

<b>Item No.</b> N/a	<b>Classification:</b> Open	<b>Date:</b> 22 November 2017	<b>Meeting Name:</b> Strategic Director of Children and Adult Services
<b>Report title:</b>		Gateway 2 – Contract Award Approval  Rotherhithe Primary School Design Team / Professional Consultants Appointments	
<b>Ward(s) or groups affected:</b>		Rotherhithe	
<b>From:</b>		Project Manager, Chief Executive’s Department	

## RECOMMENDATIONS

1. That the Strategic Director of Children’s and Adults’ Services approves the award of a professional service contract to Faithful and Gould as a call off from the Pagabo framework for the full design and project management services to develop a new 3FE primary school building for Rotherhithe Primary School for approximately 126 weeks commencing 4 December 2017 for a fixed fee of £1,903,349.
2. That the Strategic Director of Children’s and Adults’ Services notes that the terms of the contract called off the framework will contain certain specific conditions, including a requirement for Faithful and Gould to acknowledge and observe the principles contained in the council’s Fairer Future Procurement Strategy, including (amongst other things) trade union recognition and appropriate allowance for trade union activities.

## BACKGROUND INFORMATION

3. 01 November 2016, Cabinet agreed to secure a budget of £20,200,000 for the redevelopment and expansion of Rotherhithe Primary School on the existing school site.
4. On 21 March 2017 a Gateway 1 presenting a proposed Procurement Strategy was approved by cabinet for both the professional team and the subsequent appointment of a main works contractor. The Gateway 1 included approval from Cabinet members to delegate the Gateway 2 decisions for this project to the Strategic Director of Children’s and Adult’s Services.
5. This Gateway 2 is for the professional services team. A separate Gateway 2 will be developed for the main works contractor, estimated to cost around £18million, which will be appointed through an EU Restricted process likely to commence in March 2019.
6. The current school building at Rotherhithe was constructed over 40 years ago. The existing building occupies a large footprint on the site, comprising a single storey prefabricated building.
7. The current building is past its original life expectancy. The fabric of the building is failing. The school experiences recurring problems with leaks, due to the

original light weight pre-fabricated construction method. Heating and cooling are extremely problematic and expensive for the school.

8. The school is currently a 2 form entrance (FE) primary school, with a nursery. There is a separate provision of a day nursery and children's centre on site.
9. The school is keen to expand and has currently taken on several full bulge classes to help alleviate the current lack of available school places in the area.
10. The proposed works will enable the school to expand from a 2FE to 3FE in a modern building. The delivery of the new scheme will be delivered in phases allowing the existing building to remain in operation throughout the construction phase.

### Procurement project plan (Key Decision)

Activity	Completed by/Complete by:
Forward Plan for Gateway 2 decision	17/10/2017
Briefed relevant cabinet member (over £100k)	01/11/2016
Approval of Gateway 1: Procurement Strategy Report	21/03/2017
Invitation to tender/issue brief	10/06/2017
Closing date for return of tenders/proposal	04/09/2017
Completion of evaluation of tenders/proposal	02/10/2017
DCRB Review Gateway 2:	01/11/2017
CCRB Review Gateway 2:	N/A
Notification of forthcoming decision – Five clear working days	09/11/2017
Approval of Gateway 2: Contract Award Report	17/11/2017
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	27/11/2017
Contract award	28/11/2017
Add to Contract Register	29/11/2017
TUPE Consultation period (if applicable)	n/a
Contract start	04/12/2017
Publication of award notice in Official Journal of European (OJEU)	29/11/2017
Publication of award notice on Contracts Finder	29/11/2017
Contract completion date	June 2020
Contract completion date – if extension(s) exercised	N/A

## **KEY ISSUES FOR CONSIDERATION**

### **Description of Procurement Outcomes**

11. This report is for the appointment of the full design and project management services of new 3FE school on site at Rotherhithe Primary School. The professional team through Faithful and Gould appointment includes:
  - Project manager / contract administrator / employer's agent
  - Quantity surveyors
  - Principal designer
  - Architect (Whose professional fees also include the fire consultant, landscape architect and the acoustician)
  - Structural engineer
  - Mechanical engineer
  - Electrical engineer
  - BREEAM advisor

### **Key/Non Key decisions**

12. This report deals with a key decision.

### **Policy implications**

13. This award supports the aspirations and commitment of London Borough of Southwark to expand an Ofsted "Good" Primary School from a 2FE to a 3FE. The scheme will include the demolition of an existing 1970's building and provide a new and inspirational learning environment for staff, parents and pupils of Rotherhithe.
14. The London Borough of Southwark is committed to provide a fairer future for all. This scheme directly satisfies two of the council's fairer future promises:

Promise 4; More and better Schools.

Promise 8; Education, employment and training, which includes an apprentice scheme which the suppliers of service for this scheme are required to meet.

### **Tender process**

15. The professional service appointments were selected in accordance with the proposed methodology approved in the Rotherhithe Primary School Gateway 1 report.
16. Faithful and Gould were appointed through an EU compliant tender as the single supplier on Lot 1 "Multi-discipline consultant" through the Pagabo framework for professional services. Faithful and Gould were appointed to the OJEU compliant framework through a restricted tender on professional fees and proven experience.
17. Southwark council issued its requirements to Faithful and Gould, 10 June 2017. Southwark Council received Faithful and Gould's proposed cost on 9 October 2017.

18. Under the Pagabo framework, Faithful and Gould will provide the following Professional services:
  - Project manager / contract administrator / employer's agent
  - Quantity surveyors
  - Principal designer
  - Architect (Whose professional fees also include the fire consultant, landscape architect and the acoustician)
  - Structural engineer
  - Mechanical engineer
  - Electrical engineer
  - BREEAM advisor
19. In order to appoint the Structural, Mechanical and Electrical engineers Faithful and Gould conducted a mini single stage competition from their own list of sub-consultants.
20. In line with the procurement strategy set out and approved in the proprietary Gateway 1 report, Faithful and Gould ran a two-stage mini competition to appoint the architects.

### **Tender evaluation**

21. Faithful and Gould are the sole supplier for professional services appointed to the OJEU compliant Pagabo framework which was competitively tendered in 2016.
22. The London Borough of Southwark legal and procurement teams have signed an agreement to access the Pagabo framework accepting specific terms and conditions. Southwark Council can "call-off" services from the framework, with fixed fees and a defined scope of work for each call off.
23. Faithful and Gould's fees are fixed from their rates that were originally submitted in 2016 under the EU compliant tender to provide design team services under the framework and as such the council believes that this represents value for money.
24. Faithful and Gould have proposed to appoint Feilden Clegg Bradley Studios as the project architects and lead designers after a restricted tender process where they achieved consistently high scores.
25. Feilden Clegg Bradley Studios are an extremely well established experienced architectural firm with a large number of similarly complex award winning education buildings in their portfolio. Their appointment as the architects/lead designers for this project will also help ensure an outstanding new educational building for Rotherhithe Primary School in an area of substantial regeneration in Southwark.
26. Watermans engineers have been appointed by Faithful and Gould for mechanical, electrical and structural engineering services. Their competitive appointment was based on similar complex educational experience and fees.
27. All other disciplines are Faithful and Gould in house professional teams.

### Plans for monitoring and management of the contract

28. The scheme will be monitored by officers in the Regeneration and Capital Projects team acting as technical clients for the duration of the project whilst Faithful and Gould provide a single point of delivery of design services for the project.
29. Technical project officers from the London Borough of Southwark will hold regular meetings with Faithful and Gould and the design team to monitor the design development, programme and budget at regular intervals.
30. Faithful and Gould's appointment as the Quantity Surveyors will enable both Faithful and Gould project managers and Southwark Council's technical clients to scrutinise project valuations to ensure value for the council.
31. Southwark Council are proposing a traditional Joint Contracts Tribunal (JCT) building contract, so the design team will remain dominant during the construction stage of this scheme.
32. The combination of Pagabo for the appointment of the design team, an OJEU advertisement for the main contractor and a traditional JCT contract for the main works provide the correct procurement route to deliver a truly inspirational scheme with solid details and integrated services for Rotherhithe primary School.

### Identified risks for the new contract

33. The following risks have been identified for this project:

No.	Risk	Risk Level	Mitigating Action
1	There is a risk that any rise in the contract sum, will lead to a rise in the professional fees during the scheme.	Low	The project delivery team have mitigated this risk by fixing the fees at this stage of the professional team appointment.  The professional fees are not linked to the construction costs, which is advantageous for professional fee cost certainty.
2	One of the difficulties with a traditional JCT contract is a risk that the tender needs to be fully developed, integrated and complete to ensure a positive financial outcome to contract sum for the main works	Medium	When appointing the individual professional team disciplines for this scheme under the Pagabo framework, previous experience of developing similar projects and developing a fully integrated scheme at tender stage was an essential section of the scoring matrix.  Appointing a design team with previously gained experience of complex tender stages of design

			help mitigate the risk of a poorly integrated and developed scheme at construction stage, which can be costly with a traditional ontract.
3	The scheme is not designed to meet the needs of the users and sakeholders` of Rotherhithe School.	Low	<p>The scheme brief in the first instance will be developed on guidance from the Building Bulletin suite of documents.</p> <p>To support the specific needs of the school a full educational brief was commissioned by Southwark Council and prepared by The Education Crowd to capture the aspirations of the head teacher of Rotherhithe school.</p> <p>Regular design team meetings will be organised, where all stakeholders, will be invited to attend, to ensure the design is developed in line with the council's aspirations and equally supports the staff and pupils' specific needs in a modern inspirational school building.</p>

### **Community impact statement**

34. The scheme to deliver a new inspirational learning environment for the pupils, staff and parents at Rotherhithe Primary School is helping Southwark Council's pupils in one of the borough's more deprived catchment areas, albeit an area undergoing exciting regeneration.
35. The design team will be required to develop a programme of engagement with the school staff and the pupils throughout the design phase of the scheme. This engagement can inspire the pupils of Rotherhithe to develop in the first instance ownership of the new school building; it can also inspire an interest in the construction industry and the built environment.

### **Social Value considerations**

36. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well being of the local area can be secured. The social value considerations included in the tender (as outlined in the Gateway 1 report) are set out in the following paragraphs in relation to the tender responses, evaluation and commitments to be delivered under the proposed contract.

## **Economic considerations**

37. One of the main requirements of the main works contractor appointment at tender stage will be a requirement to deliver direct benefits to the local community and local residents. It is proposed that these benefits will be delivered through some or all of the following possible means;
38. Supply chain and procurement with local businesses throughout the design and development of the scheme.
39. Use of local labour and training initiatives, including construction employment, skills and training scheme linked to the council's Building London Creating Futures programme, which aims to match local residents with construction vacancies especially where these are linked to key development sites and regeneration activities;
40. A commitment to construction apprenticeships in proportion to the size and scale of the development, which is at least 1 apprentice for every £1,000,000 of construction value.
41. Faithful and Gould will be required to report to Southwark Council at the design team meetings how the scheme is meeting the required economic considerations throughout the project. As part of Faithful and Gould's appointment they will be required to ensure all tender documentation to appoint the main works contractor through the OJEU restricted tender meets Southwark Council's social requirements.

## **Social considerations**

42. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, contractors and subcontractors engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. Faithful and Gould will be required to commit to LLW requirements and this will be included as a contractual condition, which will result in quality improvements for the council. These will include a higher calibre of multi-skilled operatives that will contribute to the delivery of this scheme and will provide best value for the council.
43. Pursuant to section 149 of the Equality Act 2010 the council has a duty to have due regard in its decision making processes to the need to:
  - (a) Eliminate discrimination, harassment, victimisation or other prohibited conduct.
  - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not.
  - (c) Foster good relations between those who share a relevant characteristic and those that do not share it.
44. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. The Public Sector Equalities Duty also applies to marriage and civil partnership, but only in relation to (a) above. The award of the proposed contract is intended to provide positive outcomes and benefits for vulnerable young persons who have particular educational difficulties and needs.

45. Faithful and Gould have confirmed that they are not involved in the practice of blacklisting.
46. The contract conditions on approval of this gateway also include an express condition requiring compliance with the blacklist regulations, and include a provision to allow the contract to be terminated for breach of these requirements. Faithful and Gould have confirmed that they agree to Southwark Council's policy to ensure their compliance with blacklisting regulations.

#### **Environmental/Sustainability considerations**

47. The brief and the design development of the scheme will be developed to incorporate materials and design elements that will reduce the carbon footprint of the new build.
48. The selected palette of materials will be specified with sustainability in mind.
49. The design of the heating and cooling strategy will be developed with key environmental considerations as a driver.
50. The contractor will be required to sign up to the considerate contractor scheme.

#### **Market considerations**

51. The appointment of Faithful and Gould, an approved Southwark supplier, through the Pagabo Framework will assist Southwark Council project officers to prepare an EU compliant advertisement in the OJEU to attract a suitably competent, financially competitive contractor for the main works construction phase.
52. Faithful and Gould is a world leading construction consultancy. With a turnover of £230 million, Faithful and Gould is staffed by 2,300 experienced professionals operating from an international network of offices in Asia Pacific, Europe, the Middle East and the USA.

#### **Staffing implications**

53. There will be no direct negative impact on staffing as a result of the award of this contract.
54. The appointment of Faithful and Gould is designed to ease the identified labour concentration to preparing a fully compliant OJEU advertisement for the main works contractor.

#### **Financial implications**

55. A budget of £20.2m for this project was agreed by Cabinet in the Capital monitoring report dated 1 November 2016 and forms part of the Children's Services capital programme. To date £22,143 has been incurred on the feasibility and design cost of this scheme. The remaining funds are available to fund these works.
56. The revenue costs of the new building will be the responsibility of the school. Although the new building will accommodate more children, the energy costs



should reduce as the new building will be much more efficient than the current accommodation.

57. Staffing and associated costs connected with this contract will be contained within existing revenue budgets and the capital budget where expenditure meets the relevant criteria.
58. The scheme is expected to attract future government basic need grants which will reflect population growth in Canada Water where 5000 new homes are planned.

### **Legal implications**

59. Please see the concurrent report from the Director of Law and Democracy below.

### **Consultation**

60. The school staff and pupils and residents of Rotherhithe School will be consulted throughout the design and delivery of Rotherhithe Primary School. Once the appointment is solidified F+G will be required to issue a full programme of consultation for approval prior to commencement of the scheme.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Finance and Governance - CAS17/029**

61. This report is seeking approval from the strategic director of children's and adults services to award the professional service contract for the development of a new three form entry school building for Rotherhithe Primary school.
62. The cost of this contract is £1,903,349.
63. As this is a significant part of the council's overall capital programme, accurate forecasting, cost containment and monitoring of this expenditure is paramount.
64. The funding source for this project is currently identified as corporate resources within the capital programme. The department will therefore prioritise grant, CIL (Community Infrastructure Levy), S106, external contributions and capital receipts for this scheme. The Council will also work to secure basic need grant from DFE by demonstrating that there is sufficient need within the borough to secure this funding.

### **Head of Procurement**

65. This report seeks approval of the award of a professional services contract to Faithful and Gould as a call off from the Pagabo framework for the full design and project management services to develop a new 3FE primary school building for Rotherhithe Primary School for approximately 126 weeks for a fixed fee of £1,903,349.
66. The report confirms that this procurement was conducted through the competitively tendered Pagabo framework in compliance with the requirements of the EU Procurement Regulations and in accordance with the strategy proposed in the relevant Gateway 1 and the council's CSOs.

67. This report states that this procurement achieves value for money as the rates submitted by Faithful and Gould are calculated from their original rates submitted in 2016 under the EU compliant tender; in addition to this Faithful and Gould have also undertaken two competitive tenders in order to appoint the Structural, Mechanical and Electrical engineers and Architects.
68. The report confirms the monitoring and management arrangements that will be in place during the life of the contract including how Faithful and Gould will include the council's requirement for apprentices in their works tender for Rotherhithe Primary School.

#### **Director of Law and Democracy**

69. This report seeks approval of the appointment of Faithful and Gould to provide full design and project management services in connection with the development of a new 3FE primary school building for Rotherhithe Primary School -
70. The estimated value of the services required is such that their procurement is subject to the application of the (EU) Public Contracts Regulations 2015 which, amongst other things would require expressions of interest to be sought through the publication of a contract notice in the Official Journal (OJEU). However, in line with the recommendation contained in the Gateway 1 report the council has been able to access an existing framework (Pagabo) which had been procured in line with the EU Regulations in order to appoint Faithful and Gould without the need for a separate EU compliant tendering exercise. The terms and conditions of the service contract which regulates orders "called off" the Pagabo framework have been reviewed and some appropriate amendments will be incorporated in order to accommodate some Southwark specific requirements.
71. The proposed contract award is consistent with other relevant legislative duties and powers and with corporate strategy. The decision to approve the award of the proposed contract is one which has been expressly delegated by Cabinet to the Strategic Director of Children's and Adults Services.
72. The proposed contract award is also subject to the council's Contract Standing Orders which, amongst other things require that no contract may be awarded unless the expenditure has been included in approved revenue or capital estimates, or has been otherwise approved by, or on behalf of the council. Paragraphs 60 – 63 confirm the relevant financial and budgetary implications arising from the proposed contract award.

#### **PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS**

Under the powers delegated to me in accordance with the council's Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report.

Signature



Date: 1.12.2017

DAVID QUIRKE-THORNTON

Designation STRATEGIC DIRECTOR, CHILDREN AND ADULTS

**PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:**

- 1) All key decisions taken by officers
- 2) Any non-key decisions which are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available.


<b>1. DECISION(S)</b>
As set out in the recommendations of the report.

<b>2. REASONS FOR DECISION</b>
As set out in the report.

<b>3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION</b>
Not applicable.

<b>4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION</b>
N/A

<b>5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST</b>
<i>If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.</i>
N/A

<b>6. DECLARATION ON CONFLICTS OF INTERESTS</b>
<b>I declare that I was informed of no conflicts of interests.*</b>
<b>or</b>
<b><del>I declare that I was informed of the conflicts of interests set out in Part B4.*</del></b>
(* - Please delete as appropriate)
David Quirke-Thornton: 
Date: 1.12.2017

## BACKGROUND DOCUMENTS

Background documents	Held At	Contact
Cabinet minutes 1 November 2016	Constitutional Team	Paula Thornton, Constitutional Team 020 7525 4395
Gateway 1 - Procurement Strategy Approval Proposed expansion of Rotherhithe Primary School	Chief Executive's Department	Joanna Roberts 020 7525 1478

## AUDIT TRAIL

<b>Lead Officer</b>	Bruce Glockling - Head of Regeneration – Capital Works & Development	
<b>Report Author</b>	Joanna Roberts - Project Manager	
<b>Version</b>	Final	
<b>Dated</b>	15 November 2017	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
<b>Contract Review Boards</b>		
Departmental Contract Review Board	No	N/A
Corporate Contract Review Board	Yes	Yes
<b>Cabinet</b>	No	No
<b>Date final report sent to Constitutional Team</b>		21 November 2017