

## ABERDEEN CITY COUNCIL

---

COMMITTEE	Finance, Policy and Resources
DATE	19 April 2016
DIRECTOR	Gayle Gorman
TITLE OF REPORT	South of the City Academy – Approval of Early Works Agreement
REPORT NUMBER:	ECS/016/

---

### 1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to update Committee on progress made to delivering the new Academy to replace Kincorth Academy and Torry Academy and to seek approval for the Council to enter into an early works agreement prior to reaching Financial Close.

### 2. RECOMMENDATION(S)

- 2.1 It is recommended that the Committee:
- (i) Note the progress made in delivering the new Academy;
  - (ii) Note that the final Stage 2 submission is expected to be received from the Board of Hub North Scotland Ltd on Friday 29 April 2016 with Financial Close scheduled for 6 June 2016;
  - (iii) Agree to the Council entering into an early works agreement with Hub North Scotland Ltd or the sub-Hubco company created for the new Academy project to a maximum value of £2.95 million on such terms and conditions as determined by the Head of Legal and Democratic Services;
  - (iv) Instruct the Head of Legal and Democratic Services to prepare and sign the Letter of Intent which will set the scope and cost of the works;
  - (v) Instruct the Director of Education and Children's Services to prepare a further report on the Stage 2 submission when received, including commentary on best value which will be provided by Scottish Futures Trust (SFT) and the Council's external technical advisors, AECOM; and
  - (vi) Otherwise note the contents of this report.

### **3. FINANCIAL IMPLICATIONS**

- 3.1 The Stage 2 submission should be received on Friday, 29 April 2016, subject to approval by the Board of Hub North Scotland Ltd (Hub North). At this stage there is no obvious concern that the construction cost of the school or the offsite road/pedestrian works will be above the recently agreed capital budget which was set at the Council's budget setting meeting of 25 February 2016.
- 3.2 By entering into an early works agreement, the Council is agreeing to fund groundworks with a value of up to £2.95 million (including fees) by 30 June 2016. Should Financial Close not be achieved by 30 June 2016, then a further Letter of Intent extending the time period by a further 6 weeks and to a maximum value of a further £2.5 million could be negotiated with Hub North.
- 3.3 Upon reaching Financial Close, the Council would be re-imbursed for the money paid out during the Letter of Intent period. This would ensure compliance with the European System of Accounts 2010 (ESA10) requirements around Council's not contributing capital to a revenue funded project.

### **4. OTHER IMPLICATIONS**

#### **4.1 Legal / Commercial / Procurement**

- 4.1.1 The overall project is being delivered through a Design, Build, Finance, and Maintain (DBFM) contract, using the Standard Contract template which has been prepared by SFT for all similar school construction projects. As the early works will be covered by a separate Letter of Intent which will be incorporated into the overall DBFM contract, it is necessary to seek Committee approval to enter into this agreement.
- 4.1.2 The Letter of Intent will set out the scope of the works to be covered and the associated cost which will be no more than £2.95 million. The letter will also include a clause which covers any eventuality that Financial Close is not achieved by 30 June 2016. This will allow the Council to extend the period of the early works by a further 6 weeks at a maximum cost of £2.5 million. This will ensure that works continue on site with no un-necessary downtime and provide sufficient time to ensure that Financial Close is reached.
- 4.1.3. Prior to any extension of the Letter of Intent, if needed, a further report will be submitted to Committee providing an update on the contractual progress towards Financial Close and, if acceptable, seeking approval to extend the time period for a further 6 weeks.

## 4.2 **Scottish Futures Trust**

- 4.2.1 SFT have been very supportive of the Council in its objective to deliver the new Academy. Recognising the difficulties caused by the abnormal ground conditions, the Council has entered into negotiations to determine what, if any, additional financial support would be available. Where abnormal ground conditions exist, it is routine for authorities to liaise with SFT. The outcome of these negotiations will be reported in the formal Stage 2 report.
- 4.2.2 As Committee will be aware, the construction of the new Academy was due to have been completed and handed to the Council by 31 March 2018. SFT have strongly suggested that it is in the best interests of the Council to enter into an early works agreement prior to Financial Close to ensure that the construction work is completed as close as possible to the 31 March 2018 deadline. If agreed by Committee, it is likely that work will have started on site by mid May 2016 and be completed by mid-May 2018.
- 4.2.3 Officers, with the support of SFT colleagues, have contacted with Scottish Government Civil Servants to seek approval for an extension to the 31 March 2018 completion date and this has verbally been accepted. This has been followed up in writing to the Schools Infrastructure Unit and a written response is awaited from the Scottish Government.

## 4.3 **Risk**

- 4.3.1 By entering into this early works agreement, the Council is committing to an agreement which, in the very unlikely event that the deal for the new Academy is not completed, will result in spend of between £2.95 million and £5.45 million.
- 4.3.2 The Council's external legal advisors, CMS have also commented that by having the early works agreement in place, Hub North may be given the upper hand on contract points given they will be aware that the Council will be very keen to sign the main DBFM contract as quickly as possible to avoid further costs.
- 4.3.3 It should be noted that an early works agreement is not unusual in projects such as the new Academy and it is the considered opinion of officers that the advantages of entering into this early works agreement outweigh the very slight possibility of the DBFM contract negotiations failing.

## 5. **BACKGROUND/MAIN ISSUES**

- 5.1 Negotiations on the successful delivery have progressed substantially in recent months. For example, planning approval has been given for

all elements of the construction and the internal design was completed in early February 2016.

- 5.2 In recent months Hub North's appointed construction partner, Balfour Beatty have tendered the various work packages which will make up the construction programme for the new Academy. Indicatively this has confirmed that the project cost and the off-site works required to meet planning conditions should be within the revised budget agreed at the Council meeting of 25 February 2016. The construction costs will be confirmed with the submission of the formal Stage 2 report, which is anticipated on 29 April 2016. The Stage 2 report will be subject to a separate report to a future Committee meeting as this will form the basis for the main DBFM contract which will require Elected Member approval before being concluded.
- 5.3 Once the Stage 2 report has been received from Hub North, it will be assessed by officers from various services in the Council and our external technical, financial and legal advisors. SFT will also undertake a Key Stage Review. These reviews will confirm whether the project represents best value.
- 5.4 Following the assessments of the Stage 2 submission and all being acceptable, a Committee report will be prepared outlining the steps to be taken to reach Financial Close. This report will seek approval for the relevant officers to conclude negotiations and sign the main DBFM contract. At this stage the early works agreement will be subsumed within the overall DBFM agreement.
- 5.5 The Council remains committed to maintaining and developing meaningful consultation and engagement with stakeholders. A monthly meeting takes place with parent representatives of all schools within the Kincorth Academy and Torry Academy Associated School Groups (ASGs). In addition to this the project team is in the process of preparing a newsletter which will be distributed to all parents and staff within the 2 ASGs. As the project develops regular updates will be provided in this way.

## **6. IMPACT**

### **Improving Customer Experience**

- 6.1 A pre contract start on site will ensure that the new Academy is delivered to the Council as close as possible to the 31 March 2018 deadline. A new Academy to replace the existing Kincorth Academy and Torry Academy will provide excellent, state of the art educational facilities for up to 1,350 pupils and will also provide modern community facilities for leisure and recreation purposes outside of the school day.

## **Improving the Staff Experience**

- 6.2 As above, modern school facilities will provide staff with the opportunity to work within an inspirational setting which will hopefully result in improved learning and teaching.

## **Improving our Use of Resources**

- 6.3 An early start on site will publicly confirm the Council's commitment to deliver the best possible educational and community environments for its residents in Torry, Kincorth, Nigg and Cove. The pre contract agreement, through the Letter of Intent, brings the respective partners closer together. Assuming that Financial Close is reached, then the payments made by the Council will be re-imbursed and ensure the funding of the project complies with the accounting regulations set out in ESA10.

## **7. BACKGROUND PAPERS**

- 7.1 Council Meeting – 25 February 2016 (Agenda Item 2: General Fund Revenue Budget 2016/17 and Non-Housing Capital Programme 2016/17 to 2020/21 – CG/16/018)

Finance, Policy and Resources Committee – 4 December 2014 (Agenda Item 6: General Fund Revenue and Capital Budget 2015/16 and Indicative 5 Year Budgets – CG/14/133)

## **8. REPORT AUTHOR DETAILS**

Euan Couperwhite  
Head of Policy, Performance and Resources  
[ecouperwhite@aberdeencity.gov.uk](mailto:ecouperwhite@aberdeencity.gov.uk)  
01224 522073