

Report for: Cabinet Member Signing – 1 December 2022

Title: Seven Sisters Primary School Building Services and External Envelope Improvement Works Phase 1 & 2 – Variation of Construction Contract

Report

Authorised by: Ann Graham, Director Children’s Services

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Ward(s) affected: St Ann’s

Report for Key/

Non Key Decision: Key Decision

1. Describe the issue under consideration

- 1.1 On 15th June 2021, the Cabinet Member approved an award to Mulalley & Company Ltd for Seven Sisters Primary School Phase 1 in the sum of £1,233,949.00. This contract award was varied on 17th January 2022 to £1,366,875.00 by the Cabinet Member.
- 1.2 On the 9th November 2021 the Cabinet Member approved an award to Mulalley & Company Ltd for Seven Sisters Primary School Phase 2 in the sum of £1,264,690.60.
- 1.3 This report seeks approval to vary both contracts to Mulalley & Company Ltd as allowed under Contract Standing Order (CSO) 10.2.1.b and (CSO) 16.02.
- 1.4 The additional works provide the Council with greater value for money by including the works within the current contract on site, as opposed to returning with a separate contract, which as a result of the current climate – construction inflation and material shortages - would likely result in inflated market rates and cause further disruption to the schools

2. Cabinet Member Introduction

- 2.1 Not applicable.

3. Recommendations

The Cabinet Member for Children, Schools, and Families is recommended:

- 3.1 Pursuant to Contract Standing Order 16.02, to vary the following construction contract awards:

- (i) To approve a further variation of the construction contract for Seven Sisters Primary School Phase 1 to Mulalley & Company Ltd in the sum of £263,125.00 giving a varied contract value from £1,366,875.00 to £1,630,000.00.
- (ii) To approve a variation of the construction contract for Seven Sisters Primary School Phase 2 to Mulalley & Company Ltd in the sum of £58,288.00, giving a varied contract value from £1,264,690.40 to £1,322,978.00.
- (iii) To delegate authority to the Director of Children's Services to approve any subsequent variations which may be required in the settlement of the final account up to £50,000 for each Phase of the project.

4. Reasons for decision

- 4.1 During construction of Phase 1, additional condition works were identified which included remedial works to address additional pipework, asbestos removal and additional works to aluminium window reveals.
- 4.2 The additional work has led to the contractor requesting further time to accommodate the additional works, some of which may not be fully considered as part of the original variation request for Phase 1.
- 4.3 Phase 2 works experienced additional works to windows roofs and asbestos. As with Phase 1 this has resulted in the contractor requesting further time to accommodate the additional works.
- 4.4 Whilst elements of cost are yet to be fully evidenced and agreed, these variations of contracts are expected to be sufficient to settle the final accounts.

5. Alternative Options Considered

- 5.1 Do nothing – a decision not to support the increase in the value of the construction works contract will result in delays in completing urgent condition works and leave the Council unable to fulfil its contractual obligations with regarding to payments to the contractor. Design changes have been agreed via strict change control processes and can be supported by the project budgets. 'permanent' heating system.
- 5.2 Returning to the market and delivering under a separate contract was discounted as would not offer best value to the Council due to current climate conditions – construction inflation and material shortages – this would likely result in inflated market rates and cause further disruption to the school. This would also cause further delays as it is unlikely that a new contractor could be procured and commence works before the existing contractor had completed the additional work.

6. Background Information

- 6.1 London Borough of Haringey are seeking to identify and address building condition and suitability issues across the Education/schools estate.
- 6.2 A major review of the condition and suitability of the Children's Services estate has been undertaken, which informed the Children's Service's asset management plan (CSAMP). This identified condition and suitability deficiencies in the primary, secondary, and wider Children's Service estate that need addressing in the short, medium, and long-term. Seven Sisters Primary School was considered high priority for major works due to issues relating to health and safety or risk of school closure.
- 6.3 This condition project brings several benefits to the school and the council, with the primary objective of providing improved educational environment for Children in line with Haringey's borough plan. Along with improving educational outcomes, this project will significantly reduce the risk of a health and safety incident or school closure through condition failure such as mechanical failure or roof leaks. The projects will also help the schools reduce its energy demands and thus reduce carbon emissions through technologies and insulation including double glazing. This work also benefits the Council in reducing the reactive maintenance requirements at the school in future by economically fixing the root cause of the condition issues within a single project whilst avoiding additional temporary repairs costs.
- 6.4 The two phases of works at Seven Sisters Primary School involve the renewal of the building services systems, new windows, masonry repairs, roofing, boundary, additional insulation, surfacing and drainage works.
- 6.5 Once works commenced at Seven Sisters School, the heating, roofing and windows required additional works. The contractor has been asked to substantiate requests for additional time and loss and expense in more detail and on this basis the value of the assessment is ongoing, however the variation values requested in this report are expected to achieve final account status.
- 6.6 The quantity surveyor has verified and confirmed these additional condition work costs are in line with market rates and will not result in the Council paying any additional costs compared with them being included within the tender. However, as referred to in 6.5 above, the loss and expense claim associated with the Extension of Time (EoT) award to the contractor, along with a requirement for 'out of hours' working, is presently being finalised with contractor.
- 6.7 The contract increases are within the budget for the works and therefore there is no additional funding requirements.
- 6.8 The total worst-case final construction costs are shown in the table below along with the previous award history.

Phase 1	
Original Contract Award June 2021 (including contingency).	£1,233,949.00
Variation No.1 January 2022 (including contingency)	£132,926.00
Total contract award as at January 2022	£1,366,875.00
Variation No.2 December 2022	£ 263,125
Total Contract Award Value as December 2022	£1,630,000.00
Value of variation requested	£263,125.00
Phase 2	
Original Contract Award January 2022 (including contingency).	£1,264,691.00
Variation No.1 December 2022	£ 58,288.00
Total Contract Award December 2022	£1,322,978.00

6.9 The overall worst case contract increases are within the overall project budget for the phase 1 and 2 works and therefore there is no additional funding requirements.

	Total Budget
Phase 1 Construction	£1,630,000
Phase 1 Other	£353,881
Phase 1 Total	£1,983,881
Phase 2 Construction	£1,322,978
Phase 2 Other	£287,207
Phase 2 Total	£1,610,185
Total Project Cost	£3,594,066
Total approved budget for Phases 1 & 2	£4,000,000

7 Contribution to Strategic Outcomes

7.1 This project proposal supports outcomes as outlined in the Borough Plan 2019-23, in particular:

All projects commissioned by Officers of the Council are expected to align with this plan and will be reflected in key capital project documentation such as project briefs, design briefs, business cases, project initiation documents (PID) and award reports. The relevant Borough Outcome for this project is: **People** - our vision is a Haringey where strong families, strong networks and strong communities nurture all residents to live well and achieve their potential.

7.2 Seven Sisters Primary School falls into wave 1 (priority 1) of the Children's Service's asset management plan (CSAMP) and is therefore procured in accordance with the priorities set out in the Children's Capital Programme.

8. Statutory Officer Comments

8.1 Finance

8.1.1 The recommendation of the report is to increase the value of 2 contracts awarded to Mulalley and Company for the second time for works to Seven Sister School Phase 1 and Phase 2. The increase for phase 1 is £0.262m and the increase for phase 2 is £0.058m. If the recommendations are accepted the estimated contract value for phase 1 will be £1.63m and for phase 2 £1.323m. The overall increase for the phase 1 contract as compared to the original award £0.397m, 32% and the overall increase for the phase 2 contract as compared to the original award will be £0.058m, 4.6%.

Procurement

8.2.1 Strategic Procurement note the content of the report. The variation is in line with the authorities Contract standing orders and the Public Contract regulations. Strategic Procurement can see no reason that the recommendation to vary the contracts as noted in the report is not endorsed

8.3 Legal

8.3.1 The Head of Legal and Governance (Monitoring Officer) has been consulted in the preparation of this report.

8.3.2 The value of each contract is below the threshold where the rules on modification set out in the Public Contracts Regulations 2015 apply. The variations are therefore governed by Contract Standing Orders.

8.3.3 CSO 10.02.1 (b) (contracts valued at over £500,000) allows for Cabinet to approve both variations. CSO 16.02 provides that in-between meetings of the Cabinet, the Leader may take any such decision or may allocate to the Cabinet Member with the relevant portfolio responsibilities.

8.3.4 The Cabinet Member for Children, Schools, and Families also has power under Section 14 (4) of the Local Government Act 2000 to delegate approval of any subsequent variations to the Director of Children's Services.

8.3.5 The contracts for Seven Sisters Primary School Phase 1 & 2 are Key Decisions and, as such, need to comply with the Council's governance arrangements in respect of Key Decisions, including publication in the Forward Plan.

8.3.6 The Head of Legal and Governance (Monitoring Officer) confirms that there are no legal reasons preventing the Cabinet Member for Children, Schools, and Families from approving the recommendations in this report.

8.4 Equality

8.4.1 The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share those protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not.

The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex, and sexual orientation. Marriage and civil partnership status apply to the first part of the duty.

The proposed decision is to vary contracts to Mulalley and Company Ltd up to the value stated in Section 3.1 – 3.4 of this report. It was identified that the condition and suitability deficiencies at Campsbourne, Seven Sisters and Stroud Green Primary Schools are a high priority for major works due to issues relating to health and safety or school closure risks. It is expected that this decision will lead to improved health and safety of all students and members of staff. No negative consequences are identified for those who share a protected characteristic, and it is concluded that the works will have a wholly positive impact by improving the health and safety of Campsbourne, Seven Sisters and Stroud Green Primary Schools.

As an organisation carrying out a public function on behalf of a public body Mulalley and Company Ltd will be obliged to have due regard for the need to achieve the three aims of the Public Sector Equality Duty as stated above. Appropriate contract management arrangements will be established to ensure that the delivery of the major works does not result in any preventable or disproportionate inequality.

9 Use of Appendices

9.1 Not applicable.

10 Local Government (Access to Information) Act 1995

10.1 Not applicable.