

Notice of KEY Executive Decision

Subject Heading:	Authority to award a contract for the construction of an extension to an existing ARP facility with associated external works at Clockhouse Primary School
Cabinet Member:	Councillor Robert Benham – Cabinet Member for Education, Children’s and Families and Deputy Leader of the Council
SLT Lead:	Robert South – 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 High Needs Strategy 2017-22, set out ambitious and realistic objectives to ensure Havering’s provision is the first choice for children and young people with high needs and their families. The Strategy also recognises that children with Social, Emotional and Mental Health difficulties (SEMH), alongside those with Autistic Spectrum Disorders (ASD) are increasing in numbers and will require specialist intervention supported in a specialist-resourced provision.
Financial summary:	This report seeks authorisation to award a construction contract in the sum of £595,428.61. Further details are provided in the body of the report.
Reason decision is Key	Expenditure or saving (including anticipated income) of £500,000 or more.
Date notice given of intended decision:	August 2021
Relevant OSC:	Children & Learning Overview and Scrutiny Committee
Is it an urgent decision?	No
Is this decision exempt from being called-in?	No
Exempt Information:	Appendix 1 and 2 to this report is classified as not for publication under paragraph 3 of Schedule 12A to the Local Government Act 1972 on the grounds that it contains information relating to financial or business affairs of a particular person (including the authority holding that information) and in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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"/>

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Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

To agree to award a contract for the design and build of the extension to an existing ARP facility with associated external works at Clockhouse Primary School, to Valuegrade Ltd at a value of £595,428.61, with an estimated commencement date of September 2021. The contract length is anticipated to be 42 weeks.

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.

Contract powers

(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.

STATEMENT OF THE REASONS FOR THE DECISION

The purpose of the contract which is subject to this decision is to provide an extension to the existing ARP provision at Clockhouse Primary School, providing an additional 8 places and a number of 20 in total. The proposed form of contract to be the JCT Design & Build Contract 2016 with the Council's Supplemental Amendments.

Approval to commence tender was given on 3rd March 2021.

Since the Executive Decision to approve this procurement route, a tender exercise has been carried out based on a JCT Design and Build contract through the Fusion portal. In line with the Council's Contract Procedure Rules (CPR), the list of tenderers was sought from Constructionline, and seven suppliers were invited to submit bids. The construction market remains highly competitive at this point in time.

During the tender exercise seven contractors were invited to tender and five returned a priced offer. One bidder declined to tender due to ongoing work commitments. One contractor was unable to tender due to an internal administrative error on their part. The quality level of the bids in the tender was satisfactory. Further details of the tender process (including the price and scoring information) are set out in **Appendix 1**, attached to this report. As a result it is proposed to appoint the Contractor with the highest scoring compliant bid to undertake the works, namely Valuegrade Ltd.

OTHER OPTIONS CONSIDERED AND REJECTED

Doing nothing would lead to the Council losing the approved departmental funding for the project and the school would be unable to provide the additional places required for the expanded ARP.

PRE-DECISION CONSULTATION

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Consultation has taken place with a number of relevant key stakeholders. In addition to this, consultation has taken place with the finance, legal and the Strategic Procurement Unit. Local residents were also consulted via the Planning Process (Planning permission granted 9th February 2021, reference P1898.20) and members were invited to approve the scheme as part of the Cabinet/ Full Council process.

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

Name: Ian Saxby
Designation: Head of Technical Services

Signature:

Date:

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Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

Section 1 of the Localism Act 2011 grants Local Authorities a General Power of Competence, allowing it to do anything that an individual may do, provided there are no statutory constraints, and that it either furthers its functions or benefits the Local Authority's area.

The Local Authority is a Contracting Authority for the purposes of the Public Contract Regulations 2015 (PCR). The value of the contract is the below the works contract threshold of £4,733,252, therefore this Contract is not caught by the Regulations. However, the Local Authority must still be mindful of the general principles of procurement as set out in the PCR, namely that it must treat economic operators equally, without discrimination, and act in a transparent and proportionate manner.

The Local Authority is electing to use the JCT 2016 Design and Build Standard Terms and Conditions for this Contract in compliance with the Local Authority's Contract Procedure Rules (CPR Rule 13)

The Local Authority has a fiduciary and best value duty to safeguard its resources. As detailed in the report, Council Officer's consider the awarding of the Contract to Valuegrade achieves compliance with these duties. Undertaking a PCR complaint procurement process via Constructonline further ensures that these duties are met.

All Contracts with a value above £150,000 along with any collateral warranties must be executed under seal, this provides the Local Authority with a limitation period of twelve years. The conclusion and execution of the contract should be carried out by Legal Services.

The successful contractor is required to provide a performance bond.

For the reasons set out above, the Council may if minded agree the recommendation for the entering into the Contract as detailed in Part A of this report.

Further Legal Implications can be found in the exempt Appendix 2.

FINANCIAL IMPLICATIONS AND RISKS

Estimated Project Costs & Source of Funding

Project Costs

Contract Sum (to be Awarded under this ED)	£ 595,428.61
FF&E (Including ICT)	£ 35,840.00
Fees (Including Planning Fees, Tech. Services, Surveys etc)	£ 81,490
Project Contingency	£ 30,000.00
Total Project Cost	£ 742,758.61

Project Funding

Project Code C36330	£ 800,000.00
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Risks

As with most capital schemes, there is a risk that the scheme could overspend due to issues arising during the build process, this risk is mitigated via a contract administration procedure as set out within the JCT Design and Build 2016 (with Amendments) that provides constant

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monitoring and final cost forecasting. Any issues arising can be funded from the client contingency sum.

There exists a risk of delays as with any major building project, but this will be mitigated by a scrutinised critical path programme issued to the Contract Administrator and all the shareholders and reviewed against the on-site progress at four weekly and ad hoc meetings.

As with all contracts there is a risk to contractor delivery/continued operation. However the contractor selection process has partly mitigated this risk, along with careful project management in the future.

Covid-19 constitutes a risk to the delivery of any construction contract (supply chain disruption). Brexit also constitutes a risk to the delivery of any construction contract (supply chain disruption).

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 Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, and sexual orientation.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

An EqHIA (Equality and Health Impact Assessment) is usually carried out when a current or planned service/policy/activity is likely to affect staff, service users, or other residents. It is acknowledged that in emergency or urgent situations it will not always be possible to carry out an EqHIA in advance of a relevant activity, however, managers will undertake the required EqHIAs at the earliest opportunity. Where managers are already clear that protected groups/users will be impacted negatively by the intended activity, then this will be noted in the next paragraph and/or put into EqHIAs. Where the negative impact of the intended activity can be mitigated, this too should be set out in this report and/or the EqHIA.

In all situations, urgent or not, the Council will seek to ensure equality, inclusion, and dignity for all. As required during the School Expansion Statutory Process the Schools Organisation and Place Planning team, with advice from the Corporate Policy & Diversity Team, has carried out a consultation and an EIA which has outlined how all the protected characteristics shall be influenced either positively or neutrally by the proposed school expansion programme. Any recommendations arising from the consultation and the EIA have been included within the project subject of the present ED. Therefore no further EIA is carried out for the purposes of the present ED.

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HEALTH AND WELLBEING IMPLICATIONS AND RISKS

The extension to the existing ARP provides increased places at the school for SEND pupils within the community and improved facilities for the existing pupils. This will positively impact the pupils' school experience by improved quality of the building and classrooms.

New teaching staff will be required to facilitate the department alongside the existing.

The construction of the extension has been planned such that the children will be impacted as little as possible by the noise, however provision has been made when required to move those directly impacted by the development when the internal remodelling works are carried out. This is fully considered within the contractor's programme. In addition a section of the elevation has been designated for the school to interact in the build in the form of an art project post completion, allowing a sense of ownership by the pupils.

Construction traffic and general noise mitigation has been considered within the planning application and the appointed contractor will strictly adhere to these requirements.

BACKGROUND PAPERS

None

APPENDICIES

Appendix 1	tender scoring document	Exempt
Appendix 2	legal	Exempt

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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

Details of decision maker

Signed

Name: Robert South - Director of Children's Services

Date:

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 _____

Signed _____