



Cabinet Member Report

Decision Maker: Cabinet Member for Finance & Smart City

Date: 8 March 2022

Classification: General Release with Part B exemption.

Confidential/exempt

The Part B of this report is currently exempt from disclosure on the grounds that (i) it contains 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, (ii) it contains information in respect of which a claim to legal professional privilege could be maintained in legal proceedings under paragraph of Schedule 12A of the Local Government Act 1972; (iii) and in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Title: Fees for work associated with the development of plans for the transformation of the Seymour Leisure Centre up to the end of RIBA Stage 4 (Technical Design).

Ward Affected: Bryanston & Dorset Square

Key Decision: Yes

Financial Summary: The Seymour Leisure Centre project has a budget of £40m within the approved capital programme.

This report seeks authorisation to approve the release of funding for professional fees up to the end of RIBA Stage 4. This amounts to £2.195m.

Report of: Gerald Almeroth, Executive Director of Finance & Resources

1.0 Executive Summary

1.1 On 17 February 2022 Cabinet approved a budget of £40 m for the refurbishment of Seymour Leisure Centre incorporating the co-location of Marylebone Library. This scheme budget along with the wider capital programme is due to be approved by full Council on 2 March 2022.

1.2 The main professional team have now been procured and they have been working on design options with leisure, libraries and registrars' services. Approval has already been obtained for the appointment and associated expenditure for the Architect, to progress the consideration of options for the refurbishment of the centre resulting in the production of an Outline Business Case (OBC) for the scheme.

This report seeks approval for all remaining professional and other pertinent fees to progress the project up until the end of RIBA Stage 4. The amount is £2.195m and the detail of this is outlined in the body of the report.

1.3 We have commissioned specialist QS, PM & CDMC services and this report seeks authority for the expenditure associated with this work.

1.4 This Cabinet Member Report seeks approval from the Cabinet Member for Finance & Smart Cities to consider and take decisions on the recommendations listed below in section 2.

2.0 Recommendation

2.1 That expenditure on further professional services of up to £2.195m is approved to obtain the professional services support required for the project up until the end of RIBA Stage 4.

2.2 That approval is given to enter a contract with Pell Frischmann Consultants Limited (Company Reg no. 1777946) in the sum of £892,652 for engineering services, this amount is included in the £2.195m.

2.3 That the Cabinet Member for Finance & Smart City approves the strategy to appoint a suitably qualified contractor initially based on a Pre-Construction Services Agreement to provide expert advice on the deliverability of the project. A further Cabinet Member Report will be brought back for the approval of the appointment of a contractor on this basis.

3.0 Reasons for Decision

3.1 Renovation of the Seymour Leisure Centre has been considered for a number of years. The current building is inefficient. The environmental performance is suboptimal.

3.2 The council have committed to the relocation of Marylebone Library from its current leasehold base to a permanent new home within the Seymour Centre. The creation of a new Seymour Centre provides further opportunity for combining other council services into a single council space and will be a flagship project to benefit local communities.

3.3 In order to progress the project now it is necessary to appoint engineers and other professional services in order to progress the analysis of options currently being worked up for the Centre.

3.4 In line with the commitment to progress the project, work is required to be undertaken and the costs associated with this are £3.078m. To date £0.883m for architectural services has been approved and the appointment of the QS, PM and CDMC approved. In addition, approval was obtained for business plan support. This CMR seeks to approve the remaining expenditure of £2.195m for the other required professional services as set out in section 6.

4.0 Background & Policy Context

4.1 The City for All Plan outlines the council's ambitions to ensure that the full benefits of being a part of the City of Westminster are enjoyed by all, including those who live, work and visit the area. The Seymour Centre generated 400,000 visits p.a. pre-Covid and serves 20 local schools who make use of the swimming pool and sports hall. This popularity ensures that a new Centre can contribute towards the delivery of City for All objectives and the Vibrant Communities aims.

- 4.2** The relocation of Marylebone Library from its current temporary base will facilitate a full range of library activities including flexible events space. This will support social inclusion and reduce digital isolation and health inequalities by providing a range of opportunities for people to make healthy lifestyle choices.
- 4.3** In addition to refurbished leisure facilities and a new Marylebone Library, the new Seymour Centre creates further opportunity for combining other council services into a single council space and will be a flagship project for the environment that our communities can come together and access council services and engage with us.
- 4.4** Public engagement meetings were held last year and two this year where commitment was given to progress a scheme. Engagement with both the public and internal engagement is well underway.

5.0 Procurement

Professional Services

- 5.1** A number of professional services appointments have been completed including for architectural services and PM/QS and CDMC services under delegated authority and current procurement exercises are underway including appointing engineering services, external legal services and pre-construction services.
- 5.2** A procurement exercise for engineering services last year was unsuccessful – no bids were received and so a further competition was issued through capitalEsourcing utilising the Crown Commercial Services Framework. One tender was received from Pell Frischmann Consultants Ltd. Pell Frischmann is an international, multi-disciplinary consultancy with significant experience.
- 5.3** As only one bid was received the costs submitted by Pell Fischmann have been subject to additional benchmarking to ensure that value for money can be demonstrated. The findings are that the commercial submission is within range for this type of project, and this has been confirmed by the independent professional team.
- 5.4** The Commercial Gateway Review Board (CGRB) on 1 February 2022 considered a report detailing the engineering procurement exercise undertaken. All questions raised by CGRB have been addressed and CGRB have endorsed the appointment subject to confirmation of approval to the budget spend sought in this CMR.

Main Contractor

- 5.5** The Seymour Centre is a Grade II Listed building on a constrained site. It is a complex building and the proposed uses, including a swimming pool, mean that we need to engage a contractor familiar with such complexity and experience of constructing swimming pools.
- 5.6** Westminster City Council normally engages with a contractor after the Final Business Case (FBC) has been agreed and approved but projects of this technical complexity and risk require a different approach. The project board has endorsed an approach which would engage a contractor earlier in the process to ensure that we benefit from specific technical expertise.
- 5.7** The 'buildability' of proposals will be critical. Whilst some options may be technically feasible, we need the first-hand experience of an experienced contractor to input into design considerations at an early stage in order to avoid abortive work. Delaying

appointment beyond FBC stage gives rise to a real risk that the design is not implementable or only implementable at great cost.

- 5.8** It is proposed to procure a suitably experienced contractor via the Southern Construction Framework which the council has used for other projects. All the contractors on the Southern Construction Framework have relevant experience, including swimming pools and historic buildings. Informal soft market testing has resulted in 4 of the contractors expressing a strong interest in tendering for this project. In the current market, this is a very encouraging initial outcome.
- 5.9** The key reason why contractors are not normally procured early in a project is a concern that costs will not be controlled and that value for money will not be achieved. This cost focused approach arguably reduces focus on quality. Clearly there is a balance to be struck and the project budget must not be exceeded. The Southern Construction Framework enables an open-book financial approach with the successful bidder that will ensure that costs are scrutinised, and that Value for Money is achieved. In reality, because most main contractors will be purchasing materials at the same discount levels and labour costs will not be significantly different across those contractors, the main differentiating factor will be experience and quality. It is worth noting that both the project's external PM and Cost Consultants have extensive and current experience of working on comparable projects, delivered by the identified contractors, and procured through the Southern Construction Framework. This will enable our finance team to receive detailed benchmarking information in order to satisfy the council's financial requirements. None of the external team are contracted to work for main contractors and so their impartiality is secured.
- 5.10** The approach has been discussed with Procurement and Finance colleagues and will be subject to scrutiny at the Commercial Gateway Review Board.
- 5.11** The contract with the successful contractor would be a JCT Pre-Construction Services Agreement (PCSA) with the main JCT building contract only entered into after approval of the FBC so that the council's interests can be protected, and Value for Money obtained. Entering into a PCSA ensures that the council can terminate the arrangements with the contractor and not enter into a main contract if it is determined that this is the best course of action.
- 5.12** In order to ensure that the council's contractual position is protected, it has been agreed with our in-house legal team, that work associated with drawing up and agreeing the contract documentation should be outsourced as the internal team do not have the capacity or sufficient expertise to provide the necessary advice for this complex project. The fees associated with this service are estimated to be c. £0.030m and a mini competition is being managed via the London Borough Legal Alliance (LBLA) Framework - Solicitors panel. There are Solicitors on this who are familiar and have experience of procuring construction contractors via the Southern Construction Framework.
- 6.0 Equality Act 2010**
- 6.1** The Equality Act 2010 requires public authorities to have due regard to the need to eliminate discrimination and advance equality of opportunity. The council must take into account its wider public sector equality duty under Section 149 of the Equality Act 2010 when making decisions.
- 6.2** The Seymour project is designed to increase the usage of the Centre by increasing the council 'offer' provided. This includes Library provision and the Library Service have at their core the promotion of equality of opportunity. The Library Service vision includes

the statement “Libraries are thriving community spaces supporting literacy, learning, business, wellbeing and culture and the way that residents have used libraries continues to change.”

- 6.3** Alongside Library provision the vision for the new Centre includes the aim of enhancing accessibility so that the current Leisure facilities and the new council services are accessible for the widest number of residents.

7.0 Finance Implications

- 7.1** On 17 February 2022 Cabinet agreed a revised total gross budget for delivery of the Seymour Leisure Centre of £40m. This scheme budget along with the wider updated capital programme is due to be considered for final approval by Council on 2 March 2022.
- 7.2** Up until the end of RIBA Stage 4 professional fees and other charges are scheduled to be £3.078m. Of this amount, the sum of £0.883m was agreed as part of a CMR approved in October 2021 to appoint Make Ltd as the council’s architects, leaving a total of £2.195m of professional fees to be approved. This includes £0.708m for the engineer and £0.515m for PM, QS and CDMC.

A breakdown of these fees is provided in the Exempt table at Appendix A.

- 7.3** The report requests approval to enter into a procurement process to appoint a main contractor for the scheme. Initially the value of works will be for the PCSA contract for an amount set out in Appendix A but could then extend to the main works contract value of a total of £33m. A formal decision regarding the award of the main works contract will be taken after the preferred option for the scheme is established and following an assessment of the contractor’s performance at the PCSA stage. Value for money will be tested for the main works contract through open book accounting and scrutiny and challenge from the scheme external project manager and cost consultants

8.0 Legal Implications

- 8.1** With regards to the refurbishment works for Seymour Leisure Centre which incorporates the relocation of Marylebone Library (“the Project”). This report is seeking approval of the following:

The approved budget for all professional and other pertinent fees to progress the project up until the end of RIBA Stage 4. The total amount budgeted for contract values and professional fees is £2.195 million and is detailed further within this report.

Approval the contract award to Pell Frischmann Consultants Limited (Company Reg no. 1777946) in the sum of £892,652 for the provision of structural and engineering services for the Project.

The procurement strategy to appoint a suitably qualified construction contractor initially on the basis of a Pre-Construction Services Agreement (PCSA) to provide expert advice on the (deliverability of the project). The estimated contract value as noted in Part B of this report.

The procurement strategy to appoint supporting external legal advice for the project with an estimated contract value as noted in Part B of this report.

It is noted in the report that Cabinet approved a budget of £40m for the Project refurbishment. However, the Project along with the wider capital programme is due to be approved by full Council on 2nd March.

The call-off contract award to Pell Frischmann Consultants Limited for the provision of Structural and Engineering Consultancy Services were procured via the Crown Commercial Services (CCS) framework RM3741 - Project Management and Full Design Team Services, Lot 5 ("the Framework").

The Framework has been set up in compliance with regulation 33 of the Public Contracts Regulations 2015 ("the Regulations") and the Council is permitted access to use it as a public sector organisation.

The Council is permitted to call-off from the Framework by conducting further mini competition or by way of a direct award. The service has been procured in accordance with terms of the Framework for the proposed contract award.

The Model form of Professional Services Agreement Call-Off Contract entered into must be under the terms and conditions as set out and agreed in the Framework without any material amendments being made and in accordance with regulation 33 (7) (a) of the Regulations.

The proposed Call-Off Contract to be awarded to Pell Frischmann Consultants Limited is for a period of three years with the option to extend for a further year. The total call-off contract price is £892,652 to deliver the services.

The procurement strategy is to use the Southern Construction Framework ("the Framework") to appoint a specialise contractor for pre-construction services. This Framework has been set up in accordance with regulation 33 of the Public Contract Regulations 2015 ("the Regulations") and is a public sector construction framework developed to support public sector organisation with procuring large scale and complex public works and services contracts. The Framework permits the two-stage open book procurement whereby a selected contractor can be appointed under a PSCA and thereafter subject to meeting certain criteria set by the Council, be awarded the contract for the main construction building works.

Given the large scale and complex nature of the procurement strategy to deliver the Project external legal support is also required to support officers' and the Council's consultants. The London Borough Legal Alliance Framework (LBLA) is a public services framework for London borough local authorities to procure legal services. The LBLA has been set up in accordance the Regulations and is suitable for use to obtain supporting external legal advice.

9.0 Carbon Impact

- 9.1** This Listed building cannot meet the council's 2030 net carbon zero aims without an overhaul of the Mechanical & Electrical (M&E) services servicing the pool, heating and ventilation. Modern M&E will have a significant impact on emissions and energy consumption.
- 9.2** The team will be using the council's Carbon Assessment Toolkit to measure the impact of interventions.
- 9.3** The professional team are working on a Carbon Strategy for the building and this engineering appointment is critical to the delivery of that strategy. The team are also

examining the potential of grant funding to assist with the delivery of measures to reduce the building's carbon emissions.

10.0 Consultation

Significant consultation has occurred over the last 12 months with further consultation planned. Local Members have been involved with all events as have the three Cabinet Members.

If you have any queries about this Report, please contact:

Claire Nangle cnangle@westminster.gov.uk

For completion by the **Cabinet Member for Finance & Smart City**

Declaration of Interest

I have no interest to declare in respect of this report

Signed: _____ Date: 08 March 2022

NAME: **Councillor Paul Swaddle**

State nature of interest if any

(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled Appointment of Architects for Seymour Leisure Centre and reject any alternative options which are referred to but not recommended.

Signed

Cabinet Member for Finance & Smart City

Date

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

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If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, City Treasurer and, if there are resources implications, the Director of People Services (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.