

**REPORT TO: POLICY AND RESOURCES COMMITTEE – 18 MAY 2015**

**REPORT ON: REPLACEMENT OF BALDRAGON ACADEMY**

**REPORT BY: CHIEF EXECUTIVE AND DIRECTOR OF CITY DEVELOPMENT**

**REPORT NO: 135 - 2015**

## **1.0 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to update the Committee as to recent developments related to the project to replace Baldragon Academy.

## **2.0 RECOMMENDATIONS**

It is recommended that the Committee:

- 2.1 notes the contents of the report;
- 2.2 notes that there will be no increase in capital costs to the Council;
- 2.3 approves an increase in the total level of advance payments and early commitment of expenditure prior to Financial Close from £2.5m to £5m; and
- 2.4 agrees -
- (i) that the Council should enter into, deliver and perform the agreement for the design, build, finance and maintenance of the new Baldragon Academy (the **DBFM Agreement**) and the supporting Project Documents (as defined below);
  - (ii) that David Robert Martin, Chief Executive, Roger William Hunter Mennie, Head of Democratic and Legal Services and Kenneth James McKaig, Legal Manager, be authorised, as Proper Officers for the purposes of the Requirements of Writing (Scotland) Act 1995, and as Proper Officers for the purpose of the issue of certificates under and in terms of the Local Government (Contracts) Act 1997 and the Local Authorities (Contracts) (Scotland) Regulations 1997, to finalise and sign, on behalf of the Council, the DBFM Agreement, the Funder's Direct Agreement, the Collateral Agreements, the Independent Tester Contract, the Insurance Proceeds Account Agreement (each as defined in the DBFM Agreement), the Certificate pursuant to the Local Government (Contracts) Act 1997 in respect of the project, any agreements that may be necessary associated with payment and banking arrangements and any additional or ancillary documents required in relation to the project (the **Project Documents**); and
  - (iii) that those persons identified in paragraph 2.3(ii) above be authorised to consider and agree any amendments proposed to the Project Documents after the date of this meeting in consultation with the Director of Corporate Services and the Director of City Development.

### **3.0 FINANCIAL IMPLICATIONS**

- 3.1 The capital cost to the City Council of replacing Baldragon Academy will not be known until the project costs are finalised prior to Financial Close and the level of grant funding confirmed by Scottish Futures Trust. However the total capital cost to the Council, including allowances for professional fees, highways works, decant and commissioning costs and a contingency provision, is projected to come within the figure (£1m) included in the Capital Plan 2015 – 2018.
- 3.2 The Council's estimated capital expenditure of £1m will be funded from borrowing and the resultant annual loan charge of £46,000 (full year effect from 2017-18) will be contained in future years Revenue Budgets.
- 3.3 The Council will also require to meet the annual revenue costs for property maintenance and lifecycle replacement expenditure of approximately £400,000 per annum at Quarter 4, 2014 prices. Existing Revenue Budgets (both devolved and non-devolved) for repairs and maintenance total £85,000. It will therefore be necessary to adjust the Education Department's Revenue Budget to reflect the increased property costs, with effect from 2017/18. It should be noted that the Council would normally include provision for lifecycle replacement expenditure in its Capital Plan, rather than in its Revenue Budget. This largely accounts for the increase in annual revenue costs against existing revenue budgets.

### **4.0 MAIN TEXT**

#### ***Background***

- 4.1 Reference is made to Article IV of the minute of the meeting of the Policy and Resources Committee of 19 May 2014 when the Committee considered Report No 200-2014 describing the procurement process for the replacement of Baldragon Academy and noted inter alia that the Scottish Government would be funding up to  $\frac{2}{3}$  of the development and construction costs of the project.
- 4.2 Reference is also made to Article VIII of the minute of the meeting of the Policy and Resources Committee of 10 November 2014 when the Committee considered Report No 353-2014 and agreed to proceed to Financial Close of the contract to replace Baldragon Academy (at that point scheduled for mid February 2015) following the completion of the Stage 2 Key Stage Review by Scottish Futures Trust, and also approved the making of advance payments and the early commitment of expenditure up to a maximum cost of £250,000 for a range of works to be carried out prior to the commencement of the construction phase of the contract.
- 4.3 Reference is further made to Article X of the minute of the meeting of the Policy and Resources Committee of 9 February 2015 when the Committee considered Agenda Note (AN10-2015), which indicated inter alia that the projected date for Financial Close had been revised to mid March 2015, and approved an increase in the level of advance payments and early commitment of expenditure from £250,000 to £2,500,000. To date, only the £250,000 package of works has been carried out.

#### ***Subsequent Developments***

- 4.4 The Scottish Government has now confirmed that it will fund up to 100% of the development and construction costs of the new Baldragon Academy by means of a Revenue Grant payable to the Council over the 25 year operational life of the project, this funding being conditional on the Council redirecting its capital saving on Baldragon Academy to the proposed joint campus in Longhaugh.

- 4.5 Scottish Futures Trust have also advised that they have been working with the Scottish Government and HM Treasury to confirm the amendments that will require to be made to the Hub DBFM structure to reinforce the private sector classification of Hub DBFM projects. Until this work is completed, Scottish Futures Trust will not be in a position to allow the Baldragon contract to proceed to Financial Close.
- 4.6 Notwithstanding the lack of clarity as to when Financial Close will be achieved, significant progress has been made on agreeing the terms of the DBFM Agreement (Contract) and the Ancillary Project Documents with Hub East Central Scotland Limited (Hubco) and its partners to ensure that we are in a position to reach Financial Close as quickly as possible once the changes required to the contract structure and documentation are agreed.
- 4.7 Scottish Futures Trust have also intimated that once the required changes to the contractual arrangements have been agreed and we are proceeding towards Financial Close, a Letter of Intent may be issued by the Council to Hubco initiating advance works on site to mitigate further delays to the construction programme. However a review of the projected construction programme and costs indicates that an increase of £2.5m in the total level of advance payments and early commitment of expenditure will be required to cover the cost of works up to the end of August 2015, by which time it is expected that Financial Close will have been achieved. Accordingly the Committee's approval is sought to increasing the total level of advance payments and early commitment of expenditure prior to Financial Close from £2.5m to £5m. All advance payments made by the Council to Hubco will be reimbursed by Hubco following Financial Close.
- 4.8 It has also been indicated that the Funders for the project (Aviva) will require the Council's formal approval to enter into the contract to be in a detailed format. Accordingly the approvals required by Aviva are covered in Recommendation 2.4 above.

## **5 POLICY IMPLICATIONS**

- 5.1 This report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management. There are no major issues.

## **6 CONSULTATIONS**

- 6.1 The Director of Corporate Services and the Head of Democratic and Legal Services have been consulted during the compilation of this report.

## **7 BACKGROUND PAPERS**

- 7.1 None.

David Martin  
Chief Executive

Mike Galloway  
Director of City Development

07 May 2015