agreed by VMG on 17 March 2021 to be Procured by SBEG and Funded by London Eye S106 Receipts**

<b>Project Name</b>	<b>Quarter 1 (Due 1 July 2021) (£)</b>	<b>Quarter 2 (Due 1 Oct 2021) (£)</b>	<b>Quarter 3 (Due 1 Jan 2022) (£)</b>	<b>Quarter 4 (Subject to Final Account, March 2022) (£)</b>	<b>Total Estimated Costs to SBEG to be Funded from London Eye S106 Receipts in 2021/22 (£)</b>
South Bank Patrolling Service	21,131.75	21,131.75	21,131.75	21,131.75	<b>84,527.00</b>
South Bank Clean Team and Graffiti Removal	25,217.50	25,217.50	25,217.50	25,217.50	<b>100,870.00</b>
Neighbourhood Management	33,205.00	33,205.00	33,205.00	33,205.00	<b>132,820.00</b>
Jubilee Gardens	37,750.00	37,750.00	37,750.00	37,750.00	<b>151,000.00</b>
<b>Amount Due</b>	<b>117,304.25</b>	<b>117,304.25</b>	<b>117,304.25</b>	<b>117,304.25</b>	<b>469,217.00</b>

## **4. LEGAL AND DEMOCRACY**

- 4.1 S106 agreements under the Town & Country Planning Act 1990 provide for developer obligations to reduce or offset any harmful impacts of a development. These can include contributions to facilities at a local level. Any money paid over for such a purpose must be applied for the agreed purpose/s set out in the agreements. The Council is accountable for the proper disbursement of the funds.
- 4.2 On 4 September 2019 the council entered into an agreement with SBEG to formalise in writing the arrangements which are the subject of this report and which have been in operation since 2003. Under the agreement, which runs to March 2024, the council continues to engage SBEG to receive and use the contributions for the mitigation of the impact of the London Eye development through the improvement and maintenance of facilities and services in the South Bank area. The agreement prescribes the parties' respective obligations in respect of SBEG's annual programme for the funded purposes, including obligations that SBEG transparently and fairly procure the funded services and properly account for the funds received. Changes to the payment schedule of the agreement between SBEG and the Council may be made by the Strategic Director under delegated powers.
- 4.3 The Council's Constitution requires that all key decisions, decisions which involve resources between the sums of £100,000 and £500,000, and important or sensitive issues, must be published on the website for five clear days before the decision is approved by the Director or Cabinet Member concerned. Any representations received during this period must be considered by the decision-maker before the decision is taken.

## **5. CONSULTATION AND CO-PRODUCTION**

- 5.1 The scope of services described in Table 1 were established during co-production meetings held on 17 March 2021 between SBEG and senior council officers. Officers are satisfied that SBEG are achieving best value, complying with Council policy and procedure regarding spend of monies and are providing synergy with the Council's own operations and programme of works.

## **6. RISK MANAGEMENT**

- 6.1 The services for which SBEG will be seeking payment are essential for the successful operation of the South Bank. The cessation of any would pose serious risks to the Council in terms of visitor perception, health and safety, environmental protection and crime and disorder.
- 6.2 The nature of the services provided by SBEG are such that the outputs arising from expenditure cannot be fully assessed until the end of the financial year. For this reason, quarterly interim payments are made on account and are subject to review at the end of Q4. SBEG is required to provide sufficient evidence in support of its claims to give surety that all costs for which it is seeking payment have been incurred in accordance with the S106 Agreement.

- 6.3 SBEG have provided documented proof of insurances, health and safety and safeguarding process. Internal Procurement Service have provided the Dun and Bradstreet report.
- 6.4 The main risks that impede on the successful delivery of this procurement and contract are:

**Table 2 – Risk Register**

Item	Risk	Likelihood	Impact	Score	Control Measures
1	Delay in paying the SBEG	4	2	8	Maintain engagement with all stakeholders
2	Reduction in service delivery due to Covid 19	3	2	6	Built into delivery planning by SBEG

**Key**

<b>Likelihood</b>	Very Likely = 4	Likely = 3	Unlikely = 2	Very Unlikely = 1
<b>Impact</b>	Major = 8	Serious = 4	Significant = 2	Minor = 1

## 7. EQUALITIES IMPACT ASSESSMENT

- 7.1 This report relates to services provided by an external body, not by Lambeth Council. Whilst any requirement to undertake an equalities impact assessment rests with that body, the Council has used the officer-level discussions described in the body of this report to emphasise the need for the services being funded by the S106 receipts to meet the needs of all visitors.

## 8. COMMUNITY SAFETY

- 8.1 The services for which SBEG will be seeking payment are directly related to mitigating the crime and disorder risks arising from visitors to the South Bank.

## 9. ORGANISATIONAL IMPLICATIONS

### Environmental

- 9.1 The services being provided are in accordance with the council's 2017-22 Air Quality Action Plan which details the strategic plan to improve air quality and exposure in the borough of Lambeth.

### Staffing and accommodation

- 9.2 None as a consequence of this report's recommendations.

### Procurement

- 9.3 None as a consequence of this report's recommendations. The terms of the 2003 S106 Agreement require the council, the South Bank Board and the operator of the London Eye to use an agreed

Commissioning Body to deliver the goods and services funded by the S106 receipts. On 4 September 2019 the council entered into a contractual Agreement with SBEG formalising that SBEG shall continue fulfilling this role until 31 March 2024. Accordingly, SBEG has sole supplier status in terms of procuring the agreed goods and services on behalf of the council.

- 9.4 Although the goods and services listed in Table 1 are procured by SBEG, the council is legally the accountable body for public monies secured through the London Eye S106. It therefore needs to ensure that SBEG's routes to market are in compliance with best practice, ensuring due diligence regarding governance, risk and exposure to fraudulent activity and upholding public accountability and transparency of public expenditure. In 2017, the arrangement with SBEG was the subject to a full audit relating to the governance process of administering the London Eye S106 payments. The Assistant Director of Highways, Capital Programmes and Sustainability has acted on that report's recommendations and was satisfied that SBEG continued to comply with the above requirements. This continues to be monitored by the Programme Team.

#### **Health**

- 9.5 None as a result of this report.

### **10. TIMETABLE FOR IMPLEMENTATION**

- 10.1 Payments are due 30 days after receipt of each quarterly invoice.

## AUDIT TRAIL

Name/Position	Lambeth directorate, division or partner	Date Sent	Date Received	Comments in para:
Councillor Sonia Winifred	Cabinet Member for Equalities and Culture	22.09.21	27.09.21	throughout
Bayo Dosunmu, Strategic Director	Resident Services	20.09.21	23.09.21	throughout
Venetia Reid-Baptiste, Director, Environment and Streetscene	Resident Services	09.08.21	09.08.21	throughout
David Thomas, Legal	Legal and Governance	16.08.21	16.08.21	4
Andrew Ramsden, Assistant Director of Finance	Finance and Investment	23.08.21	17.09.21	3
Marianna Ritchie, Democratic Services	Legal and Governance	26.08.21	26.08.21	4.3
Kevin Edger	Procurement	16.08.21	24.08.21	9
S106/Nabeel Khan	Economy Culture & Skills	10.08.21	23.08.21	

## REPORT HISTORY

<b>Original discussion with Cabinet Member</b>	Annually since 2003
<b>Report deadline</b>	N/A
<b>Date final report sent</b>	N/A
<b>Part II Exempt from Disclosure/ confidential accompanying report?</b>	No
<b>Key decision report</b>	No
<b>Date first appeared on forward plan</b>	N/A
<b>Key Decision reasons</b>	N/A
<b>Background information</b>	<a href="#">Planning report 01/03315/FUL for the retention of the Millennium Wheel (now London Eye)</a> <a href="#">Officer Delegated Decision Report dated 23 September 2019</a>
<b>Appendices</b>	None

## APPROVAL BY OFFICER IN ACCORDANCE WITH SCHEME OF DELEGATION

I confirm I have consulted Finance, Legal and Democratic Services and taken account of their advice and comments in completing the report for approval:

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_x/8/21\_\_

**Post:** Wendy Goodman,  
Head Environment & Streetscene Programmes

I approve the above recommendations:

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Post:** Bayo Dosunmu,  
Strategic Director, Resident Services

**Any declarations of interest (or exemptions granted):** None

**Any conflicts of interest:** None

**Any dispensations:** None