

CABINET

12 JUNE 2012

MERCURY ABATEMENT AND IMPROVEMENTS TO MEDWAY CREMATORIUM – CREMATOR WORKS

Portfolio Holder: Councillor Tom Mason, Corporate Services

Report from: Richard Hicks, Assistant Director Customer First, Leisure, Culture, Democracy and Governance

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Summary

A project has been agreed that provides for the enlargement of two chapels, improved car parking facilities and for the installation of cremators and mercury abatement equipment at Medway Crematorium.

A specialist supplier of cremators and a principal building contractor have been appointed through agreed procurement processes.

This report seeks permission from the Cabinet to agree to an extension to the contract timetable.

1. Budget and Policy Framework

- 1.1 The decision is within the council's policy and budget framework, including the Council Plan.
- 1.2 This report is being presented as an urgent item because of the requirement to install cremators capable of removing mercury by 31 December and the two (previously) selected contractors must be in receipt of a contract, agreed by the Council, before they can start placing orders with their suppliers. This agreement to extend is time critical and any further delay would mean that this target date is not achieved.
- 1.3 The Chairman of the Business Support Overview and Scrutiny Committee has agreed that the taking of these decisions cannot be reasonably deferred, in accordance with Rule 16 (Special Urgency) of the Access to Information Rules (Part 2 of Chapter 4 in the Constitution).

- 1.4 Additionally and in line with rule 16.11 of Chapter 4, Part 5 of the Constitution, call-in can be waived where any delay likely to be caused by the call-in process would seriously prejudice the Council's or the Public's interests. The Chairman of the Business Support Overview and Scrutiny Committee has agreed that the decisions proposed are reasonable in all the circumstances and to them being treated as a matter of urgency and to waive call-in.

2. Background

- 2.1 The Cabinet considered a Gateway 3 Procurement Tender Process Review and Contract Award in respect of the design and provision of new cremators and abatement equipment to Medway Crematorium on 19 April 2011. A small contract was awarded for this contractor to assist with the design works associated with the installation of cremators in an existing building. The intention is for this contractor to be novated across to the principal contractor once they were appointed.
- 2.2 The Cabinet considered a further Gateway 3 Procurement Tender Process Review and Contract Award in respect of improvements to Medway Crematorium Stage 2 on 17 April 2012. That report dealt with the procurement of principal contractors to oversee the installation of cremators; build larger chapels and improve the car parking arrangements. This report was considered 2 months later than originally timetabled because the first set of tender submissions did not demonstrate the level of quality expected and so a second Invitation to Tender (ITT) was issued to contractors.
- 2.3 Since the award of the second contract design work has progressed on this Design and Build project, but, on 23 May 2012, the contractor responsible for supplying and fitting the cremators advised that the aforementioned delays in securing a principal contractor had meant slippage in their programme and that they will not be able to supply all of the equipment by 31 December 2012 as originally timetabled.
- 2.4 A revised programme has been provided that allows for the installation of 1 abated cremator by 31 December 2012, which means that the crematorium will still be able to comply with the target of 50% abatement by the end of December. The remaining cremators will then be installed with completion expected in March 2013.
- 2.5 The 2 contractors have yet to formally agree to enter into a formal contractual arrangement but this will be possible as soon as the Council agrees to provide an extension.

3. Options

- 3.1 Alternative options would result in a much longer delay to the programme; some expenditure already incurred would be lost and either the overall budget would have to be increased or at least the extension of one chapel removed from the programme.
- 3.2 On the basis that arrangements are in place for the works to proceed and this gives the best opportunity to meet any legislative requirements within existing

budgets, the option to extend the timetable with the current suppliers is the most appropriate option.

4. Financial and legal implications

- 4.1 If the recommendation is agreed there are no financial implications associated with report.
- 4.2 Alternative solutions would require the Council going out to re-tender the project and this would entail additional costs for planning, design and building. A further planning application would have to be made and there is no guarantee that this would be approved.
- 4.3 The original OJEU Notice stated that 100% Mercury Abatement is required to comply with the Process Guidance Note PG5/2(04) issued by DEFRA "Secretary of State's Guidance for Crematoria", but no timescale was stipulated. The ITT documents gave key milestone leading up to planning approval and the bidders were asked to provide a programme with their bids. This generated the starting position for the programme with the contractor.
- 4.4 There is provision within the current arrangements to extend by agreement between the parties.

5. Risk management

- 5.1 A risk register has been set out as part of the project. The original risk report identified the potential for contractors to be unable to fulfil delivery timescales. Mitigation was through early engagement with contractors, which was achieved. The second element of mitigation was contractual default clauses. Default clauses are part of the contract but unfortunately the installation of the cremators could not have been placed under contract until the principal contractor had been selected.

Risk Categories	Outline Description	Risk Likelihood A=Very High B=High C=Significant D=Low E=Very Low F=Almost Impossible	Risk Impact I=Catastrophic II=Critical III=Marginal IV=negligible Impact	Plans To Mitigate Risk
a) Procurement process	Failure to follow legal / OJEU process	D	I	Liaison with legal services and procurement. Procurement process.
b) Contractual delivery	Contractors unable to fulfil delivery timescales.	D	II	Engagement with suppliers to ensure design qualities, functionality and delivery. Default clauses are part of the contract. Contract monitoring and regular

				meetings.
c) Service delivery	Risk of works affecting day to day operation of crematorium resulting in disruption to funerals; dirt and mess	D	I	Evaluation matrix included supplier's capacity to minimise disruption. Project management team and regular liaison. Specification with key milestones.
d) Reputation / political	Cancelled or disrupted funerals	D	II	Works programmes and consultation with stakeholders and other crematoria. Local publicity/communication strategy.
e) Health & Safety	Injury to mourners, visitors and staff and contractors	D	III	Included in tender evaluation, method statements, H&S pre-construction pack, CDM Coordinator
f) Equalities	N/A	N/A	N/A	N/A
g) Sustainability / Environmental	Equipment does not deliver expected outcome	E	I	Project to reduce emissions to environment should equal net gain. Independent monitoring before final sign off.
h) Legal	Capability to abate 50% cremations by Dec 2012.	C	II	Project management; regular briefing and liaison with regulator.
i) Financial	Cost of works exceed budget. Operating costs increase. Fall in income	D	II	Project management; Site surveys before starting work. Design and Build.
j) Other / ICT	Connection of equipment to networks	D	II	Early engagement with ICT team.

6. Recommendations

- 6.1 The Cabinet is requested to approve an extension of three months for the installation of cremators and abatement equipment at Medway Crematorium.
- 6.2 That the Cabinet agree that these decisions are considered urgent and therefore should not be subject to call-in.

7. Suggested reasons for decision

7.1 The extension is the most appropriate and cost effective option

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Background Papers:

Cabinet report 8 June 2010: Gateway 1 options appraisal: mercury abatement and improvements to medway crematorium

Cabinet report 19 April 2011: Gateway 3 procurement tender process review and contract award report: mercury abatement and improvements to medway crematorium – cremator works

Cabinet report 17 April 2012: Gateway 3 procurement tender process review and contract award: improvements to medway crematorium stage 2.