

<b>REPORT TO:</b>	<b>Cabinet 24<sup>th</sup> February 2020</b>
<b>SUBJECT:</b>	<b>Addington Valley Academy SEN School – Award of PCSA and Main Works Contract</b>
<b>LEAD OFFICER:</b>	<b>Shifa Mustafa, Executive Director Place</b> <b>Stephen Tate, Director of Council Homes, Districts and Regeneration</b> <b>Shelley Davies, Director of Education</b>
<b>CABINET MEMBER:</b>	<b>Councillor Alisa Flemming, Cabinet Member for Children, Young People and Learning</b> <b>And</b> <b>Councillor Simon Hall, Cabinet Member for Finance &amp; Resources</b>
<b>WARDS:</b>	<b>New Addington North</b>
<b>CORPORATE PRIORITY/POLICY CONTEXT:</b> This proposal is aligned with the following Priorities:  <b>Croydon’s Community Strategy priorities and outcomes:</b> <ul style="list-style-type: none"> <li>• Outcome 1: A great place to learn, work and live</li> <li>• Outcome 2: A place of opportunity for everyone – in particular: Priority Two; Support individuals and families with complex needs and; Priority Four: Deliver better education and the opportunity for everyone to reach their full potential</li> </ul>	
<b>AMBITIOUS FOR CROYDON &amp; WHY WE ARE DOING THIS:</b> The delivery of this project is critical in ensuring the Authority is able to meet its statutory requirement to provide pupil places to meet increasing demand and will support the Authority in meeting the Policy Objectives of: <ul style="list-style-type: none"> <li>• Achieving better outcomes for children and young people</li> <li>• Promoting economic growth and prosperity</li> </ul>	
<b>FINANCIAL IMPACT</b> The Education Estate Expansion Strategy and the Capital Programme approved at Cabinet on the 20 <sup>th</sup> January 2020, key decision reference no. 0120CAB includes a total funding allocation of £15,670,000 for the delivery of this project. The funding allocation for this project was approved by the Education Skills and Funding Agency (ESFA) on the 23 <sup>rd</sup> December 2019 and is apportioned as follows: <ul style="list-style-type: none"> <li>• ESFA Invest to Save = £14,992,000</li> <li>• Croydon Council S106 = £678,000</li> </ul>	

## **FORWARD PLAN KEY DECISION REFERENCE NO.: 0520CAB**

This is a Key Decision as defined in the Council's Constitution. The decision may be implemented from 1300 hours on the expiry of 5 working days after it is made, unless the decision is referred to the Scrutiny & Overview Committee

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below:

### **1. RECOMMENDATIONS**

- 1.1 The Cabinet is recommended by the Contracts and Commissioning Board to approve the award for the design and construction of Addington Valley Academy SEN Academy to the supplier listed in part B of this report for an estimated contract term of 34 months (this consists of 5 months of PCSA, 17 months of constructions and 12 months Defects Liability period) for a maximum contract value of £14,363,745 (including the supply of £180,000 loose furniture, fixtures and equipment).
- 1.2 The Cabinet is also recommended to request the Leader to delegate the decision to approve the award of various contracts that are required to deliver this overarching contract, to the Cabinet Member for Children, Young People and Learning in consultation with the Cabinet Member for Finance and Resources for the reasons as explained in paragraph 2.4 of this report
- 1.3 The Cabinet is also asked to note that the Chair of the Contracts and Commissioning Board has approved the award of the Pre-Construction Services Agreement to the supplier listed in Part B of this report.

### **2. EXECUTIVE SUMMARY**

- 2.1 The award of this contract is essential to the successful delivery of a new 150 place SEN school in the borough to ensure that the Authority meets its statutory duty to provide required school places for September 2021.
- 2.2 In accordance with the original Education Estate Expansion Strategy (Cabinet Ref: 1719CAB ), the original procurement strategy for this contract award was set out and agreed by CCB (**CCB1400/18-19**) dated 24/09/18, whereby the provision of a new 150 place SEN school will be funded in the majority by the Education Skills Funding Agency (ESFA). In accordance with the ESFA funding criteria, the endorsed procurement strategy was to call off from the ESFA's approved framework agreement.
- 2.3 A full procurement process has been completed and now that ESFA funding has been approved, the recommended contract award can now be sought.
- 2.4 The reasoning for the requested delegations to approve the contract awards as set out in the Recommendations above, is to prevent significant delays and

to ensure the delivery of the proposed design and build of the new SEN school to be completed by September 2021. This proposed delegation will enable the Council to call off the awarded services and works in order to respond to the project timelines which are likely to require decision outside Cabinet timelines, in relation to:

- Variations to the Main Construction Build Contract
- Demolition Works
- Associated Enabling Works Contracts
- Any Early Orders which may be necessary to secure production slots
- Any requirement for temporary accommodation that may be required during the works

- 2.5 The Pre-Construction Service Agreement (PCSA) is due to commence in January 2020 for contract term of 5 months at a maximum value of £452,240 to inform the main construction works agreement for the build of Addington Valley SEN Academy which including the defect liability period, will end by the 31<sup>st</sup> October 2022.
- 2.6 This recommended contract award will cover all works, goods and services associated with the design and construction of the new SEN school.
- 2.7 The content of this report has been endorsed by the Contracts and Commissioning Board.

CCB ref. number	CCB Approval Date
CCB 1550/19-20	30/01/2020

### 3. DETAIL

- 3.1 The procurement process for the award of this contract was to call off the ESFA Construction Framework which was procured in accordance with the restricted procedure of the PCR 2015 (The Public Regulations 2015).
- 3.2 The following principles were agreed in the RP2 How we Buy Strategy Paper ref. **CCB1400/18-19**, dated 24/09/18.
- A waiver to the Council's Tender and Contract Regulations to allow for a direct contract award to be called off for the design and build of the new SEN Free school development at an estimated contract value of £15m in accordance with the ESFA terms. This will ensure compliance with the ESFA time limited funding criteria.
  - The preferred Bidder will be identified in accordance with the terms of the ESFA framework with reference to the respective ranking of the suppliers and evidence provided to demonstrate capacity to fulfil the Council's requirements to agreed timescales, cost and quality standards.

- Another waiver to the Council's Tenders and Contracts Regulations to depart from the standard evaluation split of 60:40 (price: quality) to reflect the ESFA Framework's pre-determined weighting that was applied based on weighting of 40:60 (price: quality) to ensure compliance with ESFA funding criteria and framework terms (as required prior to the update of the Council's Tenders and Contracts Regulations in July 2019).
- 3.3 To note, there was an error in the ESFA Framework scoring criteria as set out in the RP2 strategy report ref. CCB1400/18-19, dated 24/09/18. The correct ESFA Framework pre-determined weighting which this tender is scored against is 30:70 (price: quality).
- 3.4 The contractors appointed to the higher band of the ESFA framework listed in alphabetical order are:
- BAM Construction Limited,
  - Bouygues UK,
  - Bowmer & Kirkland Ltd,
  - Kier Construction Limited
  - Sir Robert McAlpine
  - Wates Construction Limited
  - Willmott Dixon Construction Limited
- 3.5 The ESFA confirmed that the recommended supplier was the highest ranked framework provider at the time of tendering for this project and in accordance with the original strategy, the direct award procurement route was to apply.
- 3.6 The supplier was asked to submit a Preliminary Invitation to Submit Proposals (PISP) for the project utilising the direct award route through the High Value Band Department for Education Construction Framework. Following the successful submission of the PISP, the supplier was then asked on 17<sup>th</sup> April 2019 to submit an Invitation to Submit Proposals (ISP). This was based on the Council's requirements for the provision of the design (including the PCSA related activities) and the main construction works.
- 3.7 This was issued via the Council's E-Tendering Portal and followed the ESFA Construction Framework (Direct Award) ISP tender methodology and a formal response was received from the supplier on the 28<sup>th</sup> June 2019.
- 3.8 Compliance checks and evaluation of the submission were undertaken based on the ESFA's pre-determined evaluation weighting of 30:70 (price: quality) and concluded on the 12<sup>th</sup> September 2019, against the agreed ESFA scoring template.
- 3.9 The tender submission was evaluated by an Evaluator Panel consisting of the LBC Project Manager, the Councils' appointed professional services advisors for Project Management & Employers Agent and Cost Consultants. The evaluation criteria for the Qualitative submissions is shown below:  
Table 1:

Criteria	Sub-Criteria		Weighting	Score
Quality	1	Design Proposals	35%	28%
	2	Overall Approach	10%	8%
	3	Design Management	5%	5%
	4	Construction Management	5%	4%
	5	Project Handover	5%	3%
	6	Whole life and Operational Costs	5%	5%
	7	Social Value	5%	2%
	<b>Total</b>		<b>70%</b>	<b>55%</b>

- 3.10 In accordance with the ESFA Framework's pre-determined evaluation criteria the scoring allocation for price is based on the following:

Score range: 0 to 30

Over-budget = FAIL

On-budget bid = 0 marks

Additional marks determined by % below budget x multiplier of 6.667  
= +1 mark for every 0.5% below budget until maximum score of 30

Score calculated to two decimal places.

- 3.11 Therefore, based on the final ISP submission and the agreed funding allocation of £15.670m the overall evaluation outcome of the combined qualitative and price score is as follows:

Table Two:

	Tender	Qualitative Score	Quantitative Score	Overall Score	Result
1	Supplier	55.00%	PASS	55%	PASS

- 3.12 Further details with regards to the pricing submission is provided in part B of this report.
- 3.13 The recommended award of contract to the supplier listed in part B of this report, will deliver a new fit for purpose School for 150 places to be for children and young adults (from age of 2-19) with special educational needs. Social Value commitments to be delivered through this award and will be discussed with the Supplier through the Pre-Construction Stage of the project. This is to ensure that the level of provision is in line with the ESFA Framework Requirements and is suitable for the value and type of contract award. The supplier will be requested to work closely with Croydon Works to ensure local

residents can benefit from any employment opportunities, apprenticeships and work placements.

3.14 To enable the Council to proceed with the implementation of the agreed Pre-Construction Service Agreement programme, CCB has been requested to approve the award of the PCSA stage for the proposed contract term of 5 months at a maximum contract value listed in part B of this report.

3.15 The PCSA will involve the following:

- RIBA Stages 3 and 4 to include; compliance reports, schedules of accommodation, specifications, drawings, environmental and servicing strategies, ICT and finishes schedules and construction phasing
- Planning Application Submission
- Client engagement meetings

3.16 On completion of the PCSA, this will enable Construction to start On Site from June 2020 and include the supply of loose furniture, fixtures and fittings (£180,000) by the awarded supplier.

#### **4. CONSULTATION**

4.1 The delivery of this new school is of paramount importance to the Borough to deliver a much needed Specialist Education provision.

4.2 The Project brief was developed in consultation with the Children, Families and Education Department, Orchard Hill College Academy and Trust (approved Academy Sponsor) and the ESFA.

4.3 Internal and external engagement and consultation have been undertaken with relevant stakeholders throughout the project and will continue, including development management, spatial planning, regeneration, highways and local residents.

#### **5. PRE-DECISION SCRUTINY**

5.1 The process for awarding the contract has followed set procurement rules and as such has not been considered by Scrutiny.

#### **6 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

6.1 A total project budget of £15,670,000 has been allocated to deliver this new 150 place SEN school on the Timebridge Site for the contract term of 34 months from the approved capital budget that was issued to Cabinet on the 20<sup>th</sup> January 2020, key decision reference no. 0120 CAB.

6.2 The financial impact of this project is set out below.

### 6.3 Revenue and Capital consequences of report recommendations

	Current year	Medium Term Financial Strategy – 3 year forecast		
	2019/20	2020/21	2021/22	2022/23
	£'000	£'000	£'000	£'000
<b>Capital Budget available</b>				
Expenditure	1,305	9,000	5,365	
<b>Effect of decision from report</b>				
Expenditure	468	8,716	5,180	
<b>Remaining budget</b>	<b>837</b>	<b>284</b>	<b>185</b>	

### 6.4 The effect of the decision

This decision will commit the Council to a total sum listed in part B of this report. The entire sum of money to be awarded through this contract award report is to be drawn down directly from the ESFA 'Invest to Save' funding.

### 6.5 Risks

Risk	L	I	Mitigations
The project costs will be met by LBC capital and then claimed back from the ESFA and any non-reimbursement payments may need to be met by the council.	L	L	The funding for the project has been agreed in detail between the Council and the ESFA. Confirmation of funding has been approved through the CCF Report dated the 23 <sup>rd</sup> December 2019 received from the ESFA, however should an unforeseen cost arise, the project team has agreed with the ESFA a process for agreeing these costs in advance of undertaking such works to ensure any costs incurred by the Council will continue to be fully funded.
There is no float contained with the indicative timescales to complete the project. Any delay will have a direct impact on the provision of education services to the cohort planned to start September 2021.	M	H	Continued review and management of the delivery of the project. Key gateway milestones to be implemented and all internal department to be kept informed of any project slippage.  Review programme to look at potential sectional completion

			options if required.
Any delay to the planning approval process could result in a delay to the overall delivery programme.	L	M	The project team has already begun pre application planning discussion with the Local Planning Authority to gain advice and understand concerns which will be reflected in the scheme design thus minimising the refusal of the submission.
Construction delays	M	M	<p>Effective contract management will ensure works are delivered within the agreed timeframe.</p> <p>Liquidated Damages for late completion are to be agreed between the Council and Contractor via formal contract agreement.</p>
Performance issues	M	M	Implement Key Performance Indicators as set out in the ESFA Framework and ensure that these are monitored closely each month. Progress will be reported to the Education Estate Strategy Board and Asset Management Board.
the Supplier ceases trading	L	H	<p>Continual review of suppliers financial position and updates from the DfE are to be obtained. To obtain Performance Bond from the supplier for Construction Phase of Works.</p> <p>Undertake full review of financial position and risk prior to the issue of the main works Purchase Order.</p> <p>Payments to supplier are a month in arrears and are based on actual works undertaken on site.</p>



Impact on Three existing Thames Water soakaways that are located on the site	L	H	The new school building and associated structures sit outside of a 5m easement around the outside edge of the existing soakaway structure therefore mitigating any risk to damage of these assets.
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## **6.6 Future savings/efficiencies**

- 6.6.1 The supplier has been procured through the ESFA framework which sets out the agreed contract rates that have to be adhered to. Their cost submission has been fully reviewed by LBC appointed external cost consultants and technical advisors at the ESFA. It has been deemed that the project is in line with the agreed framework rates and offers the most efficient value for money.
- 6.6.2 The ESFA have benchmarked the cost per pupil for the Addington Valley Academy and they are below the average for a high value band award and a special school. The cost per pupil for this project based on a total project cost set by the ESFA of £15,131,060 is: £100,873 against an average of £103,800.
- 6.6.3 Please note, savings and efficiencies will continue to try and be identified during the PCSA stage of the project and continued value engineering exercises once the project is onsite.
- 6.6.4 The construction of this new school will assist in the reduction of costs associated with the placement of pupils out of Borough. The average cost of a pupil that will attend this school is £32K per annum against an average cost of a pupil attending school out of borough of £55K per annum.

Approved by: Felicia Wright, Head of Finance- Place

## **7. LEGAL CONSIDERATIONS**

- 7.1 The Director of Law and Governance comments there are no additional legal considerations directly arising from this report.

Approved by Sean Murphy, Director of Law and Governance and Monitoring Officer.

## **8. HUMAN RESOURCES IMPACT**

- 8.1 There are no HR implications and if any arise, they will be managed under the Council's policies and procedures.

Approved by: Jennifer Sankar, Head of HR Place & Interim Head of Resources, for and on behalf of Sue Moorman, HR Director.

## **9. EQUALITIES IMPACT**

- 9.1 The project will deliver a SEND facility for 150 pupils aged 2 - 19 to provide their educational requirements within the borough. The facility will provide life skills training and specialist education. Therefore will be no discrimination or negative impact on any of the 9 Groups.

Approved by: Yvonne Okiyo, Equalities Manager

## **10. ENVIRONMENTAL IMPACT**

- 10.1 There are no environmental impacts from the award of this contract.
- 10.2 The proposals for the new building will achieve the highest standards possible within the various site constraints, the DfE Output Specification requirements and will be designed in consideration of the local surroundings.
- 10.3 The new school building is required to achieve BREEAM 'Excellent'

## **11. CRIME AND DISORDER REDUCTION IMPACT**

- 11.1 There are no immediate Crime and Disorder consequences of this proposal.

## **12. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION**

This contract has been procured through the ESFA Construction Framework and the tender submission by the Supplier is in line with this and has been deemed to pass.

The award of this contract will enable the provision of 150 SEN places in the borough for September 2021.

## **13. OPTIONS CONSIDERED AND REJECTED**

### **13.1 Option One: Do nothing**

Failure to procure for this requirement will impact the Council's ability to enable young people with special education needs (SEND) to receive education within the borough of Croydon and not meet Statutory Duties. Therefore, application of this option is not deemed to be suitable.

## **14. DATA PROTECTION IMPLICATIONS**

- 14.1 **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

**NO**

**14.2 HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

**NO**

This report does not involve the processing of 'PERSONAL DATA'.

The Director of Council Homes, Districts and Regeneration comments that there are no additional data protection implications arising directly from the report.

Approved by: Stephen Tate, Director of Council Homes, Districts and Regeneration

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<b>CONTACT OFFICER:</b>	Clive Kershaw, Education Programme Manager. Ext. 47127
<b>BACKGROUND DOCUMENTS:</b>	None