

Appendix 1

LEISURE LBS

**PECKHAM PULSE –
WATER LEAK REPAIRS**

**TENDER REPORT
STAGE 2**

10TH FEBRUARY 2005

Disclaimer

This document has been prepared for the titled project or named part thereof and should not be relied upon or used for any other project without independent check being carried out as to its suitability and prior written authority of Franklin & Andrews being obtained. Franklin & Andrews accepts no responsibility or liability for the consequences of this document being used for a purpose other than the purposes for which it was commissioned. Any person using or relying on the document for such other purpose agrees, and will by such use or reliance be taken to confirm his agreement, to indemnify Franklin & Andrews for all loss or damage resulting therefrom. Franklin & Andrews accepts no responsibility or liability for this document to any party other than the person by whom it was commissioned.

To the extent that this report is based on information supplied by other parties, Franklin & Andrews accepts no liability for any loss or damage suffered by the Client, whether contractual or tortious, stemming from any conclusions based on data supplied by parties other than Franklin & Andrews and used by Franklin & Andrews in preparing this report.

CONTENTS PAGE

1.0	Introduction
2.0	Makers UK Limited's Stage 2 Tender Submission
3.0	Conclusion
4.0	Options
5.0	Recommendations

Appendices (not included)

Appendix 01	Summary of Stage 2 Tender received November 2005 and related correspondence.
Appendix 02	Notes of Meetings of 13 December 2005 and 17 January 2006.
Appendix 03	Correspondence in response to meetings.
Appendix 04	Summary of Stage 2 Tender received January 2006 and related correspondence.
Appendix 05	Work Package Agreement

STAGE 2 TENDER REPORT

Peckham Pulse – Water Leak Repairs

1.0 Introduction

- 1.1 The Client is Southwark Leisure.
- 1.2 After Stage 1 of a two stage tendering process Makers UK Ltd, were selected as the preferred contractor with whom to progress towards the construction phase of the project.
- 1.3 The preferred process calls for competitive sub contract tenders to be obtained for each element of the work but the CPM has accepted the Contractor's reasons for only obtaining one price for the works elements.

There was some concern at the level of the sub-contract prices and Makers were requested to obtain additional quotations for the two largest work packages, Construction of Culverts and Installation of Pipework One additional price was obtained for each of these packages but were received some time after the original prices were tendered, were not detailed, and appeared to be cover prices and considered to be not truly competitive.

- 1.4 Makers submitted a Stage 2 Tender which was received by Franklin and Andrews on the 21 November 2005 in the sum of £1,234,055.15. This tender submission was considered to be incomplete and contained additions/changes to the original Stage 1 preliminaries and management, without substantiation of the changes.

At this time it was recognised by the Project Manager that there were many design issues that remained unresolved. The Stage 2 tender period was extended to allow the design to be completed and a more considered tender to be submitted.

Franklin and Andrews issued to SBDS, as requested, on 23 November 2005 their concerns regarding the Stage 2 tender. See Appendix 01.

Franklin and Andrews asked Makers to answer some initial queries in regard to these concerns. See email dated 24 November 2005, Appendix 01.

Makers responded to this email. See email dated 28 November 2005, Appendix 01.

Franklin and Andrews replied and asked Makers to give consideration to a number of issues prior to a meeting to be arranged with SBDS, Makers and Franklin and Andrews. See email dated 6 December 2005, Appendix 01.

This meeting was held on 13 December 2005 at SBDS's offices. See Notes of Special Meeting on Quantity Surveying Matters, Appendix 02.

A further meeting was held on 17 January 2006 attended by SBDS, Makers and Franklin and Andrews in an attempt to resolve the outstanding issues. See Notes of Second Special Meeting on Quantity Surveying Matters, Appendix 02.

Makers responded to the queries raised in this meeting. See email dated 20 January 2006, Appendix 03.

Makers submitted a revised Stage 2 Tender which Franklin and Andrews received on 26 January 2006. A revised Works Package Summary Sheet was emailed to Franklin and Andrews later the same day. See Appendix 04.

Franklin and Andrews responded to Makers requesting information and justification which it was felt was not included in the revised Stage 2 Tender submission. See email dated 1 February 2006, Appendix 04.

Makers responded and also gave Franklin and Andrews prices and information related to items in the revised Stage 2 Tender submission which were included as provisional sums. See emails dated 26 January 2006, 2 and 3 February 2006, Appendix 04.

The outstanding/unresolved issues are, with the exception of the Powerrun price for the Installation of Pipework, generally concerned with the changes to the preliminaries and management considered necessary by Makers as a result of the change in construction methodology from the 'top down' solution to the 'tunnelling' option.

As can be seen from the exchange of correspondence between Makers and Franklin and Andrews, the issues have remained basically the same from the outset. Franklin and Andrews do not feel that Makers have supplied the evidence / justification necessary, bearing in mind the non-competitive situation which has existed since the Stage1 phase and also the requirements for 'open book' policy during Stage 2 as stated in the Stage 1 documentation.

2.0 Makers UK Limited's Stage 2 Tender Submission

2.1 Makers Stage 2 Tender was received by Franklin and Andrews on 26 January 2006.

The submission did not include a cover letter which was emailed on 26 January 2006 and also did not include other enclosures to be attached, eg. completed Form of Tender. This will require to be completed before a contract can be entered into.

A revised Works Package summary Sheet was emailed to Franklin and Andrews on 26 January 2006 which substituted some prices for provisional sums.

2.2 Works Packages

The subsections below refer to Work Packages Summary Sheet as Makers Stage2 Tender.

2.2.1 Feasibility / Optioneering

£3,911.64 - Agreed

2.2.2 Stage 2 Tender Costs

£34,934.14 - Agreed

2.2.3 Additional Stage 2 Tender Costs

£12,329.64

The Stage 1 Tender Document required Makers to include all resources and costs associated with undertaking all requirements identified within the 2 Stage Tender Procedure and to provide full details of his pre-construction resources as required by Clause 1 of the two stage tender procedures.

The contractor to include for Stage 2 services for the period between acceptance of Stage 1 tender and 20 January 2006.

The tender document also states the following:

“The time related charge thus tendered will be divided by the programmed time for the Stage 2 services (17 calendar weeks) and the weekly rate thus arrived at will be used for the calculation of any addition or saving related to any agreed change to the Stage2 service period.”

Therefore, it can be seen that the weekly rates are to be used for the calculation of any addition or saving related to any agreed change to the Stage 2 service period.

If it is considered that there has been an agreed change to Stage 2 service period, including not only time, but content, a variation should be issued.

2.2.4 Additional Management Charges
£17,000

F & A e-mail to Makers dated 24 November 2005 asked the following:

2. Why has £17,000 been added to the pre-construction services?

Makers response by e-mail dated 28 November 2005 stated:

2. The additional £17,000 for design charges was detailed within our presentation dated 4th. October 2005.

The additional £17,000 is broken down into the additional management time required for the contract due to the use of tunnelling.

Makers e-mail to F & A dated 10 October 2005 identified the additional £17,000 to items for Stage 2 Tender Procedure whereas the reason given is stated as due to ‘increase in time at site due to nature of tunnelling works’, whereas the calculation has been based on Stage 2 Tender Procedure figures.

We do not feel that a justification for the claimed addition has been made:-

1. Is this for Tender Procedure services or Construction Phase activities?
2. If Tender Procedure services, on which the figures are based, a claim for this is made under 2.2.3

2.2.5 Makers Preliminaries

£140,683.47 – Agreed with 6 below.

2.2.6 Omissions from Preliminaries

£46,909.59 – Agreed see 5 above.

2.2.7 Additional Preliminaries for tunnelling option

£14,999.69.

This amount is made up of:

Contractors agent £5,000.00

Security of site £9,999.69

Franklin and Andrews's previous comments are, it is felt, still relevant until such time as Makers give justification for the increase in salary of £5,000 for approx. 6 months.

Also, this may be included in 2.2.4 above dependent upon the reason being for Tender Services or Construction Phase.

The security of site is of course the contractor's responsibility, however it is felt that this was clearly stated in Stage 1 and it is not established that the need has radically increased due to the tunnelling option.

Makers claim that the additional site security was requested by the Client. The Client has no recollection of any such request.

2.2.8 Additional 4 weeks for Tunnelling Option

£20,351.49

The tender document states the following:-

"The time related charge thus tendered will be divided by the programmed time for the Culvert/pipework replacement section of the works as stated in the Abstract of Particulars (24 calendar weeks) and the weekly rate thus arrived at will be used for the calculation of the additional preliminaries applied to any agreed extension of time for works parts v) to viii) if required".

Any monetary change of the preliminaries will be valued on valid time related preliminaries when the programme is agreed and calculated on the basis of the Stage 1 Tender.

2.2.9 Daywork Allowances

£53,600.00 - Agreed

2.2.10 Protection to Plant Room

£19,000.00

£6,500 being for labour and material for the erection and dismantling of screens etc. We feel that precisely what this covers should be investigated.

The remaining £12,500 is described in the Stage 2 Submission as 'Risk element for damage to equipment/pipework Insurance excess @ £50,000 (x 25% likelihood)'.

Makers "Commentary and Substantiation of Stage Two Tender Inclusions". Item 5 states ;

'A significant difference between the original "top down" pricing and Tunnelling option is that of risk. Some of that risk is now being taken by Gallagher's further substantiation of our preference to use them however as Main Contractor we carry the ultimate responsibility for the project. Normally our risk is priced in our margin, however as margin had been set in our original tender we felt adjustment would not be appropriate. The allowance made here considers not only the Insurance implications but also the overall risks involved. Just as Gallagher's as specialists operate at higher margins Main contractor's expectations for work of this nature are higher. There are increased risks to damage within the plant room to delays should specialist plant break down or be stolen and in the nature of the work itself. Makers carry significant excesses on there (sic) stolen plant and materials insurances, which is common in the industry.

The lump sum claimed is not unreasonable for the value of the contract.'

For other definitions see Notes of Special Meeting on Quantity Surveying Matters 13 December 2005, Item 44 and Makers e-mail of 28 November 2005 Item 5.

Maker's various explanations are contradictory and have served to confuse this issue. Is the £12,500 amount for an additional insurance premium; Makers own 'personal' insurance; additional margin etc?

If it is for insurance the Employer would, under the contract, require that this insurance be with an approved insurance company.

In the light of the various explanations put forward we feel this issue should be thoroughly investigated to ensure bone fide insurance is in place to the Employer's satisfaction.

It should be noted that the following is included in the Stage 1 Tender.

“TWO STAGE TENDER PROCEDURE

2.2 Stage Two

2.2.19 Agreeing all of the terms of the Project Insurance with the Employer and his advisors.”

2.2.11 Forensic Investigation

Scope to be agreed and provisional sum to be set.

Gallaghers have given hourly rates for stoppage time.

2.2.12 Construction of Culverts

£338,224.25 + Makers 10% £33,822.43

See also Report on Joseph Gallagher Ltd. Tunnelling Quotation 18th.November 2005

Gallagher's original price was £290,890.00 which subsequently increased to £305,256.00 due to the inclusion of waterproofing by the method of an admixture to the concrete.

Gallagher's revised price of £338,224.25 is based on the latest design drawings after design development taking into account discussions between the culverts tendering subcontractor and the designers, Alan Baxter and Associates.

This price includes waterproofing by the use of Bituthene.

The Conclusion included in the above report stands and is repeated below:

“Conclusion

Acceptance of this price in 5.3 above cannot be recommended unconditionally. Although overall the price is reasonable it contains elements that, had this tender been in a competitive situation, may well have been priced more keenly. The price is related to the methodology as put forward by this contractor. The methodology and proposed programme should be assessed by others for acceptability. A change in the method may affect the price.

This price is only part of the overall construction cost and excludes Main Contractors profit and overheads and Main Contractors Management (preliminaries).

We note that in Makers Stage 1 submission they stated that the capability to undertake various element of the tunnelling work exists within the Keller Engineering Section of Makers. This was stated in their submission as proposal to reduce costs. The question of Keller Engineering giving a price was broached at the design team meeting on 9th November where Makers stated this was not feasible.”

2.2.13 Installation of the Pipework

£105,251.00 + Makers 10% £10,525.10

See also Report on Powerrun Project Management Ltd. Pipework Renewal Quotation, 18th.November 2005

Powerrun’s original quotation was in the amount of £118,870 and Franklin and Andrews queried in particular two areas, namely Fabrication and Installation. Powerrun’s revised price reduces these two elements by approximately 22%. The other area queried was travel and subsistence and while this has been reduced it still remains a concern.

A comparison between the quotations is;

	Nov '05 £	Jan '06 £
Site Survey and Measurement	3,470	2,780
Design Work	8,000	7,360
Site Meetings	2,500	2,768
Materials	40,250	40,266
Fabrication	13,950	9,862
Installation	42,300	34,090
Project Management	<u>8,400</u>	<u>8,125</u>
	<u>£ 118,870</u>	<u>£ 105,251</u>

Powerrun’s quotation includes the following:-

Site, Survey and Measurement	£2,780
Design work – Office	£7,360
Site Meetings – Pre-Contract	£2,768

These items are for the design element of the works (pre-construction).

It should be noted that the following is included in the Stage 1 Tender.

“2. TWO STAGE TENDER PROCEDURE

2.2 Stage Two

2.2.17 The development of any Contractor design elements, where they are required to progress the project, together with co-ordination of the same within the overall design process. The Contractor is particularly required to design the interpool / plantroom pipework to meet the full performance requirements of the system that is in place’.”

Powerrun’s quotation includes the following for travelling time, travel expenses and subsistence.

Site Survey – Visit 1

12 hours travelling time x £40.00	£480.00
Travel expenses 2 x £175.00	£350.00

Visit 2

12 hours travelling time x £40.00	£480.00
Travel expenses 2 x £175.00	£350.00

Site Meetings – Pre-Contract

24 hours (assumed from build-up) travelling time x £40.00	£960.00
Travel expenses 2 x £175.00	£350.00
Travel expenses 1 x £110.00	£110.00
Travel expenses 1 x £180.00	£180.00

Installation

Travel, site establishment etc. 78 hours x £35.00	£2,730.00
--	-----------

Subsistence

Basis:
Single room, meals, out of pocket expenses, overhead costs
Budget price £105.00 x 78 days

	£8,190.00
--	-----------

Project Management

30 hours (assumed from build-up) travelling time x £50.00	£1,500.00
Travel expenses 5 x £175.00	£875.00

£16,555.00

=====

A second quotation was received from Allied, a subsidiary company of Makers, on 25 January 2006, in the sum of £144,000.00 including 2 ½% main contractors discount.

No build-up was attached to the offer letter and given the circumstances it is not considered that this quotation is a proper test of the market.

2.2.14 Hydrotherapy Pool Design

£6,000.00 + Makers 10% £600.00

This has been agreed for ACDP to carry out a survey etc. The full report is still awaited.

2.2.15 Floor Repairs to Hydrotherapy Pool

£10,908.00 + Makers 10% £1,090.80

A quotation has been received from Prestige Pool Floors (PPF) and is considered reasonable although, again, the price has not been market tested.

The PPF figure does not include the Geyser Blower. The price for this item is to follow.

2.2.16 Builders Work in Connection with Pipework.

This is included in Makers Works Packages Summary Sheet as a provisional sum.

It is intended to convert this to a quantified, priced section for which drawings exist.

2.2.17 Electrical Repairs to Hydrotherapy Pool

Provisional sum to be agreed.

2.2.18 Clearing of Plantroom

Provisional sum to be agreed.

2.2.19 Repairing Tiles after Core Sampling

Provisional sum to be agreed.

2.2.20 Renewal of Drainage Runs

£9,050.00 + Makers 10% £905.00.

Quotation from Powerrun. This price is considered reasonable in the circumstances but contains travel and subsistence, see 2.2.13, and is not market tested.

2.2.21 Electrical Lighting and 2 No. Mirrors to Culverts

£3,915.00 + Makers 10% £391.50.

Quotation from Gallaghers.

This price is considered reasonable in the circumstances but it should be noted that this figure is not market tested.

2.2.22 Structural Integrity of the Ground Floor Slab.

2.2.23 Filling Voids Adjacent to Hydrotherapy Pool

It is intended that items 2.2.22 and 2.2.23 can be quantified and priced in accordance with Baxter's drawings.

2.3 An issue which has not been covered above is that of design.

F&A's e-mail to Makers dated 24 November 2005 queried;

' 7. Is there double counting re.design? Powerrun have included £11,470 and Makers £14,569 '

Maker's e-mail to F&A dated 28 November 2005 confirming the following:

' 7. I don't know where your figures of £11,470 for Powerrun & £14,569 for makers originate. However we shall check the design fees and get back to you shortly.'

Notes of Special Meeting on Quantity Surveying Matters 13 December 2005 item 46 stated;

‘ 46. Query 7 – Is there double counting on design? Powerrun have included £11,470 and Makers £14,569. IJ to come back on why Makers are charging £14,568 designer costs in their pre-construction services on top of Powerrun’s design costs.’

Maker’s letter to Southwark Building Design Services dated 18th.January 2006 stated:

‘ 3) On the 24th.November 2005, Franklin & Andrews questioned whether there was any ‘double counting’ between our 2nd. Stage tender costs, and Powerruns’ design costs. Now Powerrun included two costs within their breakdown for Site Survey & Measurement (£3,470.00) & Design Work, office based (£8,000.00). Within the tender documents Powerrun were requested to remove and replace pipework between pools and plantroom. The design of the pipework was not requested, and as such we could have reasonably foreseen that we should include sums within our 2nd. Stage tender to cover costs for design of the pipework.’

Stage 1 Tender, Abstract of Particulars, Condition 10 (Design) states;

‘ The Contractor (or a subcontractor) is required to undertake the design of the following part or parts of the Works: Pipework Design’.

Therefore the pipework design was included in the Stage 1 Tender.

3.0 Conclusion

3.1 In its present form, Franklin and Andrews is unable to recommend acceptance of Makers’ tender for the reasons given above. There is insufficient clarification / justification of the various items under question and suspected duplication of the various parts of the design / pre-construction management. The procedures for the preparation of the Second Stage Tender have not been followed. From the table in Appendix 05 it can be seen that there is some £71,630 yet to be resolved including the non-competitive element of the main works elements (travel, subsistence etc).

3.2 Makers were the lowest tenderer at Stage 1 and adjudged the best for quality. After correction of errors of arithmetic and pricing on the face of the document at Stage 1 Makers were lowest;; Galliford Try +£46,000; Apollo London Ltd +£213,000. The net extras for pre-construction costs and preliminaries amount to £24,441 which still leaves Makers as the lowest tenderer.

4.0 Options

4.1 It is unlikely that Makers will make any significant reduction to their Stage 2 tender. Therefore the options open to the Client are to stop the two stage process and re-tender on a single stage lump sum basis or accept Makers price.

4.2 If the option of re-tendering is chosen we anticipate a minimum of a twelve week delay to the obtaining and accepting of a contract price. We have been given to understand that there are Client costs in the order of £7,000 per week for each week that the facilities are closed. Thus there is some £84,000 (excluding fees) additional costs to the Client to follow this route.

4.3 Therefore the Client may wish to make the commercial decision of accepting Makers price.

5.0 Recommendations

5.1 If the Client choses to accept Makers proposal the figure is not definitive, there will be elements of the project for which provisional sums are currently allowed that will need to be resolved post contract.

- 5.2 The following matters should be addressed and resolved before acceptance of the second stage tender:
- .1 Completed Form of Tender
 - .2 the proposed contractor to provide Professional Indemnity Insurance and Parent Company Guarantee confirmation.
- 5.3 The following matters should be addressed and resolved before the works commence on site:
- .1 The proposed contractor to provide a fully developed programme for the works to be confirmed as acceptable and has sufficient detail for the works.
 - .2 The proposed contractor to have signed the Southwark Building Design Services Standard Form CDM 08 Principal Contractor Competence and Resource Statement as included within the Pre-Tender Health and Safety File.
 - .3 We recommend that the proposed contractor should provide the required performance bond.
 - .4 The proposed contractor should also provide a developed Construction Stage Health and Safety Plan particular to the project.

APPENDIX 01

Summary of Stage 2 Tender received November 2005 and related correspondence

APPENDIX 02

Notes of Meetings of 13 December 2005 and 17 January 2006

APPENDIX 03

Correspondence in response to meetings

APPENDIX 04

Summary of Stage 2 Tender received January 2006 and related correspondence

APPENDIX 05
Works Package Agreement