

	<h2>CHIEF OFFICER IN CONSULATION WITH COMMITTEE CHAIRMAN DELEGATED POWERS REPORT</h2>
Title	Hendon Cemetery Gatehouse Restoration and Renovation – Authorisation to vary the contract with City Axis Ltd
Report of	Deputy Chief Executive
Wards	Mill Hill
Status	Public
Enclosures	N/A
Officer Contact Details	<p>Megan Hallett, Project Manager, Capital Delivery Megan.Hallett@barnet.gov.uk</p> <p>Philip Sherman, Project Manager, CSG Estates philip.sherman@capita.co.uk</p>

Summary

The Council has been undertaking works to Hendon Cemetery and Crematorium as part of a plan to enhance facilities at the site. Phase 2 of these works involved essential restoration and renovation works to the Gatehouse which have been undertaken via a JCT Design & Build contract with City Axis Limited.

Approval to enter into this contract, at a cost of £873,538.57, was given via DPR in October 2019. Further to agreement of the Final Account this report is now seeking approval to vary the contract to a revised value of £1,049,557.47, with the option to pay up to an additional £5,000 towards remaining risk items if necessary. These additional costs are containable within the existing budget.

Decisions

- To approve a variation to the existing JCT Design & Build contract between the Council and City Axis Limited for restoration and renovation works at Hendon Cemetery Gatehouse, to include everything agreed in the Final Account, from**

the previously approved contact value of £873,538.57 to a revised value of £1,049,557.47

- 2. To approve a further payment of up to £5,000 to City Axis to cover any additional valid costs relating to building control sign off, bond payments and fire alarm interfacing.**

1. WHY THIS REPORT IS NEEDED

- 1.1 The Council has been undertaking works to Hendon Cemetery and Crematorium as part of a plan to enhance facilities at the site. Essential restoration and renovation works have been undertaken to the Hendon Cemetery Gatehouse under Phase 2 of this wider plan.
- 1.2 Works to the Gatehouse have been undertaken via a JCT Design & Build (D&B) contract with City Axis Limited. Approval to enter into this contract, at a cost of £873,538.57, was given via DPR in October 2019.
- 1.3 The Final Account for these works has recently been agreed, at a revised cost of £1,049,557.47. This revised price covers all valid changes and issues arising during site works following appropriate scrutiny and cost assessment by the technical team.
- 1.4 There are a few items to be resolved relating to Building Control, interfacing with existing fire alarm system and Bond payments, so approval is also sought to make a further payment to City Axis of up to £5,000 if needed, following appropriate cost scrutiny, in relation to further costs associated with these items.
- 1.5 This report is seeking approval to vary the contract in line with recommendations set out above.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The Council has an existing contract with City Axis Ltd, and these changes have come about during the course of the contract. They have all passed through the appropriate contractual processes, including the approved change control process, and been subjected to appropriate scrutiny. The project team are confident that the payments to be made what they should be for the works that have been received.

3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 3.1 None, the works have been completed.

4. POST DECISION IMPLEMENTATION

- 4.1 Following approval to vary this contract an additional PO will be raised to cover the additional amount to enable remaining invoices to be paid.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 The project started under the Council's 2015-20 Corporate Plan which included a core principle to make sure Barnet is a place where services are delivered efficiently to get value for money for the taxpayer. Bringing back derelict and unused Council assets to improve the facilities on site has supported this.

5.1.2 The Council has a new five-year Corporate Plan, Barnet 2024, with new outcomes: a pleasant, well maintained borough that is protected and invested in, residents living happy, healthy, independent lives, and safe and strong communities where people get along well. The project has supported the Council's approach to Barnet 2024, in particular by managing finances and contracts robustly as part of the efficient and effective council approach.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 The value of the revised JCT D&B contract is £1,049,557.47+ VAT. This figure covers all construction activities for Phase 2 and can be contained within the overall programme budget when taking into consideration construction costs, PM and technical team fees, IT costs, legal and statutory fees and a contingency sum. This is funded from the Hendon Cemetery Renovation Works Programme budget of £1,623,000.

5.2.2 A further value of up to £5,000 for possible City Axis costs relating to delays arising from building control sign off, fire alarm interfacing works by others or associated interest charges for bond payments, can also be contained within the same budget when taking account of all the other costs identified in 5.2.2. Any costs payable in this regard would be subject to appropriate scrutiny and contractual process before payment.

5.2.3 The revised JCT D&B contract total is £ £1,049,557.47. which is the agreed Final Account figure and includes an additional cost of £176,018.90 when compared to the originally approved PSC cost of £873,538.57. The additional cost covers changes and issues raised by the Contractor whilst the works were on site but only where they have been deemed valid and appropriately costed after thorough scrutiny by the technical team. A number of further issues that were not deemed valid have been excluded from the Final Account by agreement of the Council and the contractor.

5.2.4 The tender was conducted as a works Invitation to Quote (ITQ) which was hosted on the Council's Procurement sourcing portal, as per the details set out in the previous DPR from October 2019 giving approval to enter into contract.

5.2.5 Varying the contract is not expected to change implications for staffing, IT, property or sustainability issues when compared to entering into the contract.

5.3 Social Value

5.3.1 The procurement was carried out in accordance with the Public Services (Social Value Act) 2012.

5.4 Legal and Constitutional References

5.4.1 Procurement processes must comply with the Public Contracts Regulations 2015(PCRs) as well as the Council's Contract Procedure Rules (CPRs)

5.4.2 Regulation 72(1) (a) PCRs states that contracts may be modified without a new procurement procedure state the scope and nature of possible modifications or options as well as the conditions under which they may be used, and (ii)do not provide for modifications or options that would alter the overall nature of the contract

5.4.3 Clause 4.1 of the, CPRs, provides that any procurement including extensions and variations to contracts set out in the Annual Procurement Forward Plan and approved by the Policy and Resources Committee, is deemed as authorised irrespective of the contract value

5.4.4 In addition clause 11.4 of the CPRs provides that contracts may only be varied provided all the following conditions are met:

- *the initial contract was based on a Contract Procedure Rules compliant competitive tender or quotation process;*
- *the value of the extension or variation added to the value of the original contract does not exceed the original Authorisation threshold as defined in Article 10 of the Constitution, Table B;*
- *the extension or variation has an approved budget allocation;*
- *the extension or variation is in accordance with the terms and conditions of the existing contract;*
- *if the initial contract was subject to EU regulated tender procedure, that the extension option was declared within the OJEU notice and the original Acceptance (Delegated Powers Report/relevant Committee Report); and*
- the contract has not been extended before;*

The conditions above have been met.

5.4.5 The Authorisation and Acceptance Thresholds for Contract Extensions and variations are set out in the Council's Constitution, Article 10 Table B. For contract variations where the total value of the contract including variation is £500,000 and above, if within budget, the acceptance documentation is a Full DPR (Chief) Officer Decision in consultation with Theme Committee Chairman. Therefore it is a requirement for this decision to be taken via a Full Chief Officer Delegated Powers report.

5.5 Risk Management

5.5.1 As the contracted works are complete few risks remain.

5.5.2 A sum of £5,000 has been allocated to cover the remaining financial risk to the City Axis contract, and approval sought in this report to make a further payment if necessary.

5.5.3 It is considered that any issues involved are unlikely to raise significant levels of public concern or give rise to policy considerations.

5.6 Equalities and Diversity

5.6.1 There are no equalities implications arising directly from the decision set out in this report and the awarding this contract does not compromise the Council in meeting its statutory equalities duties.

5.7 Corporate Parenting

5.7.1 N/A

5.8 Consultation and Engagement

5.8.1 A formal consultation is not required in relation to this contract variation, and no further consultation is required for the Phase 2 works as they are complete.

5.8 Insight

5.8.1 N/A

6. BACKGROUND PAPERS

6.1 Policy and Resources Committee 5 December 2017 Agenda item 11 Annual Procurement Forward Plan 2018/19 Appendix 1 Procurement activity by service area for 2018/19

<https://barnetintranet.moderngov.co.uk/documents/s43785/Annual%20Procurement%20Forward%20Plan%20APFP%2020182019.pdf>

6.2 Policy and Resources Committee 13 February 2018 Agenda item 9 Annual Procurement Forward Plan Supplement 2018/19 Appendix 1 Annual Procurement Forward Plan Supplement 2018-19

<https://barnetintranet.moderngov.co.uk/documents/s44913/Annual%20Procurement%20Forward%20Plan%20APFP%20Supplement%2020182019.pdf>

6.3 Approval to enter into contract with City Axis was gained via Chief Officer DPR in consultation with Committee Chair dated 17 October 2019.

<https://barnet.moderngov.co.uk/ieDecisionDetails.aspx?ID=7363>

7. DECISION TAKER'S STATEMENT

- 7.1 *I have the required powers to make the decision documented in this report. I am responsible for the report's content and am satisfied that all relevant advice has been sought in the preparation of this report and that it is compliant with the decision-making framework of the organisation which includes Constitution, Scheme of Delegation, Budget and Policy Framework and Legal issues including Equalities obligations. The decision is compliant with the principles of decision making in Article 10 of the constitution.*

8. OFFICERS DECISION

1. **To approve a variation to the existing JCT Design & Build contract between the Council and City Axis Limited for restoration and renovation works at Hendon Cemetery Gatehouse, to include everything now agreed in the Final Account, from the previously approved contact value of £873,538.57 to a revised value of £1,049,557.47**
2. **To approve a further payment of up to £5,000 to City Axis to cover any additional costs relating to building control sign off, bond payments and fire alarm interfacing.**

Chairman: **The Leader**

Has been consulted

Signed

-----23.11.20-----

Date:

Chief Officer: **Deputy Chief Executive**

Decision maker having taken into account the views of the Chairman

Signed

Date: 20.11.20