**RECOMMENDATION**

1. That Executive delegate authority to the Chief Executive to nominate the Local Authority Representative named in all contracts with the LEPco, and that this same officer will be the chair of the Strategic Partnering Board, as set out in paragraph 29.

2. That Executive agree that the membership of the Strategic Partnering Board will be comprised of those parties identified in paragraph 33, and delegates authority to approve additional membership to the Local Authority Representative, in consultation with the Major Projects Board.

3. That Executive delegate to the Local Authority Representative authority for Gateway 1 and Gateway 2 approvals for phase 2 and phase 3 of the BSF programme, together with the related school procurement and governing body agreements, as set out in paragraph 48 to 52.

4. That Executive delegate authority to the Chief Executive to nominate Southwark’s Company Director on the LEPco board, as set out in paragraph 44.

5. That Executive delegate to the Strategic Director of Major Projects authority to approve the Gateway 1 and Gateway 2 procurement decisions related to the contracting of external advisors required for commissioning and contract management purposes, as set out in paragraph 69.

6. That Executive approve the budget of £3.4 million for the governance and contract management of the LEPco, as set out in paragraph 70, note the funding sources set out in paragraph 83, note that this is not a budget bid, and that for council resources these will be contained within existing budget provisions within Children’s Services, Legal Services and Major Projects.

7. That Executive note the need to hold a further corporate contingency to be released subject to advance approval by the Finance Director and Executive Member for Resources, and approve a contingency of up to £0.7 million, as set out in paragraph 70, and note the measures to be put in place to control costs, and identify other funding sources set out in Section 6.

8. That Executive note the contents of Section 4 of this report summarising the proposals for member involvement in the project.
BACKGROUND INFORMATION

9. On May 2 2007, the Council’s Executive agreed to deliver its BSF programme through a Local Education Partnership company (LEPco), using a standard contract structure developed by national government.

10. The LEPco will:
• act as the single point of contact for procuring and providing all the services needed to deliver the BSF investment programme – ranging from design, construction, project management and maintenance to ICT services;
• integrate and manage a diverse range of supply chain sub-contractors – ranging from building contractors and FM services providers to ICT suppliers; and
• enable delivery of projects through a mix of procurement routes: private finance initiative and conventionally funded.

11. The Southwark LEPco will have exclusivity to offer the following services to the specified clients:
• Design, build, finance and operate for 25-year period PFI schemes at St Michael’s, St Thomas the Apostle and Sacred Heart schools, including lifecycle maintenance, hard facilities management services and soft facilities management services, as agreed with individual governing bodies.
• Design and build for all other BSF funded non-PFI schemes, except Walworth Academy, with the possible addition of facilities management services, subject to further consultation with schools and governing bodies:
• ICT equipment and managed services to both PFI and non PFI schemes

12. The maximum contract value under the OJEU Notice was set at £400 million on the basis of the exclusive services set out above and a prudent assessment of a sum to give the council discretion to offer additional services/facilities to the LEPco at a future date. It is important to note that the council is not required to award additional work to the LEPco in addition to the exclusive services set out above and is not under any obligation to award the exclusive services if the LEPco is not meeting performance requirements.

13. On October 28 2008, the Major Project Board approved the appointment of Balfour Beatty Capital, trading as Transform schools (“Transform Schools”) as Southwark’s selected partner. Transform Schools was selected because (1) it has a supply chain capable of designing, building and operating great schools; and (2) it demonstrated skills, experience and behaviours necessary to work in partnership with the Council and schools to deliver the BSF programme (3) it offered value for money.

14. Following contract award, scheduled for April 2009, Southwark Council together with Transform Schools and a national government agency (BSFI) will establish the LEPco as a joint venture company. At contract award, the LEPco will be commissioned to deliver the first two schools (Tuke and St Michaels), the remaining schools in the programme will be subject to further individual contract awards and decision making by the Council.

15. Partnership structures such as the LEPco are not new; there are 15 already in operation in the UK (as of 1.1.09), in addition to many other similar structures in other sectors such as health and housing. A key lesson learned is that many partnerships have not thought through how they will work together after contracts
are signed, before they sign the contracts; in other BSF authorities this has led to major delays in phase 2 projects as both parties get to grips with the implications of the LEPco model.

16. The report to the Major Project Board set out the list of contracts that will be signed at contract award in April 2009 (i.e. when the LEPco is established). Table 1 sets out this list of contracts, and also provides a list of the remaining contracts that will be signed with the LEPco subsequently relating to phase 2 and phase 3 BSF schools.

Table 1: LEPco contracts envisaged

<table>
<thead>
<tr>
<th>Suite of contracts to be signed simultaneously at LEPco contract award (April 2009)</th>
<th>Suite of contracts to be signed subsequently with LEPco for delivery of phase 2 and phase 3 schools</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Strategic Partnering Agreement</td>
<td>• Project agreement - St Thomas the Apostle College</td>
</tr>
<tr>
<td>• Strategic Shareholders Agreement</td>
<td>• Design &amp; build contract - St Michael and All Angels Academy and Highshore school</td>
</tr>
<tr>
<td>• Project Agreement – St Michaels School</td>
<td>• Design &amp; build contract - Spa School</td>
</tr>
<tr>
<td>• Design &amp; Build Contract – Tuke School</td>
<td>• Design &amp; build contract - New school – Aylesbury</td>
</tr>
<tr>
<td>• Phase 1 ICT Contract</td>
<td>• Project agreement - Sacred Heart School</td>
</tr>
<tr>
<td>• Facilities Management Agreement</td>
<td>• Design &amp; build contract - Bredinghurst Learning Campus (Stuart Road KS4 SEBD)</td>
</tr>
<tr>
<td>• Management Services Agreement</td>
<td>• Design &amp; build contract - St Saviour’s and St Olave’s</td>
</tr>
<tr>
<td>• Funders Direct Agreement</td>
<td>• Design &amp; build contract - Notre Dame</td>
</tr>
<tr>
<td></td>
<td>• Design &amp; build contract - New School – Rotherhithe</td>
</tr>
<tr>
<td></td>
<td>• Design &amp; build contract - Bredinghurst Learning Campus (Bellenden Road KS3 SEBD)</td>
</tr>
<tr>
<td></td>
<td>• Phase 2 ICT contract</td>
</tr>
<tr>
<td></td>
<td>• Phase 3 ICT contract</td>
</tr>
</tbody>
</table>

Note: a small amount of BSF funding will be used to establish a special needs resourced unit at Charter School. The contractual arrangement for this work is still to be decided.

KEY ISSUES FOR CONSIDERATION

17. This paper sets out proposals for the how Southwark will manage and govern the LEP company following contract award scheduled for April 2009. There are two key elements of the proposals:

- How we manage the partnership between Southwark Council, schools and LEPco, including commissioning and contract management functions (see Section 1 below).
- How we manage our shareholding in LEPco (See Section 2 below)

18. This paper includes four additional sections:

- Section 3: proposals for delegated decision making relating to the commissioning of phase 2 and phase 3 BSF projects;
- Section 4: proposals for member involvement in the project following establishment of the LEPco;
- Section 5: outline proposals for transition management from existing structures to those set out in this paper; and
- Section 6: the resource and policy implications of the proposals.
19. Annex 1 provides a graphical summary of the proposed governance and management arrangements.

20. The proposals set out in this paper have been based on the following principles:
   - Strategic leadership and commissioning from Council – the strategic leadership of the programme in terms of ensuring a continuing alignment with corporate objectives and commissioning of phase 2 and phase 3 BSF schemes rests with the Council. Executive has approved the strategic framework for the BSF programme as set out in the BSF Outline Business Case (approved 2 May 2007). It is officer responsibility to ensure that the programme is delivered within this framework, and to revert to members if any deviations are proposed or become necessary.
   - Delivery leadership from LEPco team – the leadership for the delivery of the programme to date has rested with the SSF team. Once the LEPco is established, the LEPco team will lead the project through the delivery phase. The LEPco will appoint a LEPco operations director who will lead a team comprised of private sector and Council staff, in close collaboration with the schools in the programme.
   - Building on success – the proposals have been built on the existing management and governance arrangements which have been successful to date. The proposals aim to ensure that the effective working relationships established between key council officers, schools and Transform Schools continue.
   - Incentivised trust with audit checks – the starting principle is that the LEPco can be trusted to deliver quality outcomes as they are heavily commercially incentivised to do so, given the contractual risk profile agreed during procurement. The Council will therefore not deploy a ‘man-marking’ checking regime to ensure compliance, but will rather use an audit approach to check compliance at key points.
   - Standardised approach – future contracts will be based on standard commercial agreements reached with Transform Schools as part of the procurement process. Furthermore, the Council will agree with the LEPco standardised processes based on tried and tested approaches adopted during procurement. This will also be applied to agreements with future schools, which will be based on agreements with the two phase 1 schools (Tukey and St Michaels).
   - Light touch contract management approach – the Council will keep contract management resourcing to a minimum, using self-reporting mechanisms for the tracking of KPIs.

SECTION 1: MANAGING THE PARTNERSHIP

21. The Council will enter into a Strategic Partnering Agreement with LEPco.

22. This partnership agreement sets out how the LEPco will develop new projects and oversee their delivery: the scope of this work is set out in a partnering services specification.

23. The Council and LEPco will also agree upon a set of service based outcomes that the LEPco, Council and schools will take joint responsibility for delivering, these will be called collective partnering targets.

24. Once the LEPco has completed project development activities for a project under
the terms of the strategic partnering agreement, the Council will then enter into a series of construction and operational (FM and ICT) services contracts.

25. For each contract the Council is the contracting party, however, contracts are only entered into once the Council has secured back-to-back agreements with schools via a legally binding Governing Body Agreement. This agreement includes financial commitments and other obligations such as site access and information warranties that the Council can only contractually commit to with the LEPco once a back-to-back commitment has been agreed with schools.

Governance

26. A governance structure needs to be put in place to:
   • Commission and approve phase 2 and phase 3 projects; and
   • Contract manage the performance of LEPco in all aspects of its work, including both those activities related to the Strategic Partnering Agreement and those being delivered through the construction and operational services contracts.

27. The Strategic Partnering Agreement sets out a partnership governance structure which has two key elements to it:

28. A Local Authority Representative (LAR) – this is the individual with the authority to commission and instruct LEPco on behalf of the Council. It is this officer to whom it is recommended that delegated authorities for Gateway 1 and Gateway 2 decisions for the BSF programme are given, see Section 3 of this paper.

29. PfS recommend that the LAR be a chief officer (or in some cases the Chief Executive). Most authorities have the Director of Children’s Services as the LAR. We recommend that Executive delegate authority to the Chief Executive to appoint the LAR.

30. A Strategic Partnering Board (SPB) is responsible for commissioning the LEPco to start working on new projects, managing the performance of the LEPco and ensuring that the work of the LEPco continues to support wider children’s services and corporate strategic objectives.

31. The ‘standard form’ SPB manages the performance of LEPco; gives guidance on progress of Phase 2/3 and other new projects; and ensures that stakeholder consultation is working effectively. Standard form membership of the Board includes a local authority representative (usually the same as the LAR), up to six stakeholder representatives and a representative of LEPco. The standard form model envisages the LAR acting as the ‘project executive’ and making final decisions following consultation/discussion with the SPB; but does allow for some decisions to be taken by vote.

32. Any decision which has major financial or policy implications for the Council can only be made by the LAR within delegated powers. Following discussions with head teachers and the existing project board, it has been agreed that it is difficult to see what sort of other decisions could be taken by vote. Hence the option for some decisions to be made by vote has been removed from the Strategic Partnering Agreement, with all decisions to be made by the LAR, under delegated powers from Executive. This is also consistent with the Council’s preferred project management methodology, PRINCE 2.
33. It is proposed that the membership of the SPB be consistent with the project board established for the project to date. The membership would include the LAR (who would be the Chair); a representative of the Southwark Diocese; a representative of the Archdiocese of Southwark; the head of the project office (see below); an elected representative of schools in the BSF programme, and a LEPco representative. Additional members would be agreed if the LEPco were to include any non-BSF projects. It is recommended that delegated authority to approve additional membership be given to the Local Authority Representative, in consultation with the Major Projects Board.

34. The representation of the BSF head teachers in the governance structure is particularly important: the BSF head teacher group has decided to continue to function during the next phases of the project. This group will elect their representative for the SPB. The head teachers proposed, and agreed collectively, that their representative should not be a headteacher of a school in the current BSF programme, as this could impact on their ability to represent the interest of all schools in the programme.

Client-Side Management

35. A management structure needs to be put in place within the Council. Key functions include:
   • Providing education transformation leadership;
   • Manage the commissioning of phase 2 and phase 3 projects; and
   • Undertake day-to-day contract management (including performance monitoring of the LEPco and ensuring the Council meets its contractual obligations).

36. Box 1 below sets out the client-side functions in more detail.

37. The education transformation leadership role will rest with the Children’s Services management team. It is envisaged that this role can be resourced from within existing management resources.

38. It is proposed that the remainder of the client-side management function be resourced within a project office, staffed with three full-time officers, who will commission specialist input from other parts of the Council:
   • legal services will be commissioned via Southwark legal services, who will use external advice for pensions matters, production of contract documents and specialist project specific contract advice.
   • technical services will be commissioned via Southwark Property services, who will commission external advisors to provide specialist engineering and facilities management services to support quality audits.
   • ICT services will be commissioned via ICT Support to Schools within Children’s Services.
   • finance services will be commissioned within existing finance resources, who will use external advisors for specialist audits of PFI models.

39. It should be noted that the client-side function will also commission Southwark Property Services to undertake contract management activities for Walworth Academy (funded by BSF) and that these services are also factored into the financial implications of this paper.
**Box 1: Client side management functions**

<table>
<thead>
<tr>
<th>Education transformation leadership</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensures there remains a clearly articulated transformational vision which is shared with stakeholders and used to drive the BSF programme.</td>
</tr>
<tr>
<td>Ensures this vision is reflected in the Children and Young People’s Plan</td>
</tr>
<tr>
<td>Commission and receive reports on the progress of the activity of the LEPco, and be prepared to act should the LEPco fails to deliver on its key performance indicators, or partnering targets.</td>
</tr>
<tr>
<td>Liaise with the LEPco over matters of contract.</td>
</tr>
<tr>
<td>Act as escalation where LEPco transformation lead identifies capacity issues or identifies major change management issues.</td>
</tr>
<tr>
<td>Receive LEPco capacity to deliver reports, and agree with LEPco transformation lead appropriate response.</td>
</tr>
</tbody>
</table>

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<thead>
<tr>
<th>Programme activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coordinate annual strategic reviews of strategic documents, including education strategy, collective partnering targets and equalities impact assessment.</td>
</tr>
<tr>
<td>Receive and review programme management and performance documentation from LEPco, recommending response to LAR, as appropriate.</td>
</tr>
<tr>
<td>Support LEPco to monitor performance through use of data collated by the Council, and interaction with the Council’s communications and customer feedback mechanisms.</td>
</tr>
<tr>
<td>Provide a secretariat function to support the smooth running of the Strategic Partnering Board.</td>
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<tr>
<th>Approvals and contract negotiations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secure stage 0 approvals</td>
</tr>
<tr>
<td>Collate and issue new project delivery requests.</td>
</tr>
<tr>
<td>Receive Stage 1 and Stage 2 submissions from LEPco and manage approvals process through SPB.</td>
</tr>
<tr>
<td>Agree eleven contracts and governing body agreements, commissioning internal and external legal advisors, as required.</td>
</tr>
<tr>
<td>Property due-diligence</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>Commission quality/compliance audits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commission technical audits/reviews of stage 2 submissions, contractor’s proposals/authorities requirements and construction.</td>
</tr>
<tr>
<td>Commission financial audits of stage2/contract models.</td>
</tr>
<tr>
<td>Commission audits of operational services (ICT and FM).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Fulfilment of authority obligations during contract terms</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commission services to ensure that the authority meets any specific technical obligations under the contract.</td>
</tr>
<tr>
<td>Commission management of variations under the contract.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Escalation/problem solving</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act as escalation route, where LEPco is having difficulties interfacing with council departments.</td>
</tr>
<tr>
<td>Support LEPco in forming positive working relationships across the Council and to problem solve when things go wrong.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Communications/stakeholder consultation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Review stakeholder consultation plans and act as escalation route for major community stakeholder management issues.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Payment mechanisms</th>
</tr>
</thead>
<tbody>
<tr>
<td>Receive and review reports from LEPco against the agreed payment mechanisms (PFI, ICT and FM), authorise payments as appropriate.</td>
</tr>
<tr>
<td>Act as escalation route for schools where services are not acceptable.</td>
</tr>
</tbody>
</table>

**SECTION 2: MANAGING OUR SHAREHOLDING IN LEPco**

40. The LEPco will have a board of directors comprising four appointed by Transform Schools, one appointed by BSFI (national government) and one appointed by the Council. The LEPco board of directors is responsible for ensuring the effective delivery of the programme of work as commissioned by the SPB.

41. It should be noted that the structure of membership of the LEPco board is set out in the standard form Shareholders Agreement produced by Partnerships for Schools to reflect the equity stakes in the LEPco (80% private sector: 10% BSFI: 10% Southwark Council) and is not subject to local decision making.
42. The Council LEPco board director will work with the private sector partner to ensure the on-going viability of the LEPco as a business, and thus protect the Council’s shareholding. They will need to have an understanding of the strategic direction of the Council in order to identify opportunities for LEPco. They will also need to have the authority within the Council to act as an escalation route/ early warning system, where issues within the client-side are impacting on the LEPco’s ability to deliver.

43. Different models exist across the country of who the Council LEPco board director is. Following a review of existing LEP companies, PwC have advised that it works best where:

- the LEPco board director is not also responsible for commissioning the LEPco or scrutinising commissioning decisions, in order that there remains organisational clarity between commissioning decisions (and the related scrutiny of those decisions) and delivery.
- the LEPco board director is an existing chief officer in the Council who has an understanding of the broader corporate agenda, and can therefore also work with the LEPco to consider how it could meet other needs within the Council.
- the LEPco board director has experience of both the challenges of project delivery and the challenges of managing a company.
- The LEPco board director has been previously involved in the project during procurement and has an understanding of the project and established relationships with the private sector partner.

44. It is recommended that the delegated authority be given to the Chief Executive to nominate Southwark’s LEP company director on the LEPco board and that this person be a serving member of the corporate management team.

45. It should be noted that the LEPco board director will together with the rest of the board agree the naming of the company and will consult with the Major Projects Board and the Strategic Director of Children’s Services before the LEPco board decision.

46. The LEPco will have a team of employees which will include staff seconded from the Council and staff seconded from Transform who will work together and in partnership with school representatives to manage the supply chain. The LEPco team will comprise 7.5 FTE during the first two years of operations, it is intended that three of these will be Council secondments, including the design lead and the transformation lead.

47. It should be noted that the costs of the LEPco team are factored into the LEPco costs and covered within the BSF affordability envelope.

SECTION 3: DELEGATED AUTHORITY FOR FUTURE DECISION-MAKING

Council contract approvals (Gateway 1 and Gateway 2)

48. Each of the remaining BSF projects (set out in Table 1) will go through the following approval process:

- New project request – the Council will issue a new project request to the LEPco. In order to issue this request Partnerships for Schools need to approve a Stage 0 approval document, which confirms that the information contained in the Outline Business Case (approved by Executive 2 May 2007)
have not changed. At this point a procurement agreement is also signed with the school to commit them to taking part in the process and to set out their affordability envelope for ICT and FM services.

- **Stage 1 approval** – following receipt of the New Project Request, the LEPco will undertake a Stage 1 work. This work is equivalent to a feasibility study, but will also include a review of the selected procurement route for the scheme (there are two options design & build contract and PFI).

- **Stage 2 approval** – following recipient of Stage 1 approval, the LEPco will proceed to undertake Stage 2 work. This work is detailed design, and includes submission of a full planning application for the scheme. At this point the back-to-back governing body agreement is signed with the school to commit them to the financial and other obligations necessary for the Council to enter into the Contract with the LEPco.

49. It is recommended that delegated authority be given to the Local Authority Representative to approve Gateway 1 and Gateway 2 reports (including authorisation of the issue of New Project Request and approval of Stage 1 and Stage 2 requests for phase 2 and phase 3 BSF projects), subject to the following constraints:

- The scope of the schemes is consistent with that agreed by Executive as part of the OBC approval (2 May 2007); or the scope of an individual scheme has increased but is fully funded by a third party and has no detrimental impact on any other school in the programme.

- The financial implications to the council are in keeping with the parameters set out in the SSF OBC Update report noted by Major Projects Board at its meeting of November 21 2007, as annexed to the Closed version of this report.

50. At conclusion of the Stage 1 the LEPco will submit to the LAR a Stage 1 approval request for approval to proceed to Stage 2. At conclusion of Stage 2 the LEPco will submit to the LAR a Stage 2 approval request. These submissions from the LEPco will be used to seek the relevant council Gateway 1 and Gateway 2 approvals prior to authorisation to proceed with the subsequent project stage being given to the LEPco. Table 1 also sets out the target dates for Gateway 1 and Gateway 2 approvals for phase 2 and phase 3 schools.

51. It should be noted that there is the possibility that further additional funds will be secured from third parties (including Partnerships for Schools) to expand the scope of work on certain BSF schemes. For example, discussions are currently on-going regarding the possibility of additional funding to build additional space at Spa school, to enable neighbouring authorities to continue to place young people at Spa.

52. Furthermore, it is also recommended that the Local Authority Representative be delegated the authority to agree back-to-back Governing Body Agreements with each school outlined in Table 2 prior to contract signature, and Procurement Agreements with each school when the new project agreements are issued to the LEPco.
Table 2: Phase 2 and Phase 3 BSF contracts

<table>
<thead>
<tr>
<th>Phase 2</th>
<th>School</th>
<th>Contract type</th>
<th>Gateway 1 target</th>
<th>Gateway 2 target</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>St Thomas the Apostle College</td>
<td>PFI</td>
<td>Q2 2009</td>
<td>Q1 2010</td>
</tr>
<tr>
<td></td>
<td>St Michael and All Angels Academy</td>
<td>D&amp;B</td>
<td>Q2 2009</td>
<td>Q1 2010</td>
</tr>
<tr>
<td></td>
<td>Highshore</td>
<td>D&amp;B</td>
<td>Q2 2009</td>
<td>Q1 2010</td>
</tr>
<tr>
<td></td>
<td>Spa School</td>
<td>D&amp;B</td>
<td>Q2 2009</td>
<td>Q1 2010</td>
</tr>
<tr>
<td></td>
<td>New school – Aylesbury</td>
<td>D&amp;B</td>
<td>Q2 2009</td>
<td>Q1 2010</td>
</tr>
<tr>
<td></td>
<td>Phase 2 – ICT</td>
<td>ICT</td>
<td>Q2 2009</td>
<td>Q1 2010</td>
</tr>
<tr>
<td>Phase 3</td>
<td>Sacred Heart School</td>
<td>PFI</td>
<td>Q4 2009</td>
<td>Q2 2011</td>
</tr>
<tr>
<td></td>
<td>Breedinghurst Learning Campus (Stuart Road KS4 SEBD)</td>
<td>D&amp;B</td>
<td>Q4 2009</td>
<td>Q2 2011</td>
</tr>
<tr>
<td></td>
<td>St Saviour’s and St Olave’s</td>
<td>D&amp;B</td>
<td>Q4 2009</td>
<td>Q2 2011</td>
</tr>
<tr>
<td></td>
<td>Notre Dame</td>
<td>D&amp;B</td>
<td>Q4 2009</td>
<td>Q2 2011</td>
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<td></td>
<td>New School – Rotherhithe</td>
<td>D&amp;B</td>
<td>Q4 2009</td>
<td>Q3 2011</td>
</tr>
<tr>
<td></td>
<td>Breedinghurst Learning Campus (Bellenden Road KS3 SEBD)</td>
<td>D&amp;B</td>
<td>Q4 2009</td>
<td>Q3 2011</td>
</tr>
<tr>
<td></td>
<td>Phase 3 – ICT</td>
<td>ICT</td>
<td>Q4 2009</td>
<td>Q2 2011</td>
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</tbody>
</table>

Note: a small amount of BSF funding will be used to establish a special needs resourced unit at Charter School. The contractual arrangement for this work is still to be decided, but may require further Gateway 1 and gateway 2 decisions, which it is proposed in this paper would be delegated decisions taken by the Local Authority Representative.

Compliance with Council standing orders (management of financial and legal implications)

53. If the recommendations set out above are accepted by Executive then it should be noted that future BSF projects will still follow normal Council standing orders for key decisions within the bounds of the agreed delegated authorities. Specifically, the legal and financial implications of the project will be managed in the following manner:
   i. The New Project Request letter will include affordability limits for a particular scheme, which will be consistent with that which was approved by Executive and noted by Major Projects Board as part of the OBC approval process.
   ii. During Stage 1 work, the LEPco under the leadership of the LEPco board will be tasked with delivering schemes within the affordability targets set out in the New Project Request Letter. The LEPco will also identify any additional project specific legal issues.
   iii. The Local Authority Representative (LAR) will receive a Stage 1 submission, including information regarding the proposed price of the project and any project specific legal issues.
   iv. The project office will prepare a Gateway 1 report based on the information received from the LEPco. Concurrent reports will be sought from legal, finance and procurement, as required under contract standing orders.
   v. In the event that the LEPco proposals are within the affordability targets, then the delegated authorities sought in this report would give the Local Authority Representative authority to approve the Gateway 1 report and instruct the LEPco to continue in developing Stage 2 proposals for the particular project.
   vi. In the event that the LEPco proposals exceed the affordability targets, then
the Local Authority Representative would not have the authority to approve
the Gateway 1. If the Local Authority Representative and the Southwark
Director on the LEPco board are of the view that there are extenuating
circumstances (such as unexpected site issues, for example substantial
archaeological artefacts) that result in the LEPco being unable to deliver
proposals within the affordability targets then the Local Authority
Representative would revert to Executive to decide how to proceed.

vii. Once the LAR has commissioned the LEPco to proceed with Stage 2 work
on any particular project, the LEPco will continue with detailed project
development work. Following detailed project development work (including
securing planning consent), the LEPco will issue a Stage 2 submission to
the LAR. This submission will update the legal and financial information.
The Stage 2 submission commits the LEPco to a particular price and
particular project specific legal derogations to the standard contracts.

viii. The project office will prepare a Gateway 2 report based on the information
received from the LEPco in their Stage 2 submission. Concurrent reports
will be sought from legal, finance and procurement, as required under
contract standing orders.

ix. As with Stage 1 submissions, if the LEPco proposals are within the
affordability targets, then the delegated authorities sought in this report
would give the Local Authority Representative authority to approve the
Gateway 2 report and instruct the LEPco to continue in developing Stage 2
proposals for the particular project.

x. In the event that the LEPco Stage 2 submission exceeds the affordability
targets, then the Local Authority Representative would not have the
authority to approve the Gateway 2. If the Strategic Director of Children’s
Services and the Southwark Director on the LEPco board are of the view
that there are extenuating circumstances that were not known at Stage 1
submission and which cannot be resolved that result in the LEPco being
unable to deliver proposals within the affordability targets then the Local
Authority Representative would have to revert to Executive to decide how
best to proceed. It is important to note that the first response would always
be to ask the LEPco to work with the school concerned to reduce the scope
of the scheme such that the proposals are affordable.

**Decision making by the LEPco board**

54. The LEPco board, including the Southwark board member, does not have any
degraded constitutional decision making authority on behalf of the council. The
decisions taken by the LEPco board will be management decisions related to
how to best staff, resource and manage the LEPco in order to deliver the projects
within the parameters set out by the Council through the LAR, including
importantly the affordability constraints. In time, the LEPco board will also
consider how to develop the business in order to deliver greater value for the
shareholders in the company, including Southwark.

55. In the instance that the viability of the LEPco was in question and that therefore
the Council’s equity investment was at stake (the investment as approved by
Executive on 2 May 2007 and set out in the closed version of this report), then it
would be the Southwark LEPco’s board director's responsibility to escalate the
issues within the Council in order that the Council could consider how it could
best respond to ensure that the LEPco continued to be a viable business and
thus that the equity investment was protected. On a day-to-day basis, this
individual would also act as an escalation route where there were issues or
blockages affecting the ability of the LEPco to deliver which the Council was able
to influence or resolve.

SECTION 4: MEMBER INVOLVEMENT

56. Executive established the strategic framework for the BSF programme in the BSF Outline Business Case, agreed by Executive May 2 2007, and officers will continue to deliver within this framework.

57. The strategic framework has two key elements:
- the transformation scope for each BSF school, including the scale of physical works, as set out in the Executive report of May 2 2007; and
- the various capital and revenue affordability constraints, applying to capital cost for design & build schemes, to PFI schemes and to managed services for ICT & FM, as established in the Executive report of May 2 2007 and updated to Major Projects Board on November 21 2007 in the OBC Update Report.

58. Any deviation from this strategic framework either in terms of transformation scope or financial implications will require further Executive decision.

59. This approach has been instrumental in the success of the project to date. It should be noted that the LEPco procurement process and the Walworth Academy contract have been completed within the approved strategic framework.

60. The Major Projects Board will continue to receive regular project update reports, including information received from the LEPco as part of their regular reporting.

61. Regular briefing of the Executive Member of Children’s Services and the Executive Member of Resources will also be embedded.

62. A further report will be prepared for the Major Projects Board setting out proposals for future communications and community involvement. It is intended that this paper will set out proposals to ensure that the benefits of the programme are communicated effectively with Southwark’s wider community. This will be an integrated strategy prepared by Southwark corporate communications, the SSF team and the LEPco.

63. If it becomes apparent over time that it would be beneficial for an Executive member to be involved in discussions at the SPB, then the proposals in this paper would allow this to happen at any stage of the lifetime of the LEPco.

SECTION 5: TRANSITION MANAGEMENT

64. Lessons learned from other BSF projects and similar partnering structures, demonstrate that the transition from pre-contract to post-contract management and governance arrangements are often fraught with difficulty, and that these difficulties often result in a major ‘blip’ in project performance. In the case of other BSF projects, this has led to substantial delays in projects in subsequent phases (in some cases up to a year) and major breakdowns in working relationships between the parties.

65. Southwark’s delivery programme is tight. The target is to get phase 2 and phase 3 schools delivered in quick succession, in order that the construction programme is completed in its entirely in early 2014.
66. Although the project has an excellent track-record to build-on, being unique in the BSF programme nationally in not having slipped one day during the procurement process, the challenge of establishing and embedding the management and governance structures set out in this paper should not be under-estimated. Working successfully within partnership structures requires all parties to work in very different ways to traditional client-contractor arrangements, and this takes skill to make work whilst also maintaining delivery.

67. To this end, the existing project director post will be retained for six months post the establishment of the LEPco. The focus of work for the project director during this time will be to work with all parties to ensure that the transition is managed effectively.

68. Following the six-month transition period the project director post will be deleted (see Section 6 for HR implications).

69. One of the important elements of transition will be to tender for external technical, legal and finance advisors to support the work of the project office. It is recommended that authority be delegated to the Strategic Director of Major Projects to approve the Gateway 1 and Gateway 2 procurement decisions related to the procurement of these external advisors.

SECTION 6: RESOURCE IMPLICATIONS

Managing the partnership (section 1 of this paper)

70. It is recommended that Executive approve a budget of £3.4m for the client-side management of the LEP company for the financial years 2009-10 to 2014-15, plus a contingency of £0.7m, as set out in Table 3. It should be noted that this also includes provision for the transition arrangements set out in Section 5.

71. This budget has been established assuming that:
   - the Local Authority Representative will be resourced within existing senior management resource, with the secretariat support being provided by the project office;
   - the client resource necessary for the finance functions can be resourced within existing finance resources; and
   - the client resource necessary for the ICT function can be resourced within existing ICT Support to Schools within Children’s Services.

<table>
<thead>
<tr>
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<th></th>
<th></th>
<th></th>
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<tr>
<td>Client side contract management</td>
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<td>114</td>
<td>450</td>
<td>353</td>
<td>295</td>
<td>1,483</td>
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<td>Commissioning</td>
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<td>706</td>
<td>500</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1,961</td>
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<td>614</td>
<td>450</td>
<td>353</td>
<td>295</td>
<td>3,444</td>
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<tr>
<td>Contingency</td>
<td>183</td>
<td>223</td>
<td>164</td>
<td>85</td>
<td>30</td>
<td>24</td>
<td>709</td>
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<td>1,077</td>
<td>1,061</td>
<td>778</td>
<td>535</td>
<td>383</td>
<td>319</td>
<td>4,153</td>
</tr>
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</table>

72. This budget is to cover the period from April 2009 to the anticipated end in financial year 2014-15 of the construction of the schools in the BSF secondary programme. It should be noted that there will a need for some further resourcing
following 2014-15 to oversee the on-going LEPco operational services in schools, but this will be subject to further analysis and decision making closer to the time, including budget proposals as part of the normal budget-setting process.

73. The activity to be paid for from this budget encompasses the two distinct categories of work outlined in Section 1 of this report:
   • Commissioning and contract close of phase 2 and 3 schools. At present these are anticipated to end in 2011/12, after Phase 2 and 3 is brought to financial close, but there may be additional costs if the Council decides to commission further projects through the LEPco; and
   • Contract management of all contracts with the LEPco (including delivery of Council contractual obligations)

74. Table 4 sets out the estimated split between the two categories of work across the major heads of cost. The work of the project office will span both categories of work; with a heavier focus on commissioning in the years 2009-10 to 2012-13 as projects are taken to contract award, followed by a focus on contract management, once all projects have entered the contract period.

<table>
<thead>
<tr>
<th>Cost head</th>
<th>Commissioning %</th>
<th>Contract management %</th>
<th>Commissioning £k</th>
<th>Contract management £k</th>
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</thead>
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<tr>
<td>Project office</td>
<td>50%</td>
<td>50%</td>
<td>510</td>
<td>510</td>
</tr>
<tr>
<td>Internal Legal</td>
<td>85%</td>
<td>15%</td>
<td>309</td>
<td>54</td>
</tr>
<tr>
<td>Internal Technical</td>
<td>40%</td>
<td>60%</td>
<td>258</td>
<td>387</td>
</tr>
<tr>
<td>External Legal</td>
<td>90%</td>
<td>10%</td>
<td>595</td>
<td>66</td>
</tr>
<tr>
<td>External Technical</td>
<td>40%</td>
<td>60%</td>
<td>214</td>
<td>431</td>
</tr>
<tr>
<td>External Financial</td>
<td>100%</td>
<td>0%</td>
<td>110</td>
<td>-</td>
</tr>
<tr>
<td>Total</td>
<td>n/a</td>
<td>n/a</td>
<td>1,996</td>
<td>1,448</td>
</tr>
</tbody>
</table>

75. The cost estimates set out in this paper have been developed following detailed analysis undertaken by major projects department, in consultation with the Council’s children’s services, property, legal and finance departments. The costs have been benchmarked against costs of other authorities that have already established their LEP companies.

76. However, in preparing these estimates and researching existing practices, Council officers have identified a number of areas where more innovative thinking and new ways of working could lead to efficiencies being made which are important to both manage the risk of overspend and therefore limit the need to call on Council reserves.

77. It should be noted that the Strategic Director of Children’s Services, the Strategic Director of Major Projects and the Strategic Director of Legal & Democratic Services, following consideration of this report by Executive, will work collectively to explore these more innovative ways of working with the objective of securing efficiency savings in the client side budget over side. The ideas include:
   • Professional based clienting of external legal advisors – existing practice in the council is generally for client departments to manage external legal advisors and internal legal advisors. Experience from others is that it is more efficient for professional internal lawyers to client external lawyers, as they are better able to judge where external advice and/or capacity is required.
   • Common legal team – in most LEPco and similar partnering structures the client organisation and the joint-venture company have separate external
legal advisors. However, there are a few client organisations who are pioneering the appointment of common legal advisors as a way to improve efficiency.

- Systems based approach to efficiency – the delivery system for BSF requires processes to be aligned between national government, local government, schools, private sector and external advisors. By taking a systems based approach to developing protocols it is anticipated that efficiencies could be secured.

78. Officers are confident that the implementation of these and other new ways of working will lead to the delivery of 5% efficiency savings, against the budget established.

79. On 26 January, the Chief Executive, Strategic Director of Children’s Services, Strategic Director of Major Projects and the Deputy Director of Children’s Services met with the BSF head teachers group, discussions included the client side costs set out in this paper.

80. The BSF head teachers emphasised their commitment to the project and their belief that this project has the ability to deliver a step-change in outcomes in the borough. They explained to Officers how they believe that the project has forged a different way of working with the Council, based on partnership and trust.

81. As a result of this commitment and their desire to ensure that the partnership established continues, the BSF head teachers group offered to support the Council in preparing proposals for schools forum to secure the monies identified in the table above, and to provide an additional contribution from their own BSF reserves, subject to the continued support from the Council within a schools forum context to ensure that their reserves for BSF purposes remain intact (agreed at the meeting).

82. It should be noted that this represents a massive vote of confidence in the project from the BSF head teachers. In essence, it results in schools match-funding the client costs with the Council.

83. As a result, of the commitment of schools, existing budgets within Major Projects and Legal, together with the efficiency savings set out above, no additional Council budget bids are envisaged. See Table 5.

84. The £250k DSG contribution is included as a base item in the Schools Budget, and is identified specifically as a ‘Combined Budget’. Schools Forum on 29th January 2009 reconfirmed this allocation for 2009/10. However, it should be noted that there is a small risk that subsequent years of funding are not approved by Schools Forum. This is considered to be a small risk, given the support of the BSF head teachers group.
Table 5: Sources of funding

<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>£k</td>
<td>£k</td>
<td>£k</td>
<td>£k</td>
<td>£k</td>
<td>£k</td>
<td>£k</td>
</tr>
<tr>
<td>Total budget</td>
<td>894</td>
<td>838</td>
<td>614</td>
<td>450</td>
<td>353</td>
<td>295</td>
<td>3,444</td>
</tr>
<tr>
<td>SSF existing base budget</td>
<td>314</td>
<td>314</td>
<td>314</td>
<td>314</td>
<td>314</td>
<td>295</td>
<td>1,865</td>
</tr>
<tr>
<td>Legal Services budget for major projects work</td>
<td>140</td>
<td>140</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>280</td>
</tr>
<tr>
<td>Schools forum</td>
<td>250</td>
<td>250</td>
<td>250</td>
<td>136</td>
<td>39</td>
<td>-</td>
<td>925</td>
</tr>
<tr>
<td>BSF schools contribution</td>
<td>120</td>
<td>120</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>240</td>
</tr>
<tr>
<td>Efficiency savings</td>
<td>70</td>
<td>14</td>
<td>50</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>134</td>
</tr>
<tr>
<td>Total funding sources</td>
<td>894</td>
<td>838</td>
<td>614</td>
<td>450</td>
<td>353</td>
<td>295</td>
<td>3,444</td>
</tr>
</tbody>
</table>

85. The contingency is recommended in recognition of the material risks associated with the delivery of a complex multi-million pound programme, with multiple autonomous stakeholders, construction of buildings on tight urban brown field sites and negotiating multiple complex legal agreements. Annex 2 provides more detailed information on the risks that have led to a cost escalation in other similar projects, the mitigating controls being used in Southwark and the residual risk following the control measures.

86. It will be the responsibility of whichever Chief Officer is responsible for the Project Office, together with the Head of LEPco Project Office, to ensure that the project costs are managed and contained within budget. Any release of the corporate contingency will be subject to advance approval by the Finance Director and Executive Member for Resources. Quarterly budget review meetings will be arranged to review the budget position including the Finance Director, Executive Member for Resources and the Chief Officer with responsibility for the Project Office.

Managing our shareholding in LEPco (section 2 of this paper)

87. It is not anticipated that there will be an additional cost to the council to provide its member of the LEPco board, as this role will be carried out alongside other duties of the postholder, with secretariat support from the LEPco staff.

HR implications

88. The existing SSF project team in Major Projects will be restructured and posts assimilated as appropriate for the management and governance arrangements articulated in this paper, in accordance with the Council’s redeployment and redundancy procedure. At this stage it is only anticipated that one member of staff will not be assimilated to a new post within the proposed structures, the project director.

89. It should be noted that a further HR report will be prepared and approved by the Strategic Director of Major Projects, following consideration of this paper by the Executive.

Policy implications

90. There are no policy implications arising from this contract award. The report forms part of the wider Southwark schools for the future programme and as a result the policy implications have already been considered by executive in May 2007.
Community Impact Statement

91. The community impact statement and equalities impact assessment were completed for the entire Southwark schools for the future project and approved by the executive on May 2 2007.

Consultation

92. The proposals set out in this paper have been discussed with:
   • BSF head teachers group. The head teachers are supportive of the approach articulated in this document. They are keen to ensure that there is as much continuity as possible in the management and governance arrangements, as these have been successful to date.
   • Transform Schools. Transform Schools recognise the importance of the client-side structures in ensuring the effectiveness of the partnership. They have experience of where partnerships have suffered from both too much and too little resourcing. They are keen to ensure that a ‘man-marking’ regime is not adopted. To this end, they are supportive of the proposals set out in this document.
   • 4PS. A review of the proposals and finance implications were undertaken by 4Ps, they emphasised the importance of ensuring sufficient resources are in place at a senior leadership level during the initial stages of the contract and to recognise the specific requirements of the ICT contract.

Sustainability considerations

93. The sustainability considerations related to the BSF programme have been dealt with in report to the Executive on May 2 2007 and to the Major Projects Board on 28 October 2008.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director for Legal and Democratic Services

94. There are no specific legal implications arising from the recommendations in this report. The necessary authorities to allow the council to enter into the contracts to establish the LEP and to appoint Transform Schools as our selected partner have been agreed in separate reports, and this report seeks authority to approve certain matters relating to the operation of that LEP.

95. The Strategic Partnering Agreement referred to at paragraphs 21 and 22 requires both parties to nominate representatives and members of the Strategic Partnering Board and LEPco Board. Recommendations 1, 2 and 4 set out the proposed parties.

96. Recommendations 3 and 5 require the Executive to delegate authority for certain procurement decisions to be made by the Strategic Director of Major Projects (recommendation 5) and the Local Authority Representative (nominated by the Chief Executive) (recommendation 3). The nature and value of these later contracts would ordinarily require such procurement decisions to be made by the Executive, but this may be delegated by the Executive to a Chief Officer. Paragraph 50 of this report set out the parameters for such delegation.

97. The Executive are also asked to approve the budget for the governance and
contract management of the LEPco. Part of that budget relates to the legal costs required (both for internal and external legal work) in relation to phases 2 and 3 of the SSF programme. Officers from Legal and Democratic Services (LDS) have worked closely with the SSF team to determine the scope of legal work which will be required for these later phases, and believe that the sums estimated accurately reflect expected costs. Legal costs have been estimated using information currently available and on the basis of progress achieved for phase 1 schools; the costs therefore do not take account of any contract variations/other unexpected matters which might arise in the future. They are also on the basis that the legal protocols so far agreed with the selected bidder continue to operate effectively, thereby ensuring that legal processes are undertaken as efficiently as possible. The estimated costs do not take account of matters which are unknown at this time, for example legal property costs relating to the site for Rotherhithe which is currently unidentified. Annex 2 identifies those key risks which may result in additional legal costs and the need to call on contingencies. In the event that those risks materialise, officers from LDS would work with the client team to minimise additional costs.

Finance Director

98. This report presents a number of recommendations around the partnership, governance and management of the LEPco, Strategic Partnering Board, and a ‘client side’ for the governance and contract management of the LEPco. The recommendations relate specifically to the period following 1st April 2009, and following the financial close of the initial phase of the procurement.

99. The costs of the LEPco client side have been estimated after taking into account the principles set out in paragraph 20, with a well-resourced LEP and light touch contract management approach. In total, the anticipated costs of the LEPco client side are £3.4m for the financial years 2009/10 to 2014/15, which includes provision for the transition arrangements set out in Section 5. There is also an anticipated contingency requirement of £0.7m, should the LEPco fail to meet expected standards of performance and delivery.

100. It is noted that in addition to the operational clienting arrangements required for the LEPco that further costs will need to be incurred on the next procurement phases beyond those of the initial sample schools.

101. Table 3 shows how the overall costs of the LEPco Project Office are made up of two main activities:
   • To commission and approve phase 2 and phase 3 projects; and
   • To contract manage the performance of LEPco in all aspects of its work.

102. The contract management (clienting) costs vary over time, with a low clienting cost in years 2009/10–2011/12 and higher costs from 2012/13 onwards totalling £1.483m over the first six years. This increase reflects the gradual increase in the number of schools covered by the LEP. The current SSF existing base budget and Schools Forum contribution cover these on going costs, which will need to be contained within existing resourcing streams which amount to £554k per annum.

103. The council set aside a sum of up to £7m for delivery of the SSF programme up to financial close. The report identifies that further resources will be required to enable the remaining contracts to be finalised in Phases 2 and 3 (the commissioning costs), which are not covered by this initial funding. Table 3
shows these costs as totalling £1.961m and that these costs will principally be incurred in the period up to 2011/12.

104. The sources of funding are set out in Table 5. The Finance Director recognises that this is based on the existing SSF base budget, a contribution from Legal Services, a contribution from the Schools Forum and a contribution from the BSF schools. The project also anticipates making 5% efficiency savings over the first three years.

105. It is noted that the £250k per annum contribution from Schools Forum is included as a base item in the schools budget, but that there is a small risk that this may not be agreed for future years.

106. Using the contribution from existing resources within legal services for this project presents a risk that any other priorities for legal support within Major Projects which arise will face additional costs as external legal support will have to be used instead.

107. The total necessary budget for the LEPco client side in years 2009/10 to 2011/12 is expected to be reduced by efficiency savings, and methods of achieving these are set out in paragraph 77. The Finance Director endorses the requirement for these savings to be made so that the project can be achieved within available resources.

108. The Finance Director notes that these budget costs are dependent upon: the Local Authority Representative being resourced within the Council’s existing management resource; the client resource necessary for the finance functions being resourced within existing finance resources; and the client resource necessary for the ICT function being resourced within existing ICT Support to Schools. Any change to these arrangements presents a risk of increasing costs.

109. The report also notes the risk that costs may rise due to a number of factors, and proposes a project contingency of £700k. It will be the responsibility of whichever Chief Officer is responsible for the Project Office to ensure that the project costs are managed and contained within budget. Any release of the corporate contingency will be subject to advance approval by the Finance Director and Executive Member for Resources. Any additional funding will be sought from existing revenue budgets, approaching central government or other external sources, seeking a share from schools forum or individual schools. It will only be a call on council reserves if no other suitable funding sources can be identified. The LEPco Project Office must maintain regular and accurate monitoring of costs and funding sources, and keep the Finance Director informed on these issues.

110. The Finance Director notes that there will be a need for further resourcing following 2014/15 to oversee the on-going LEPco operational services in schools, but that this will be subject to further analysis and decision making closer to the time, including budget proposals as part of the normal budget-setting process.

111. The Finance Director notes the processes outlined for Gateway 1 and Gateway 2 approvals for the procurements in phases 2 and 3 of the BSF programme, as detailed in Section 3 of the report, and endorses the measures to ensure that the financial implications of these projects are within the affordability targets or are financed from sources external to the council so they do not represent a call on the council’s resources. The Finance Director understands that finance
comments will be sought for all such reports.

Head of Property

112. The Head of Property has considered the implications of this report and has advised on the resources required to discharge the technical audit and client side contractual obligations described. These resources are based on the scope of projects and the principles outlined in this report, a light touch contract management and technical assurance approach with the expectation that the LEPco will deliver quality outcomes and will have in place robust management and quality assurance systems. The client side technical and contract management input required following an increased scope or significant or ongoing poor performance would be a call against contingencies.

113. Following the approval of this report, internal appointments and external commissions will be progressed via the delegated approval processes outlined in this report to ensure that the resources are in place to support the programme from contractual close. The level of resource required will be variable through the lifecycle of the SSF programme and these new requirements will be considered alongside existing property resources and responsibilities during this appointment and commissioning process to ensure efficient delivery.

ANNEXES

Annexes
Annex 1: Graphical summary of governance & management arrangements
Annex 2: Risk analysis

AUDIT TRAIL

<table>
<thead>
<tr>
<th>Lead Officer</th>
<th>Report Author</th>
<th>Version</th>
<th>Dated</th>
<th>Key Decision?</th>
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<tr>
<td>Stephen McDonald – Strategic Director of Major Projects</td>
<td>Sara Waller – SSF Project Director</td>
<td>10 (final)</td>
<td>February 6 2009</td>
<td>Yes</td>
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CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER

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<tr>
<th>Officer Title</th>
<th>Comments Sought</th>
<th>Comments included</th>
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<tr>
<td>Strategic Director of Children’s Services</td>
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<td>Yes</td>
</tr>
<tr>
<td>Strategic Director for Legal and Democratic Services</td>
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<td>Yes</td>
</tr>
<tr>
<td>Finance Director</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Head of Property</td>
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<td>Yes</td>
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Date final report sent to Constitutional/Community council/Scrutiny Team: February 6 2009
Annex 1: Graphical summary of governance and management proposals

Southwark Executive / Major Projects Board
Private Sector Board
PIS Board
School Governing Bodies / Trustees

STRATEGIC PARTNERING BOARD
Southwark Authority Representative
Southwark Diocese
Diocese of Southwark
4Ps
BSF School Representative
Others?

Project Office
BSF Head Teacher Group

SSF primary & children’s centre function

LEP COMPANY
BOARD
Southwark Director
Private Sector Directors x 4
BSFi Director

TEAM
LEP (Operations) Director
Southwark Staff
Private Sector Staff

School Project Leads

LEP Supply Chain
## Annex 2: Risk analysis

<table>
<thead>
<tr>
<th>Risk</th>
<th>Description</th>
<th>Probability of this risk materialising and leading to call on contingency, based on lessons learned from similar projects</th>
<th>Mitigation controls in Southwark after Southwark’s mitigating action</th>
<th>Probability in Southwark after Southwark’s mitigating action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Partnership relationships breakdown with the schools and/or the private sector.</td>
<td>The costs have been estimated ensuring that the positive partnering based relationships established to date between the council, schools and the private sector continue to flourish. In the event that such relationships break down, this often leads to increased costs for a variety of reasons, including lack of willingness to agree mutually efficient processes, will to work collectively and in an extreme case, the costs associated with contractual dispute.</td>
<td>High</td>
<td>From the outset of the process, the project has been highly focused on establishing quality relationships with schools and the private sector. The quality of these relationships has been identified by Transform Schools, Southwark BSF Head teachers, PfS and 4Ps as exceptional. The recommendations in this paper are based on building on this success and the established relationships to ensure that this risk does not materialise.</td>
<td>Low</td>
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<td>Site complexities give rise to the need for additional work.</td>
<td>The school sites in the programme are all tight, urban, brown-field sites. As a result, there is a risk that currently unknown site complexities are identified which require additional specialist legal and financial advice to resolve, and extended negotiation periods, which could lead to a call on the contingency.</td>
<td>High</td>
<td>Extensive desk-top surveys have already been completed on all sites to identify major risks. These desk-top surveys will allow the LEPco to identify where additional intrusive surveys are required, such surveys to be undertaken early in the process.</td>
<td>Medium</td>
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<td>LEPco or Southwark Council try to unpick agreed standard commercial position.</td>
<td>Each legal agreement for phase 2 and phase 3 schools has to be negotiated and agreed with the LEPco. These agreements are to be based on the contract forms agreed at contract close for the sample schools, with</td>
<td>High</td>
<td>If this risk materialises it will not only increase Southwark’s legal costs but also the private sector’s costs. To this end, it has been agreed with Transform Schools that a legal protocol will be signed setting down</td>
<td>Low</td>
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<tr>
<td>Risk</td>
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<td>Mitigation controls in Southwark</td>
<td>Probability in Southwark after Southwark’s mitigating action</td>
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<td>project specific amendments. Where LEPcos or Local Authorities have subsequently tried to un-pick the non-project specific commercial agreements this has lead to increased legal costs.</td>
<td>the principle that neither party will un-pick the commercial agreements. Other authorities have found that it is external legal advisors on both sides who have instigated un-picking and therefore it has also been agreed with Transform Schools to align scope of works and fee structures for external legal teams.</td>
<td>High</td>
<td>Low</td>
</tr>
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<td>Schools do not agree to standard Governing Body Agreement and Procurement Agreements.</td>
<td>Two agreements are signed with school governing bodies: a procurement agreement when the Council issues a New Project Request to the LEPco and a Governing Body Agreement when the Council enters into contract with the LEPco. It is intended that the form of these agreements signed with the sample schools will be used as the basis for future schools, with school specific amendments. In the event that schools do not accept this position and separate protracted negotiations are required, then this could result in the need to call on the contingency.</td>
<td>All schools in the programme and the two Diocesan boards (who are party to the Governing Body Agreements for VA schools), have appointed the same external legal advisor, who is negotiating the standard elements of the Governing Body Agreements and the procurement agreement to ensure that it will be appropriate for all of her clients. Once the agreements have been agreed with the external lawyer, the standard agreements will be circulated to the BSF head teachers group in order to get their buy-in to the standard agreements at the start of the process. The BSF head teachers group has already been briefed regarding this risk, and are committed to working with the Council to manage it effectively. BSF schools and the Diocese have to pay for their own legal advice, the cost of which</td>
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<td>A major contract variation is required</td>
<td>The costs have been estimated assuming that no major contract variations will be requested, in the event that a major contract variations are required this would likely lead to additional legal, technical and finance costs.</td>
<td>High</td>
<td>Experience from other projects is that variations are often the cause of escalating client (and capital) costs. Often this arises where the project brief has not been sufficiently thought through and agreed with stakeholders. This then leads to people ‘changing their minds’. In many cases these variation requests come from the schools. Significant care is being taken to ensure that the quality of the initial brief, in the form of a education design specification, is clear and agreed by the senior leadership team and the governing body/trustees at the outset. Discussions with the BSF head teacher group have emphasised this risk, and the knock-on implications. The BSF head teachers as a group are incentivised to avoid such variations, because of the risk that this would pose to the delivery of phase 3 schools.</td>
<td>Low</td>
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<td>Existing ICT and Finance capacity is</td>
<td>The project budget has been estimated on the basis that existing</td>
<td>Medium</td>
<td>The necessity of these roles have been discussed with the Finance</td>
<td>Low</td>
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<td>internal finance and ICT resource will be sufficient. The internal finance resource is required to client external audits of PFI models, and for the financial administration of payments to the LEPCo and receipt of payments from schools. Internal ICT resource is required to audit the LEPCo's ICT obligations under the ICT contract (of £11 million value). In the event that such capacity insufficient, there could be a call on contingency to provide additional internal or external capacity.</td>
<td>Medium/High</td>
<td>Director and the Deputy Director of Children’s services who have confirmed that there is existing capacity to support these activities. Further detailed scopes of works to be set out by the project office.</td>
<td>Medium/Low</td>
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<td>Light-touch technical audits of technical contractual documentation identify major issues of technical quality.</td>
<td>Medium/High</td>
<td>Many aspects of the technical documentation in subsequent contracts will be standard based on the two sample schools. Particular care is being taken before the LEPCo is established to ensure that the quality of this documentation is high and applicable to future schools. Furthermore, care is being taken in the recruitment and selection of LEPCo and supply chain staff to ensure that the quality of information produced is high. However, given the sheer complexity of the programme, the sites and the speed of delivery, it is probable that an issue will arise at some point in the programme.</td>
<td>Medium/Low</td>
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<td>Light-touch technical audits of construction and/or operational service quality identifies issues of concern.</td>
<td>The technical costs have been based on an audit based model where the Council will undertake audits of construction and operational service quality. In the event that quality issues are identified, then further detailed specialist advice may be required and/or contractual action may need to be taken which could require a call on contingency.</td>
<td>Medium/ High</td>
<td>As set out above, care is being taken in the recruitment and selection of LEPco and supply chain staff to ensure that the quality of information produced is high. Furthermore, care is being taken to establish a culture within the LEPco and the supply chain of high quality, to mitigate the risk of poor quality. Ultimately, the LEPco is heavily incentivised through the payment mechanisms and contractual risk profiles to assure quality. However, given the sheer complexity of the programme, the sites and the speed of delivery, it is probable that an issue will arise at some point in the programme.</td>
<td>Medium/Low</td>
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