

REPORT TO: THE MORAY COUNCIL ON 14 APRIL 2010

SUBJECT: APPROVAL OF PPP FINAL BUSINESS CASE AND DELEGATION OF AUTHORITY TO FINALISE CONTRACT

BY: DIRECTOR OF EDUCATIONAL SERVICES

1. REASON FOR REPORT

- 1.1 To approve the Pre-Financial Close Key Stage Review and Final Business Case for the Council's Schools PPP Project and to delegate authority to Officers of the Council to complete negotiations and finalise the contract.
- 1.2 This report is submitted to the Council in terms of Section II (3) of the Council's Administration Scheme relating to matters excluded from delegation to Committees.

2. RECOMMENDATION

2.1 The PPP Project Board recommends that the Council:

- 2.1.1 **approves the Pre-Financial Close Key Stage Review and Final Business Case documents and agrees that these documents be submitted to Scottish Government to seek approval to proceed with the Schools PPP Project;**
- 2.1.2 **grants delegated authority to the Chief Legal Officer, Chief Financial Officer and Director of Educational Services or their representatives to conclude the arrangements with the Contractor (the Preferred Bidder), and to proceed to financial close of the project.**

3. BACKGROUND

- 3.1 The Final Business Case (FBC) is the end product of a process that commenced in 2001 and has seen the Council's PPP Project change in form several times along the way. The final shape of the project comprises the replacement of Elgin Academy and Keith Primary Schools, as contained within the Updated Business Case that was approved at a special meeting of the Council on 28 November 2007 (Para 4 refers). The Scottish Government confirmed conditional support for this re-scoped project on 22 May 2008.
- 3.2 This FBC confirms the updated project position on The Moray Council's Schools PPP Project at the point of submission of the final Pre-Financial

Close Key Stage Review and demonstrates the process undertaken to consider the feasibility, scope and affordability position of the project.

- 3.3 The Scottish Government (through the Scottish Futures Trust) requires all PPP projects to submit reviews at key stages. The project has previously passed reviews, before advertising the project in the European Journal, before the issue of tender documents, and more recently before we appointed a Preferred Bidder. This Key Stage Review is the final review for the project and must be completed before the project contract can be concluded at Financial Close. This review seeks to ensure that the Council is aware of and has made satisfactory resources available for the proper management of the project during construction and when the schools are built for the whole of the contract period. The review also checks and agrees any final derogations from the standard contract, and approves the FBC which must confirm that the project is affordable and meets Treasury and Government financial tests.
- 3.4 Upon conclusion of the key stage review and review of the applicable accounting treatment, the Council will receive written confirmation from the Scottish Government that the revenue support is in place for the project. Receipt of that written confirmation is a condition precedent to the Council being able to sign the Contract with the Contractor.
- 3.5 Due to the constraints on time, the Pre-Financial Close Key Stage Review and the FBC was submitted to Scottish Futures Trust (SFT) on 9 April 2010. This is almost 3 weeks before our target date for closing, which should allow time for the proper consideration of the review including any subsequent discussions needed before concluding the review and agreeing the FBC. The SFT have been informed that these documents have not yet been approved and will be considered at today's meeting.
- 3.6 Drafts of the Pre-Financial Close Key Stage Review and Final Business Case were presented to the meeting of the Board on 25 March 2010 and explained, so that members were aware of the content and the implications for the Council. A summary of the content of these documents is attached as Appendix A, and copies of the documents will be available for inspection in the Members' Library and posted to the Members' Portal.
- 3.7 As the actual rate of interest used to calculate senior debt repayments on the project may only be established on the day of close, it will be necessary for an addendum to be prepared to the agreed FBC after Financial Close to describe the impact in interest rate and consequently the change to the Unitary Charge from that envisaged when the FBC was submitted.

- 3.8 Prior to Financial Close the Council will also have to agree with its advisers an estimate of the range of interest rates that would result in a Unitary Charge within affordability parameters, represents value for money and allow the contract to be signed. Interest rates will continue to be monitored in the period to financial close. This should be achieved by a small group of officers who should have delegated authority to make these final decisions on behalf of the Council and to proceed to sign the Contract with the Contractor thereafter. It is therefore suggested that this delegated authority should be granted to the Chief Legal Officer, the Chief Financial Officer and Director of Educational Services or their representatives.
- 3.9 This report requests that the Council delegates authority to Officers to complete negotiations with the Contractor which requires officers to conclude the financial arrangements, including settling the interest rate to be applied to the senior debt, and on completion of the key stage review and agreement of the Final Business Case with the Scottish Futures Trust and receipt of the letter confirming revenue support for the project from Scottish Government, to proceed to Financial Close for the project with the Contractor.

4. SUMMARY OF IMPLICATIONS

(a) Single Outcome Agreement/Service Improvement Plan

The replacement of the schools is part of the Council's current School Estate Management Plan

(b) Policy and Legal

This report is submitted to Council in accordance with the project management structure and procedures as laid down in the PPP Project Handbook.

(c) Resources (Financial, Risks, Staffing and Property)

The annual Revenue Support anticipated from Scottish Government is £3.58million. If the annual Unitary Charge is finalised at £4.7million (calculated at 2013 prices) it will create an affordability gap of £1.12million per annum. This will be funded from £0.48million savings generated from existing school budgets for services transferred to the Contractor and £0.64million additional budget.

In addition to the Unitary Charge there is a cost relating to Non Domestic Rates as the estimated Rateable Values of the new schools are higher than the current properties. This is currently estimated as £0.17million per annum.

The PPP In house team will be required to be in place until the schools are opened and estimates for the cost of the PPP team up to completion are as follows:

	2010/11	2011/12	2012/13
	£	£	£
PPP Budget Requirement	240,000	210,000	95,000

These costs relate to the team finalising the contract, supervising the build of the schools and include an education liaison officer to ensure that the two schools involved are kept informed of development and are consulted wherever possible. The budget in 2012/13 includes a sum for the contract monitoring officer.

Some capital costs have arisen and require to be included in the Council's Capital Plan. These include the erection of a monopole for data communications. The new building at Elgin Academy will not have sufficient height to allow clearance of local trees which surround the school grounds. The estimated cost of this is £62,000 and will be required in 2011/12 when the old school building is demolished. A further sum of £85,000 is required for the purchase and installation of Interactive White Boards and Data Projectors. Council ICT officers have advised that existing equipment would not transfer successfully to the new schools. The sum above provides for an equivalent number to existing provision.

The Financial Plan Review report presented to the Council meeting on 11 February 2010 included estimates of costs for the PPP scheme at that date. The latest estimates indicate that for 2011/12 there will be an additional cost of £300,000. This is primarily due to timing of when the new schools will be in operation and the overlapping costs of maintaining existing schools. These overlapping costs will be monitored closely during this period to minimise their impact. The annual cost is estimated to increase by £20,000 in 2013/14 and a further £60,000 each year thereafter. These additional charges will depend on the Retail Price Index which is the main factor influencing the Unitary Charge in the years ahead. The additional cost of £300,000 in 2011/12 will result in additional savings being required to be identified for that year as part of the budget setting process.

The Contract is based on the Scottish Standard Schools v3. As is normal in a project of this size, there are a number of known risks which, if they materialise, could have an impact on the cost. As far as possible these risks have been identified and allocated to the Council or the Contractor as appropriate.

(d) Consultations

Consultations have taken place with the Principal Solicitor (Commercial and Conveyancing) and Chief Financial Officer and their comments have been incorporated in this report.

5. CONCLUSION

- 5.1 The approval and submission of the Pre-Financial Key Stage Review and Financial Business Case documents to the Scottish Government and the delegation of authority to the Chief Legal Officer, Chief Financial Officer and Director of Educational Services (or their representatives) to conclude the arrangements with the Preferred Bidder will allow the Council's PPP project to proceed to Financial Close of the Contract.**

Author of Report: Andy Oliver, PPP Project Manager
Background Papers: Pre Financial Key Stage Review and Draft Final Business Case placed in Members' Library and posted to Members' Portal
Ref: DMD/JR/Reports/The Moray Council/14 April 2010/Approval of PPP Final Business Case and Delegation of Authority to Finalise Contract