



Notice of KEY Executive Decision

Subject Heading:	Authorisation to award a contract to Barnes Construction Limited for the extensions by two forms of entry to Marshalls Park Academy
Cabinet Member:	Councillor Robert Benham – Cabinet Member for Education, Children’s and Families and Deputy Leader of the Council
SLT Lead:	Tim Aldridge, Executive Director of Children’s Services
Report Author and contact details:	Ian Saxby – Head of Technical Services Telephone: 01708 433529 Email: ian.saxby@onesource.co.uk
Policy context:	The Council’s Commissioning Plan for Education Provision in Havering.
Financial summary:	This report seeks authorisation to award a Stage 2 contract award up to the value of £5,326,787 contained within the overall budget of £6,318,452 included in the approved capital programme for the expansion of Marshalls Park Academy by two forms of entry and maintenance works linked to the Priority Schools Build Programme 2. A Stage 1 contract award has already been agreed in order to develop the scheme design and to undertake some early enabling works.
Reason decision is Key	Expenditure or saving (including anticipated income) of £5,000,000 or more.
Date notice given of intended decision:	March 2019
Relevant OSC:	Children & Learning Overview and Scrutiny Committee
Is it an urgent decision?	No
Is this decision exempt from being called-in?	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

That the Lead Member approves the award of the proposed contract to Barnes Construction, for the reason set out within the body of the report, at a maximum value of £5,326,787, with an estimated start date in July 2019, for the construction of a new 1FE expansion and associated works.

AUTHORITY UNDER WHICH DECISION IS MADE

Constitution. 2.5(h) Powers of Cabinet Members and the Leader.
Contract powers. To award contracts, agree extensions of contract terms and awards/extensions of Consortia contracts of a value above £5,000,000 and up to £10,000,000 and contracts where external funding is guaranteed and there is no longer term financial commitment to the Council.

STATEMENT OF THE REASONS FOR THE DECISION

The borough has a statutory obligation to provide school places. As primary children move into the secondary sector, the number of pupils (Years 7-11) in Havering schools is expected to rise significantly. To accommodate these increased numbers, additional school places need to be created.

The expansion of Marshalls Park Academy will help the Council to meet this statutory duty. £5,500,000 was included in the Council's approved Capital programme for this purpose.

In addition to the expansion, the Academy have also been accepted onto the governments Priority Schools Build Programme and the ESFA have awarded the school funding of £818,452 to deliver this project. It has been agreed that it would be best to deliver these 2 elements as a combined contract and as such the Academy will forward their grant funding to the Council who will then let the contract.

As such a budget of £6,318,452 is now contained within the capital programme for the combined scheme.

Approval has been received at Checkpoint 1 and Checkpoint 2 stages to undertake the tender of this project and to award the tender using the East London Solutions (ELS) contractor's framework agreement (Education and Built Environment Framework Agreement reference number: EBEF-2016-0014). It was agreed that this project would be procured using a The proposed form of contract to be a two stage JCT Design & Build Contract 2016 with the Council's Supplemental Amendments.

A two stage tender involves the selection of suitable contractors and the preparation and issue to the preferred Contractors of a first stage tender document encompassing outline scheme designs. This allows contractors to submit first stage tender proposals including details on how they intend to carry out the project, programme design suggestions, specific prices for preliminaries (site set up etc.), profit and overheads and design costs are provided. In addition to this, the contractor provides an estimated contract sum, based on the information provided at stage 1. Following review of the first stage tender submissions, a Contractor is invited to work with the Employer's team during the second stage of the process whilst the design is developed and competitive prices are obtained from the relevant sub-contractors for

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those building works not fixed or defined in the first stage of the process. At the end of the second stage a lump sum price is agreed and the contract awarded based upon the developed design.

This method brings the Contractor and supply chain into the team earlier than would otherwise be the case, providing a better integrated development of the design which incorporates specialist sub-contractor design and Employer input.

An overall project budget of £6,318,452 inclusive of professional fees, surveys etc. has been set aside for the delivery of this project. It is anticipated that the Stage 2 tender will be within the cost envelope remaining after the deduction of stage 1 design fees and enabling works. The first stage of the contract has been awarded in order to commence the design and enabling works stage. This second stage of the contract award is subject to this executive decision.

Tenders were issued on a two stage JCT Design and Build basis.

The 6 contractors on the ELS (East London Solutions) Framework Agreement were invited to tender on the basis of a Two Stage JCT Design and Build Contract 2016. 4 contractors returned tenders and these have been assessed by a panel of officers from Technical Services and Jacobs U.K. Limited on a 60/40 quality/price basis as follows:

	Technical 60%	Cost 40%	Total Score
Contractor A (Barnes Construction)	51.90%	40.00%	91.90%
Contractor B	44.70%	24.52%	69.22%
Contractor C	48.60%	33.54%	82.14%
Contractor D	43.20%	37.59%	80.79%

The tender submitted by Barnes Construction is considered to be the most economically advantageous tender and is therefore recommended for approval.

Stage 1 tenders were received and it has been agreed to enter into a pre-commencement agreement with Barnes Construction Limited in the sum of £142,291.42 to develop the scheme design for the extensions by two forms of entry to Marshalls Park Academy. In addition to this, there are limited enabling works, including kitchen alterations, the placement of a temporary demountable classroom, cycle stores and fencing which will need to take place prior to the award of the main contract in order to meet the required programme timescales.

The pre-commencement agreement includes developing the current design to RIBA Stage 4 and procuring prices for trade sub-contractors in order to reach and agreed contract sum for the 2FE Expansion of Marshalls Park.

Provisional programme key dates as follows;

Stage I Award 15th March 2019
Design Development 14th June 2019
Stage II Award 21st June 2019
Works commence 22nd July 2019
Works complete 31st July 2020

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OTHER OPTIONS CONSIDERED AND REJECTED

The option to tender the works via construction line was considered but was rejected as there was a suitable established framework agreement available and it was considered better value for money to adopt the chosen route. Also, as the contract value is above the EU Threshold, this option would not be suitable.

A further option of undertaken an OJEU compliant tender process was considered, but was rejected as there was a suitable established framework agreement available and it was considered better value for money to adopt the chosen route.

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

Name: Ian Saxby

Designation: Head of Technical Services

Signature:



Date: 25th 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. Following the assistance of the Procurement unit, the client department has undertaken a tender process which is allowable under the Public Contracts Regulations 2015 ("PCR 2015") and the Council's Contract Procedure Rules ("**CPR**"), including the award selection using the MEAT criterion. The most economically advantageous tender (MEAT) criterion enables the contracting authority to take account of criteria that reflect qualitative, technical and sustainable aspects of the tender submission as well as price when reaching an award decision. 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.
4. This report is seeking the Lead Member's approval to award the proposed contract to Barnes Construction Limited, for the reasons set out within the body of the report, at a maximum contract sum of £5,326,787, with an estimated commencement date of July 2019, for the ongoing Marshalls Park Academy project. The proposed form of contract to be a two stage JCT Design & Build Contract 2016 with the Council's Supplemental Amendments.
5. The Council's Contract Procedure Rule 3 provides that a contract may only be awarded if the expenditure has been included in approved revenue or capital estimates or has been otherwise approved by, or on behalf of the council. **The body of this report confirm the relevant financial implications arising from the council's proposed award of the contract.**
6. The Lead 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

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FINANCIAL IMPLICATIONS AND RISKS

Estimated Costs and Funding is set out below:

Estimated Scheme Costs

Estimated PSPB condition works (separate contract)	£487,911
Estimated maximum total works cost (inclusive Phase 1 & 2 inc. FF&E)	£5,326,787
Estimated professions Fees (Stage 1 & 2 Combined)	£503,754
Total maximum estimated scheme costs	£6,318,452

Funding for Scheme within Approved Capital Programme

Initial funding for School Expansion	£5,550,000
Allocation for PSPB Works	£750,000
Allocation for PSPB Project management Fees	£68,452
Total Budget for A2611 Marshalls Park Expansion	£6,318,452

Risks

As with most capital schemes, there is a risk that the scheme could overspend due to issues arising during the build process. This has been partly mitigated through the 2 stage design and build tender process and will be further mitigated by careful project managed. Should any issues arise they would be sought to be contained by a virement from within the overall expansion/maintenance programmes in the first instance, subject to approval through the relevant channels.

As with all contracts there is a risk to contractor delivery/continued operation. However the contractor selection process should have partly mitigated this risk.

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

There are no implications associated with this decision.

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

None

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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: Councillor Robert Benham – Cabinet Member for Education, Children's and Families and Deputy Leader of the Council

Date: 16/5/2019

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

16/5/2019

Signed



