



## Notice of Non KEY Executive Decision

<b>Subject Heading:</b>	Brady Primary School - Authority to commence a tendering process for the construction of a building and associated works to accommodate a 1 FE expansion
<b>Cabinet Member:</b>	Councillor Robert Benham, Lead Member for Children & Learning
<b>CMT Lead:</b>	Tim Aldridge, Executive Director of Children's Services
<b>Report Author and contact details:</b>	Andy Skeggs Head of Technical Services 01708 433600 <a href="mailto:Andy.skeggs@onesource.co.uk">Andy.skeggs@onesource.co.uk</a>
<b>Policy context:</b>	The Council's Commissioning Plan for Education Provision in Havering.
<b>Financial summary:</b>	Estimated contract value of £3.35m. Total scheme expected to cost in the region of £4.4m to include fees, surveys and other works. Funded from school expansion and maintenance programme. Cabinet has approved an allocation of £3,000,000 for the expansion costs. £850,000 has been approved for the condition works required to the existing school and a further £600,000 will be vired from the A2603 Phase 4 Expansions unallocated budget to meet additional requirements for the temporary nursery and external works to meet ESFA requirements.
<b>Date notice given of intended decision:</b>	March 2019
<b>Relevant OSC:</b>	Children and Learning
<b>Is this decision exempt from being called-in?</b>	No

### The subject matter of this report deals with the following Council Objectives

Communities making Havering	<input checked="" type="checkbox"/>
Places making Havering	<input type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

**Part A – Report seeking decision**

**DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION**

1. That the SLT member approves the procurement strategy to undertake a tender exercise, to procure a Works contract, at an estimated contract sum of £3,350,000, for a period of 78 weeks, with an estimated start date in July 2019, for the ongoing Brady Primary School expansion project. The proposed form of contract to be the the JCT 2016 Design and Build Contract
2. That the SLT Member delegate to the Executive Director for Children and Learning, in consultation with the Directors of Finance and Law & Governance to award the contract once the evaluation process has been completed.

**AUTHORITY UNDER WHICH DECISION IS MADE**

**3.3 Powers of Members of the Senior Leadership Team**

Members of the Senior Leadership Team (SLT) have delegated authority to act as follows within the assigned service service/portfolio of responsibilities, subject to the general provisions and limitations set out in section 3.1 above.

**General powers**

(a) To take any steps necessary for proper management and administration of allocated portfolios.

(b) To exercise all the powers delegated to them personally and those powers delegated to Second Tier Managers and other staff members in their directorate where circumstances require and so far as legally permissible. Exercise of such powers should be recorded where appropriate. Where possible, a SLT member should give notice to a relevant staff member that he or she intends to exercise a specified power that is delegated to that staff member.

**Contract powers**

(a) To approve commencement of a tendering process for all contracts above a total contract value £500,000.

(b) To award all contracts with a total contract value of between £500,000 and £5,000,000 other than contracts covered by Contract procedure Rule 16.3.

(c) To sign contracts on behalf of the Council which do not require sealing under paragraph 4 of Article 10 of this constitution.

**STATEMENT OF THE REASONS FOR THE DECISION**

Cabinet recommended and Council approved a report relating to The Council's Commissioning Plan for Education Provision in Havering for the period 2019 to 2022.

This included an update on the 2017-18 programme that confirmed the requirement to expand a school to meet the projected need in the Rainham area delegated the authority to approve details to the Lead Member for

### Key Executive Decision

Children and Learning which was duly exercised via the Executive Decision 18/68 on the 13/12/2018.

- i) The total cost is estimated to be in the order of £4,400,000 and a breakdown is included within the financial section.
- ii) The estimated contract cost of £3,350,000. This is below the threshold required by OJEU Regulations, it is therefore proposed to procure by a single stage selective tendering process with seven contractors selected from the ConstructionLine database in accordance with the Contract Procurement Regulations. Tenders received will be evaluated on a 70% cost/ 30% quality basis.

iii) Programme

Issue of Tender	21 <sup>st</sup> March 2019
Tender submission deadline	26 <sup>th</sup> April 2019
Checkpoint and ED approval	16 <sup>th</sup> May 2019
Award	31 <sup>st</sup> May 2019
Proposed start of works	15 <sup>th</sup> July 2019
Estimated end of new build works	20 <sup>th</sup> August 2020
Estimated end of refurbishment works	Easter 2021

- iv) The project team will comprise staff from Technical Services, Educational Asset Management and Procurement.
- v) Community and social benefits will be part of the evaluation criteria including utilisation of local resources and personnel.
- vi) TUPE does not apply.
- vii) Project Risks
  - Ability to procure main contract within timescale
  - Main contractor willingness/ availability to work in challenging circumstances including phasing to maintain normal school operations
  - Tender received may exceed financial allocation.
  - Programme may be unachievable given the need to maintain existing curricular activities.
  - Unforeseen costs of rectification works to existing building/ grounds.

### **OTHER OPTIONS CONSIDERED AND REJECTED**

The building works are relatively straightforward and comfortably within the competence and capability of local contractors. This procurement route has resulted in value for money as evidenced by the comparative costs being evaluated by the EFA to be in the lower quartile of bids received. Contracts recently procured via framework agreements have resulted in higher comparative costs.

### **NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER**

Name: Andy Skeggs

Designation: Head of Technical Services

Signature:  Date: 19<sup>th</sup> March 2019

## Part B - Assessment of implications and risks

### LEGAL IMPLICATIONS AND RISKS

1. Local authorities should have regard to sections 13, 13A and 14 of the Education Act 1996 which require local authorities to, ensure that efficient primary, secondary and further education is available to meet the needs of their population.
2. The Council also has the general power of competence under section 1 of the Localism Act 2011 to do anything an individual may generally do, together with the power under section 111 of the Local Government Act 1972 to do anything ancillary to or which facilitates any of its functions. The contract may be procured in accordance with these powers.
3. The Council's Contract Procures Rules 4 and 13 (Constructionline) set out the strategy for the procurement of Works contracts of below the EU threshold (currently **£4,551,413** as of January 2018) in value to be submitted to a Member of SLT for approval of such contracts. The details of the evaluation compliance with the CPRs, for the award of this contract are set out with the body of this report..
4. This report is seeking the SLT Member's approval to undertake a tender exercise, for the reason set out within the body of the report, at an estimated contract sum of £3,350,000, for a period of 78 weeks, with an estimated start date in July 2019, for the ongoing Brady Primary School project. The proposed form of contract to be the JCT Design and Build Contract 2016.
5. The Council must procure these contracts in accordance with the Public Contracts Regulations 2015 ("**PCR 2015**") and the Council's Contract Procedure Rules ("**CPR**"). The use of a valid Framework Agreement is allowable under CPR 20, and will also be in accordance with those permitted under regulation 33 of the PCR 2015.
6. The SLT Member will be aware of the Public Sector Equality Duty (PSED) set out in section 149 of the Equality Act 2010. At each stage, in exercising its function (and in its decision making processes) the council must have due regard to the need to:
  - a) eliminate discrimination, harassment, victimisation or other prohibited conduct;
  - b) advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it;
  - c) foster good relations between person who share a relevant protected characteristic and those who do not share it.

The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation

7. The Legal and Governance officers are available to assist the client department in finalising the terms and conditions of the contract

## Key Executive Decision

### **FINANCIAL IMPLICATIONS AND RISKS**

Estimated Costs and Funding is set out below:

	£
Contract Sum	3,350,000
Surveys	27,000
FF&E	90,000
Fees (including planning)	440,000
Other Works, Nursery/ external works	493,000
<b>Total Costs</b>	<b>4,400,000</b>
Funding:	
Total Funding in approved Capital Programme	3,000,000
Virement from unallocated school expansion budget	600,000
Allocation within 18/19 and 19/20 maintenance capital	800,000
<b>Total Funding</b>	<b>4,400,000</b>

There is a risk that actual tender costs will be significantly higher than estimated. However, a separate Key Executive Decision will be submitted at award of tender with detailed tender costs.

### **HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

There are none

### **EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

The new provision will have a positive benefit in facilitating opportunities for children to achieve their full potential.

Full Equality Impact Assessments will be carried out regarding this and all future development and expansion projects

### **BACKGROUND PAPERS**

There are none

Key Executive Decision

**Part C – Record of decision**

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

**Decision**

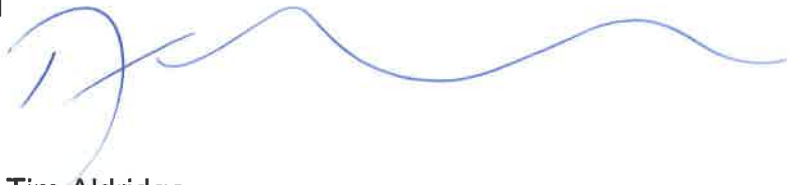
Proposal agreed

*Delete as applicable*

~~Proposal NOT agreed because~~

**Details of decision maker**

Signed



Name: Tim Aldridge  
Executive Director for Childrens Services

Date: 21 March 2019

**Lodging this notice**

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services in the Town Hall.

**For use by Committee Administration**

This notice was lodged with me on 22/3/2019

Signed

