

London Borough of Hammersmith & Fulham

Report to: Tony Clements, Interim Strategic Director for the Economy

Date: 12/10/2020

Subject: Civic Campus: Award of Contract for the Refurbishment and Fit-Out of the Town Hall

Report of: David Burns, Assistant Director, Growth

Summary

The Civic Campus is an ambitious regeneration programme to transform the Council's civic and democratic centre. It will act as a catalyst for change in the Borough, replacing the life-expired Town Hall Extension building, and uninviting and poorly utilised surrounding spaces, with a state of the art public realm space, fully refurbished and inclusively designed Town Hall building and vibrant mixed use neighbourhood designed to serve the community.

The programme will be delivered through two separate contracts (Contract A and Contract B, defined later in this report). These were tendered as one package to ensure consistency and efficiency across the site is maximised and enable effective site logistics required to meet the required programme, while the separate contract ensures the Council retains more control over the delivery of the Town Hall refurbishment as part of the programme.

Following a procurement exercise, the preferred contractor Ardmore was selected and a Pre-Construction Services Agreement (PCSA) was signed to provide pre-construction services to progress design, cost and delivery aspects of the project. This period has now concluded and this report seeks approval for the Council to enter into Contract A – which is the construction contract with Ardmore Construction Limited for the refurbishment and fit out works to the Town Hall.

Approval will ensure the programme is maintained for a Spring/ Summer 2022 opening of the Town Hall.

Recommendations:

1. That Appendices 1, 2 & 3 are not for publication on the basis that they contain information relating to the financial or business affairs of a particular person (including the authority holding that information) under Paragraph 3 of Schedule 12A of the Local Government Act 1972, and in all the circumstances of the case, the public interest in maintaining the

exemption outweighs the public interest in disclosing the information, be agreed; and

2. That the Council enters into the contract with Ardmore Construction Limited for the refurbishment of the existing Grade 2 Listed Building plus the fit out of the Town Hall (including Category B fit out of the glass box vertical extension) a copy of which is appended at Appendix 1

Affected: Hammersmith Broadway

H&F Priorities

Please state how the outcome will contribute to our priorities – delete those priorities which are not appropriate

Our Priorities	Summary of how this report aligns to the H&F Priorities
Building shared prosperity	The Civic Campus programme will be creating a new space for residents and the public within the West King Street area. This enables additional job opportunities through the s106 agreement; additional office space; and more genuinely affordable homes.
Doing things with local residents, not to them	Delivery of the wider Civic Campus programme will create a new public space to be enjoyed by all members of the local and wider community who have been engaged and consulted throughout the process.
Being ruthlessly financially efficient	A full technical review and competitive procurement process has been completed.
Taking pride in H&F	The refurbishment of the Town Hall will enable the delivery of the wider Civic Campus programme, creating a new and much improved space for residents and the public within the West King Street area.

Financial Impact

On the 23 January 2020, Full Council agreed a £45.6m capital budget for the renewal and fit-out of the Town Hall. On the 7 July 2020 Cabinet agreed an additional £860,841 capital budget, reflecting a corresponding underspend in the programme revenue budget, as part of the overall strategy to protect revenue reserves. This brings the total approved capital budget to £46,460,841. The budget is planned to be funded by a combination of Community Infrastructure Levy (CIL) receipts and prudential borrowing. The final contract price is still to be confirmed but the maximum estimated value advised by the Council's technical advisors can be managed within the budget and there is a degree of certainty with 76% of the price now fixed. The contract value at the point of signing is detailed in Exempt Appendix 1.

Given the scale of the contract value, a refreshed credit check and review of Ardmore's finances has been carried out since the award of the PCSA contract. Ardmore's credit standing has not changed since the last check in May 2020. The most recent credit report from CreditSafe was obtained on 2nd October 2020 with their latest assessment of Ardmore still at 12th March 2020. Their credit score is 91 out of 100 which is deemed as very low risk. The suggested contract limit of £52.5m exceeds the estimated contract value and their latest turnover of £210m exceeds the Council's usual requirement of double the anticipated contract value.

There are delivery and financial risks that could crystallise as a result of the impact of the Covid-19 pandemic. The contract has sought to specify the circumstances in which the contractor can delay contract delivery, and this, and the financial obligations of the Council, is summarised in the subsequent legal implications section. In the event these risks crystallise, the Council will need to carefully monitor costs and take mitigating action where possible to ensure that the contract can still be delivered within budget, ensuring additional budget approvals are obtained where necessary.

Furthermore, delays in delivery could lead to the Council needing to maintain its temporary office leases for longer than it otherwise would, and the Council would need to consider actions to mitigate these costs. The liquidated and ascertained damages clause in the contract sets out the compensation the Council is due in the event where Ardmore are liable for contract delivery delays. The legal comments set out the mechanism for the Council's cost liability in the event it terminates or suspends the contract, outside of Covid-19 delays.

Legal Implications

Part 1: implications drafted by Gowlings Solicitors

Contract A

The Council's powers to enter into the Construction contract "Contract A" arise under section 1 of the Localism Act 2011 and the incidental power under section 111 Local Government Act 1972.

Procurement: The appointment has been made via the A2D Framework. Gowlings have previously advised that the Council is able to access this framework to procure construction works/services. The A2D Framework has been established under the Public Contracts Regulations 2015. Whilst we did not advise on the selection of the preferred contractor for the project, or establishment of the A2D Framework we confirm that the scope of this appointment falls within that of the A2D Framework. We have not been made aware of any irregularity or challenge to either process.

Best Value: the Cabinet Report dated 06/07/2020 confirms the reasons as to why Ardmore was selected. The original tendered financial proposal was originally evaluated by the Council, and Currie & Brown with input from Project Managers Silver DCC. This report confirms that during the PCSA period, a finalised cost plan and cash flow was provided by Ardmore against the detailed RIBA Stage 4 design and the Council's Employers Requirements for Contract A. These costs have been verified by Project Managers Silver DCC, and the Council's Cost Consultants, Currie and Brown. This process will assist the Council to demonstrate how it has fulfilled its best value duty under Local Government Act 1999.

Ardmore are being appointed under a two-stage procurement process. The first stage was their appointment by the Council to carry-out a number of pre-construction services under a JCT Pre-Construction Services Agreement (2016 Edition) (as amended by a schedule of amendments) in respect of the Town Hall works ("the PCSA"). The second stage will be appointment under Contract A itself. The PCSA and the pre-construction services will be subsumed into Contract A upon completion of Contract A, and consequently the pre-construction services will be treated as if they had been performed under Contract A. The advantage to the Council of this approach is that if there were any issue with the scheme, design, Ardmore themselves or otherwise during the pre-contract services, the Council would not be obliged to enter into Contract A or otherwise appoint Ardmore, thereby protecting the Council by compartmentalising the risk they are exposed to during the pre-construction services (i.e. permitting Ardmore to perform the pre-construction services did not mean the Council had to proceed with appointing Ardmore to carry out the entirety of the Contract A works). There were no concerns during the pre-contract period.

Once entered into, the Council will be the 'Employer' under Contract A and will be bound by the obligations within Contract A ascribed to that party (the main obligations being paying the contractor, Ardmore, in respect of the works undertaken, insuring the works themselves and insuring the Town Hall building during the course of the works).

Gowlings have reviewed and negotiated the legal terms and conditions of Contract A so that they are in a form that is acceptable to the Council. A version of Contract A is now with Ardmore for approval and is expected to be the final version of Contract A. All advice and information received by the Council has been captured, as is appropriate, in Contract A. Some key elements of Contract A are described in further Exempt Appendix 3

Part 2, implications drafted by Sharpe Pritchard Solicitors

The Council must publish this contract award that is based on a framework agreement, within a reasonable time, on Contracts finder in accordance with regulation 108 of the PCR. The Council must provide the name of the contractor, the date on which the contract was entered into and the value of the contract.

Implications provided by: Hannah Ismail, Solicitor, Sharpe Pritchard LLP, external legal advisers seconded to the Council tel: 0207 405 4600

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Background Papers Used in Preparing This Report – None

DETAILED ANALYSIS

Proposals and Analysis of Options

1. In March 2018, Cabinet authorised the Council to enter into Heads of Terms with A2 Dominion Housing Association, for a conditional land sale to enable the regeneration of the Town Hall site and West King Street along with several enabling actions to progress the regeneration.

2. On 3rd December 2018, Cabinet agreed that the Council would enter into a conditional land sale agreement, and that the conditional land sale would be to a corporate joint venture formed of the Council and A2Dominion Developments Ltd (A2DD). The report also set out the business case and procurement strategy for the project.
3. Cabinet also agreed a number of recommendations to Full Council in January 2019 relating to the approval of:
 - The proposed Joint Venture (JV) partnership with A2DD;
 - The subsequent conditional sale of Council land to the JV partnership;
 - The provision of development funding to the JV partnership;
 - Budgets to fund the refurbishment and fit out of the Town Hall;
 - The leasing of commercial properties in Hammersmith to facilitate a full decant of the Town Hall site; and
 - Budgets to fund the furniture and fit out works required in the decant properties (including contingency allowances).
4. On 23rd January 2019, Full Council agreed the capital budgets for the refurbishment and fit out of the Town Hall (including the extension) of £45.6m. In July 2020, there was an additional transfer of £860,841 from programme revenue budgets into capital.
5. In October 2019 Planning Consent and Listed Building Consent were achieved for the project.
6. The Council has now entered into the 50:50 joint venture partnership with A2Dominion Housing Association's development arm, A2DD for the purposes of delivering the Civic Campus Programme and entered into a conditional land sale agreement.
7. The delivery of the Civic Campus Programme is split into two construction contracts. The Council is the 'Employer' under the construction contract for the refurbishment of the existing Grade 2 Listed Town Hall Building; plus the fit out of the Town Hall and 'glass box' vertical extension. These works will be under a separate contract (known as Contract A).
8. The JV vehicle will carry out and fund all elements of new build works and construction of the vertical extension to the Town Hall. These works (known as Contract B) include;
 - Town Hall - 'Glass Box' vertical extension fitted out to CAT A.

- Block A - basement construction housing central energy centre feeding overall development (including Town Hall), parking, refuse, bike storage and dry gym, construction of 6 storey residential block of mixed tenure with an element of B1 affordable office space at ground floor fitted out to Cat A.
 - Block B – 4 screen cinema in basement, with restaurant/café, cinema foyer and office block entrance at ground floor and 7 stories of B1 office accommodation fitted out to Cat A.
 - Block C - construction of 7 storey residential block of affordable tenure with A1/A3 at ground floor.
 - Block D - basement construction, construction of 6 storey mixed tenure residential block.
9. The agreed procurement strategy has been for both Contract A (which is the subject of this report) and Contract B to be tendered together as one package, such that consistency and efficiency across the site can be maximised and the constraints of the overall site logistics managed by a single contractor.
 10. Given the complexity and risk involved in refurbishment of the Town Hall, combined with the Council's need for increased cost certainty and fixed timeframe for delivery, a Two Stage procurement was presented and approved as the most appropriate strategy for the scheme.
 11. In May 2020, a Cabinet Member Decision provided an update on the procurement strategy and sought approval for the Council to enter into a Pre-Construction Services Agreement (PCSA) with Ardmore, to provide pre-construction services to the Council for the development of design of the Town Hall refurbishment and fit out as set out in 'Contract A'. The JV entered into a PCSA with Ardmore for Contract B as part of the same procurement exercise. The PCSAs formed stage one of the two-stage process.
 12. Under the PCSA for Contract A, Ardmore charged £103,963.71 in management fees to the Council for the PCSA period as included as part of the tender evaluation process. The cost to the Council in design fees and utilities diversions during this period will be £2.25m. Both of these amounts have been captured within the capital budget previously approved by Full Council on 23rd January 2019, and as amended.
 13. There is no obligation for the Council to enter into the main construction contract with Ardmore, if performance during the PCSA period or price negotiations were found to be unsatisfactory to the Council.
 14. In a Cabinet report dated 06.07.20, authority was delegated to the Strategic Director for the Economy, in consultation with the Head of Law, Director of Finance and the Cabinet Member for the Economy, to finalise and complete negotiations with Ardmore Construction Limited under the PCSA.

15. The July Cabinet report also made an addition to the capital budget. Cabinet approved a project budget realignment in line with the Council's strategy to protect reserves; this would provide a £860,841 underspend against the revenue allocation and requires a corresponding, £860,841 additional capital budget for the fit out of the Town Hall (including the extension). This means that the total budget for the Town Hall building refurbishment and fit out is £46.46m.
16. The PCSA period has now been concluded, and a finalised cost plan and cash flow has been provided by Ardmore against the detailed RIBA Stage 4 design and the Council's Employers Requirements for Contract A.
17. The Council is reviewing its workforce and accommodation strategy, and therefore a decision has been taken to slow the final Cat B design down to ensure that emerging requirements are captured, reaching completion in November 2020. This means that 76% of the costs will be fixed, and 24% will remain as provisional sums at the time of entering into contract.
18. The costs and provisional sums allowed have been verified as being within the £46.46m approved capital budget by Project Managers and Cost Consultants, Silver DCC. This has also been independently verified by Cost Consultants, Currie and Brown, who are appointed directly by the Council.
19. The form of building contract was appended to the PCSA, but allowed reasonable amendments to be permitted. The amendments have now been finalised and agreed between both parties. See Legal Implications section within this report.

Reasons for Decision

20. In January 2019, Full Council approved the overall budget for the West Kings Street Renewal programme and agreed that a JV would be formed with A2DD. Following a contractor procurement exercise through the A2Dominion Contractor framework, the contractor, Ardmore, was successful in the procurement.
21. To enable stage one of the two-stage procurement process to proceed, the JV entered into a PCSA with Ardmore for Contract B, and the Council entered into a PCSA with Ardmore for Contract A following a Cabinet Member Decision in May 2020.
22. Following the completion of the PCSA deliverables set out in the Cabinet member Decision Report dated 06/05/2020 the Council has a developed design, independently verified cost certainty under the £46.46m capital budget approved, and a fixed timeframe for delivery.
23. Approval was provided by Cabinet on 06/07/20, for the Council to enter into a contract with Ardmore Construction Limited for the refurbishment of the existing Grade 2 Listed Building plus the fit out of the Town Hall (including Cat B fit out of the 'glass box' vertical extension).

24. Authority was delegated by Cabinet on 06/07/20, to the Strategic Director for the Economy, in consultation with the Head of Law, Director of Finance and the Cabinet Member for the Economy, to finalise and complete negotiations with Ardmore Construction Limited in order to facilitate the entering into the contract with Ardmore Construction Limited.
25. By entering into Contract, a number of liabilities and responsibilities that currently sit under the Council will transfer to Ardmore, further de risking the Council's position in delivery.
26. Entering into contract now means 76% of the costs will be fixed and 24% will remain as provisional sums at the time of entering into contract, delivering the scheme under budget and on programme for handover in spring/summer 2022.

LIST OF APPENDICES:

EXEMPT APPENDIX 1 - Contract A JCT Amendments

EXEMPT APPENDIX 2 - Utility Advice Note from Gowlings

EXEMPT APPENDIX 3 - Confidential Legal Comments