

LONDON BOROUGH OF HAMMERSMITH & FULHAM

Report of: Councillor Andrew Jones, Cabinet Member for the Economy

Date: 22/11/2021

Subject: Civic Campus, Deed of Variation approval

Report author: Philippa Cartwright, Project Director – Civic Campus

Responsible Director: Jonathan Pickstone, Strategic Director for the Economy

SUMMARY

This report is asking for authority to sign a Deed of Variation for the Civic Campus construction contract (dated 1st December 2020) between the Council and Ardmore Construction Limited.

This variation meets the requirements in the Council's contract standing orders and is required to complete the transformation of the Civic Campus and maximise the opportunity for the Town Hall to deliver a world class facility: fully inclusive, sustainable and delivering a commercial return.

RECOMMENDATIONS

1. To note that Appendix 1 is not for publication on the basis that it contains information in respect of which a claim to legal professional privilege could be maintained in legal proceedings as set out in paragraph 5 of Schedule 12A of the Local Government Act 1972 (as amended).
2. To approve entering into the Deed of Variation for the build contract between the Council and Ardmore Construction Ltd in line with the Council's contract standing orders.

Wards Affected:

Hammersmith Broadway

Our Values	Summary of how this report aligns to the H&F Values
Building shared prosperity	The investment in King Street will create new retail and commercial space, including affordable space for start-up businesses driving employment opportunities.

Creating a compassionate council	Concluding a scheme with genuinely affordable housing.
Doing things with local residents, not to them	Creating a radically inclusive venue which has been co-produced with the Disabled Residents Team and fitting out the site for Hello Hybrid Future, the Council's new ways of working. We have worked closely with local residents on design and construction issues.
Being ruthlessly financially efficient	The fit out will reduce running costs and maximise the commercial potential of the venue. Rationalisation of the wider corporate estate enabled by consolidation to the new Town Hall should further reduce the Council's costs or create opportunities for further affordable housing
Taking pride in H&F	Transforming King Street into a new high-quality civic and cultural destination that residents feel proud of.
Rising to the challenge of the climate and ecological emergency	Enhancing the building's energy performance and improving its surrounding gardens.

Financial Impact – The 2021-25 capital programme, as updated in the 2021/22 Quarter 1 capital programme monitoring report (Cabinet - October 11) includes sufficient budget to fund the variations now requested.

Legal Implications

This report recommends entering into a variation agreement to increase the contract price by including provisional sums, the cost of additional works that have arisen since the works commenced and to include other changes. The variations are permissible under the Public Contracts Regulations 2015 and also the Council's Contract Standing Orders. A full legal advice is set out in the confidential Appendix 1.

The appropriate decision maker is the Cabinet Member.

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Background Papers Used in Preparing This Report – none

DETAILED ANALYSIS

1. The Council's contract standing orders (CSOs) require the lead Cabinet Member to approve any contract variations if the variation of the Total Contract Value (aggregated with the previous modifications and extensions) is £1.5m and above where the value of the proposed modification represents +/-10% or more of the current contract value.
2. The variation to the Ardmore Construction Limited contract (dated 1st December 2020) with the Council is required to complete the transformation of the Civic Campus and maximise the opportunity for the Town Hall to deliver a world class facility: fully inclusive, sustainable and delivering a commercial return
3. The Council entered into construction contract with Ardmore in December 2020. Since then, several factors have impacted the programme's build cost. It has been widely reported in the construction industry that Covid-19 and Brexit combined have seen material shortages leading to price increases in timber, steel and cement. Supply delays and labour shortages affecting timeline and cost are being felt across the industry. The contract entered into for the refurbishment of the Town Hall contained provisional sums that are subject to current day pricing and design confirmation. In addition, other factors include changes to the designs from the point of entering contract due to opening-up the building with tests and inspections and uncovering the need for costs relating to structural elements of the build. These must be addressed to proceed and include specialist requirements for heritage areas.
4. In addition, during the design period enhancements to the original scope and cost estimate have been identified, in line with the Council's vision and values. These include design changes to deliver the truly accessible design and inclusivity agenda as well as enhancements to the energy strategy to reduce carbon emissions through a Ground Source Heat Pump. Further enhancements have also been identified to enable the generation of commercial income and to incorporate additional uses that are being explored as part of the wider

accommodation strategy, such as moving West London Coroner's Court from Bagley's Lane.

5. The 11th October Capital Programme Monitor & Budget Variations 2021/22 (First Quarter) approved an increase in the capital budget for the Civic Campus construction contract. This variation of the contract is therefore within the current capital budget.

Contract Standing Orders

6. The CSOs require the relevant Cabinet Member to approve the variation if the Total Contract Value (aggregated with the previous modifications and extensions) is £1.5m and above where the value of the proposed modification represents +/-10% or more of the current contract value.
7. The CSOs require officers to demonstrate:
 - how the modification is permitted under regulation 72 of the Public Contracts Regulations 2015 (PCR); and
 - details of the relevant budget for the modification

Application of the Regulations

8. Notwithstanding the expiry of the Brexit transition period, the Regulations continue to apply to the Contract and the proposed modifications. In particular, Regulation 72 permits changes to the Contract in certain circumstances and we consider these in the context of each proposed modification.

Increase the contract sum by way of the utilisation of previously agreed 'provisional sums'

- The proposed changes anticipated bring about the crystallisation of sums that have previously been provisionally allowed for in the Contract. As the parties have agreed that this is the case in principle then, this modification is covered by Regulation 72(1)(a) as such changes are anticipated by the relevant provisions in section 5 of the Contract.
- The modifications relate to internal aspects of the building and are unlikely therefore to fundamentally change the nature of the contract by virtue of the fact that they were anticipated in the original contract and, having crystallised, will enable the delivery of the refurbished Town Hall. The changes do not take the Contract beyond the scope of the original tender exercise. There is no need to publish a notice in the OJEU or Find a Tender website where this Regulation is relied upon.

Minor changes

- As the aggregate value of the minor changes anticipated is less than £4.73m and less than 15% of the original contract value then the change is permitted under Regulation 72(1)(f), there is no need to publish a notice in the OJEU or Find a Tender website where this Regulation is relied upon.

Relevant budget for the modification

9. Details of the relevant budget for the modification is contained within the 11th October Capital Programme Monitor & Budget Variations 2021/22 (First Quarter) and confirmed above in the Financial Impact section above.

Reasons for Decision

10. The reason for the recommendation is to complete the transformation of the Civic Campus and maximise the opportunity for the Town Hall to deliver a world class facility: fully inclusive, sustainable and delivering a commercial return.

LOCAL ECONOMY AND SOCIAL VALUE

11. The Civic Campus site generates a social value in line with LBHF's policy and this is detailed on the accompanying Appendix 2

LIST OF APPENDICES

Exempt Legal Appendix 1
Social Value Appendix 2