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| Cabinet 24 July 2024 |  TOWER HAMLETS |
| Report of: Paul Patterson – Corporate Director of Housing & Regeneration. | Classification: Part Exempt |
| Mulberry London Dock School - Award of Main Works Contract. Approval to enable the build contract to be awarded. | |

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| Lead Member | Councillor Maium Talukdar - Deputy Mayor and Cabinet Member for Education, Youth and Lifelong Learning |
| Originating Officer(s) | Nazim Rahman – Principal Project Manager - Capital Delivery Yasmin Ali – Head of Capital Delivery |
| Wards affected | Mile End |
| Key Decision? | Yes |
| Reason for Key Decision | Financial threshold |
| Forward Plan Notice Published | 18 June 2024 |
| Exempt information | <p>This report and/or its appendices include information that has been exempted from publication as the Monitoring Officer:</p> <ul style="list-style-type: none"> • has deemed that the information meets the definition of a category of exempt information as set out in the Council's Access to Information Rules; and • has deemed that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. <p>The exempt information is contained in.</p> <ul style="list-style-type: none"> • Potter Raper's Tender Report - Appendix 1 <p>The exempt information falls into this category:</p> <ul style="list-style-type: none"> • Information relating to the financial or business affairs of any particular person (including the authority's handling of the information) |
| Strategic Plan Priority / Outcome | 1. Strategic Priority 3 – Accelerating Education Strategic Priority 7 – Working towards a clean and green future. |

Reasons justifying urgent consideration

This report was not published within the statutory timescale before the Cabinet meeting because the final amendments to confirm funding were made on 16 July. The Council is required to formally award the main works contract for this project to Kier Construction (London) for the sum of £66,000,408. The works are due to be completed by end of August with the school opening from September 2024. The works are due to be completed by end of August with the school opening from September 2024. This completion of contract cannot wait for the next Cabinet in September 2024.

1. Executive Summary

- 1.1 This report seeks Cabinet approval to ratify the award of the main works contract for construction of Mulberry London Dock School to Kier Construction (London) for the contract sum of £66,000,408. Construction of the school commenced in 2022 and is due for practical completion and occupation for Autumn 2024.
- 1.2 This report reflects the successful resolution of a series of longstanding issues such changes to the heating strategy and subsequent re-design of the mechanical and electrical equipment delaying completion of the final documentation. The original contract was awarded to Kier in October 2020 under a JCT 2016 D&B form of contract, however all DfE funded projects are required to adopt the DfE form of contract. A series of scope changes, design changes and a period of extended contract negotiation meant that the main works contract between Kier Construction and Tower Hamlets Council could not be finalised until November 2023 with a contract value of £66m.
- 1.3 This high-quality new school will provide much needed education facility of a mixed 6FE (Form Entry) secondary school with 900 school places with 300 sixth form provision.
- 1.4 The overall capital budget for Mulberry London Dock School of £75,400,000 was agreed by Cabinet on 31st January 2024. The allocation is part funded by a grant allocation of £53,867,407 from the Department for Education (DfE).
- 1.5 Under the Council's financial threshold, members approval is required to award a contract of this value.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Approve the final amended contract to Kier Construction (London) for the construction of Mulberry London Dock School for contract sum of £66,000,408 as recommended by the Employers Agent and set out in the Commercial Price Evaluation Report (Appendix 1).

2. Note the Equalities Impact Assessment as set out in Paragraph 5 of this report as appropriate.

2. Reasons for the decision

- 2.1 Members approval is required to ratify the final amended award for the main works contract between the London Borough of Tower Hamlets and Kier Construction (London), total contract value £66,000,408. The value of contract means that signoff must be approved at member level.
- 2.2 This further award is required to complete the scheme as the original approval value is be deemed to be £52m and the amended contract value is £66,000,408.

3. Alternative Options

- 3.1 There are no viable alternative options. The Council has signed a Development Agreement and Works Funding Agreement with the DfE for the delivery of London Dock School by commencement of the 2024/2025 academic year. They are no alternative decisions which would allow the school to be delivered on programme and to budget.

4. Background

- 4.1 Mulberry London Dock School was approved for construction by Cabinet in November 2018. Development cost of £50,822,000, was approved at January Cabinet 2020, funding consisted of £45,300,000 DfE grant and £5,522,000 of Community Infrastructure Levy (CIL) resources. Inflationary pressures in the economy and changes to the design increased the cost of developing leading to Cabinet increasing the budget in February 2022 by a further £10,700,000. In January 2023 Cabinet increased the budget by an additional £2,100,000, bringing the total approved budget to £63,622,000 which £45,300,000 was funded from DfE grant contributions.
- 4.2 The new school was designed to be supplied by power by the district heating network provided by the sit landlord, St. George's Trust, but concerns regarding management fees, life cycle costs and end of life replacement cost meant the DfE could not sign up to the contract terms. A review of alternative heating options was undertaken, and a stand-alone air source heat pump system was agreed as replacement. The review and decision-making process for this change added a further eleven months to the programme.
- 4.3 The net impact of an eleven-month delay plus a redesign of the mechanical and electrical system was an increase on project cost of £11,800,000, taking the overall project budget to £75,400,000, of which the main contract between Tower Hamlets Council and Kier Construction London is £66,000,408. The total contract cost includes a Pre Construction Services Agreement (PCSA) and Early Works contract and cost which were all subsumed into the main contract.

4.4 Keir Construction London have been paid £60,806,000 up until June 2024 with £5,194,408 remaining to completion in September 2024. Keir's contracts sum of £66,000,408 is contained with the overall scheme budget of £75,400,000.

4.5 The increase in overall budget for London Dock School was funded from £8,567,407, approved by the DfE in November 2023 and £3,210,593 of basic need funding, approved at 31st January 2024 Cabinet. Table One – Funding Approvals for Mulberry London Dock School below sets out the funding streams for the development.

| | Approval Date | Total Budget | Basic Need | DfE Grant | S106 | CiL |
|---|-----------------------------|---------------------|------------------------------|-------------------|------------------|-------------------|
| Cabinet Report | Nov 18 | 52,000,000 | Funding Source Not Specified | | | |
| Cabinet Report Superseding Nov 2018 report | Jan 20 | 50,822,000 | | 45,300,000 | 5,522,000 | |
| CSB | Feb 22 | 10,700,000 | | | | 10,700,000 |
| DB & Cabinet | DB – Aug 23 Cab – Jan 23 | 2,100,000 | 2,100,000 | | | |
| Budget Setting/ CSB | Nov 23 Jan 24 | 11,778,000 | 3,210,593 | 8,567,407 | | |
| | | | | | | |
| Total Funding | | 75,400,000 | 5,310,593 | 53,867,407 | 5,522,000 | 10,700,000 |

5. Equalities Implications

The expansion project will also contribute to meeting statutory equalities requirements that include.

- The Children and Families Act - Part 3 (2014)
- The Equality Act (2010)

5.1 If the construction of the extension is delayed this will also impact the Councils capacity to meet the statutory requirement to provide pupil places for children that fall into the protected group as well as potentially increasing out of borough costs where adequate numbers of in borough places are unavailable.

6. Other Statutory Implications

6.1 The scheme also contributes to the London Borough of Tower Hamlets 'Zero Carbon Policy' enabling a reduction in the Councils use and reliance on fossil fuels and delivery against national carbon reduction targets.

6.2 London Dock School is a Passivhaus development and as such will benefit from ultra-low energy use, reduced energy cost and reduced carbon emissions. Students will also benefit from an improved indoor learning environment.

7. Comments Of the Chief Finance Officer

- 7.1 This Cabinet report is seeking to ratify the award of a contract which had previously been granted by Contract Award Letter dated 14th October 2020, therefore it is not a new contract.
- 7.2 With a contract value of £66m, Finance rules stipulates that member approval is required to sign off the award.
- 7.3 The payments that have been made to Kier (£60,1M) have been paid under the PCSA and early works agreement up until June 2024, this report formalises the contract award to Kier.
- 7.4 As in paragraph 3.4 the remaining £5,194,408 will be paid to Keir to completion in September 2024. This will be accommodated within this year's approved budget of £12,138,399.
- 7.5 The projected spend includes the full cost of this contract award sum and is contained within existing budgets.

8. Comments Of Legal Services

- 8.1 The Council has the legal power to award the contract referred to in this report.
- 8.2 This scheme was originally reported to cabinet in the Procurement Forward Plan on the 26th June 2019 and details an award ceiling of £52m. The approval was subject to a further report the following month at cabinet (dated 31 July 2019)
- 8.3 Budgetary approval was subsequently increased to match the changing needs of the scheme and global pressures on construction prices. However, a formal amendment to the existing delegation is required for the successful completion of this scheme to match the changed budget.

Linked Reports, Appendices and Background Documents

Linked Report

- None.

Appendices

- Appendix 1: CONFIDENTIAL – EXEMPT Potter Raper – Mulberry London Dock School - Tender Report

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

Officer contact details for documents:

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