

Item No.	Classification: Open	Date: 25 April 2016	Decision Taker: Cabinet Member for Children and Schools
Report title:		Gateway 1- The Charter School East Dulwich (TCSED) procurement strategy	
Ward(s) or groups affected:		South Camberwell, Village, East Dulwich	
From:		Chief Executive	

RECOMMENDATIONS

That the Cabinet Member for Children and Schools

1. Approves the phased procurement strategy outlined in this report for main works for The Charter School East Dulwich (TCSED) design and build contract at an estimated value of circa £35m (based on the current cost plan) for the period of January 2017 to September 2021.
2. Notes the separate procurement to be undertaken for the enabling works for the TCSED contract at an estimated value of circa £0.5m (based on the current cost plan) for the period of September 2016 to January 2017.

BACKGROUND INFORMATION

3. On 8 December 2015, cabinet approved the council entering into an agreement with the Education Funding Agency (EFA) for the council to oversee and manage the procurement and construction delivery of the new TCSED which is to be developed on the site of the existing Dulwich Community Hospital (East Dulwich Grove, London SE22 8PT). Cabinet also agreed to approve £5m from within the council's existing capital programme to address the projected shortfall in funding and improve design quality of the building.
4. The EFA purchased 5.21 hectares of the Dulwich Community Hospital site from the NHS, which will be leased to TCSED on a peppercorn rent for 125 years. The sale agreement with NHS will see the site area released to the EFA in three parcels for the development:
 - **Parcels 1 and 2** (the north east and south west parcels) were released on contract completion in October 2015.
 - **Parcel 3** is expected to be released in April 2019, with a longstop date of April 2020, when the NHS clinical services are relocated to a new building on the south east corner of the site (the parcel of land being retained by NHS property services).
5. **Note that Parcel 4** is an area of the site to be retained by the NHS for the new build NHS clinical services.

Diagram 1:



6. The EFA have agreed to establish TCSED on the former Lewisham Southwark College Camberwell Annexe site in Southampton Way, temporarily for the academic years 2016/17 and 2017/18. This will improve the viability of the overall project by avoiding the cost of providing temporary accommodation. It will also provide a better educational environment for the new school, which would not be located alongside a construction site.
7. Prior to the main contractor starting on site, an enabling works package is needed to remove the existing rubble mound on parcel 1, demolish the derelict nurse cottages on parcel 2 and prepare for the construction of a shared haulage road to facilitate construction works subject to a separate Gateway report. The enabling works are estimated to cost in the region of £0.5 million and need to be procured in advance of the main construction works to complete the analysis of the ground conditions and prepare the site prior to main constructor starting on site.

Summary of the business case/justification for the procurement

8. As part of the due diligence for the project, the council has undertaken an initial high level design study. The design study has indicated that the most likely uses of the TCSED based on the parcels set out in Diagram 1 are as follows:
 - **Parcels 1** would accommodate a teaching block which could be constructed as part of Phase 1.
 - **Parcel 2** would be most suitable to accommodate the sports hall.
 - **Parcel 3** could accommodate a new a teaching block, Multi Use Games Area (MUGA) and the retained chateau with a school hub to the rear, constructed as part of phase 2 post April 2019.
9. Diagram 2 shows the indicative master plan for the development of these three parcels.

TCSED will be an 8FE secondary school with a total of 1,200 children and a 480-place sixth form (1680 children in total). The school will have a gradual intake whilst they are not in their permanent accommodation.

Diagram 2:



10. The Phase 1 construction programme anticipates completion of the sports hall and the first large teaching block by August 2018. If works were delayed for any reason the school may need to remain in the former Lewisham Southwark College Camberwell Annexe site in Southampton Way for a further year.

Market considerations

11. The construction delivery of the project is relatively conventional, with the principle areas of complexity being the following:
 - Phased handover of the parcels of land;
 - Constrained nature of each of the land parcels;
 - Interface with the NHS property and construction delivery team;
 - Coordinating the two construction sites while keeping the existing NHS hospital and the temporary school operational, without impacting adversely on patient and pupil outcomes;
 - Interface with Network Rail along the northern boundary is limited and is a factor in how the construction is approached
 - Meeting TCSED expectations while remaining within the EFA's funding envelope;
 - Addressing the traffic impact from both the construction activity and impacts of the future school and new NHS clinic; and

- The need to maintain the support of the diverse range of community groups who have expressed an interest in the project.
12. Market interest - attracting suitable contractors to procure the project and obtain value for money is a key market consideration. Preliminary soft market testing suggests that there are a number of potential contractors, with relevant education experience, whose services can be procured via a number of existing frameworks. The bidders' day on 17th November 2015, indicated strong interest in the project.
 13. Procurement - the complete programme of works will be included in the tender documents. However, the timescale for the phasing of the project (Phase 1 works 2016-2018; and Phase 2 works 2019-2021). The contractor will be asked to provide an indicative cost for the phase 2 works and it is the intention for the project to continue with a single supplier subject to review of price and performance.
 14. Inflation - the programme is based on starting the procurement in 2016; due to the phased handover of the land parcels the programme is extremely long for a school project and construction inflation is an important consideration. This has been taken into account in the Quantity Surveyor estimate.

KEY ISSUES FOR CONSIDERATION

Options for procurement route including procurement approach

15. Due to the programme timescales and the associated benefits of engaging the main contractor as early as possible in the design process, the project team have identified a two stage design and build process as the most effective means of procurement securing value for money. It is proposed to use a JCT 2011 Design Build contract, with council specific amendments.
16. A number of procurement routes have been considered including the use of an OJEU route and the use of existing construction frameworks. The existing frameworks and procurement routes which have been considered are:
 - **Scope** – is currently used by Southwark Council for consultancy services. However, there are only two works contractors on this framework and the lack of competition is a concern and could be difficult to demonstrate value for money in the current market.
 - **Southern Construction Framework**– this framework is a development of the previous IESE framework. The council has used this framework on its primary school expansion projects. It may not obtain secure value for money in the current market and is therefore not a recommended option for this project.
 - **EFA Contractors' Framework**- this framework is already heavily committed with projects procured through the EFA's Priority School Building Programme. Soft market testing indicates there is unlikely to be sufficient market interest as the rates used in the framework have now been superseded due to construction inflation.
 - **London Construction Programme (LCP)** - this is a new flexible framework with a well-defined value bands and lots of contractors allocated to London Councils. Councils are free to use different forms of contract with JCT 2011 Design and Build contract (with relevant council amends) being the preferred industry standard.

- **OJEU procurement through the restricted procedure** – this route would allow the council to procure from the greatest number of contractors and could provide the means to secure a competitive tender from contractors who have the skills and capabilities to construct a new school who are not on the established frameworks. However, the new regulations will require the scheme to be fully developed before commencing the process and the earliest this could be achieved is July 2016, after a planning application has been submitted. Due to the length of the process, it is unlikely that construction works could start on site until April 2017, which would impact on the need to have the first of the new buildings completed by July 2018 and would result in a delay in the school opening at the new site in September 2018 by an estimated period of 3 months

17. In summary, the London Construction Programme (LCP) Framework appears to offer the largest number of contractors with relevant experience of building new schools, working on constrained inner London sites who could be expected to submit competitive tenders for the council.
18. Preliminary discussions with the contractors on the LCP framework have been positive, and all of them are actively targeting Southwark. It is intended to undertake the design work necessary to obtain planning consent and procure extensive surveys, to mitigate design and construction risk prior to tender. This process will enable the contractors to develop robust construction strategies and market test their subcontractor packages in advance of entering into contract, thereby producing the best value for money for the council.
19. The council would only consider the OJEU route in the event that the LCP route did not produce sufficient market interest and value in line with council budgets.

Proposed process for the LCP procurement route

Access to framework	The council has already signed a Framework Access Agreement on 25 November 2015. The LCP provides a detailed process and documentation to support the relevant framework agreements
Notification of the project.	The LCP will issue project number and notify contractors via forward look pipeline.
Stage 1 (a)	The council to issue Expression of Interest to all contractors on the Framework. The contractors who have an expressed an interest will then be invited to tender in stage 1(a) based on: Quality – relevant experience, initial construction methodology, programme proposals and Price - preliminaries, overheads and profit, with an initial cost plan. This first Stage 1(a) will test whether the council can obtain a sufficient market interest in line with its budget and design proposals.
Stage 1 (b)	The council will then select two contractors who will be invited, working with the Design Team, to seek prices on the key construction packages and to propose a construction price. The construction price and the

	<p>contractors' approach to risk will be included in the evaluation.</p> <p>As result of the Stage 1 (a) and Stage 1(b) processes, a single contractor will be selected based on the overall evaluation of Quality and Price.</p>
Stage 2	<p>The selected contractor will enter into a pre construction services agreement and work with the council to develop the scheme in a conventional second stage of design and open book pricing, with a view to entering into a main contract at the end of the process.</p> <p>The contractor will either use the Design Team appointed by the council or will be able to appoint their own consultants.</p>

20. The above process will provide additional benefits for the council by retaining competition on the construction price, before a contractor is selected to enter in to a pre construction services agreement in the second stage but will also recognise the need to keep tender costs to a minimum in busy construction market. Management of the LCP W1 – MW14 Major Works 2014 Framework Agreement is carried out by Haringey Council who have agreed to this process.
21. The LCP framework is subdivided into a number of Lots and the Lot which is relevant to the project is LCP W1 – MW14 Major Works Contractors Framework, Lot 18 SEE3. The contractors which LBS could access from within this Lot are:
- a) Geoffrey Osborne Ltd
 - b) Higgins Construction PLC
 - c) Keepmoat Regeneration Ltd
 - d) Kier Construction Ltd
 - e) Lakehouse Contracts Ltd
 - f) Mace Limited
 - g) Wates Construction Ltd
 - h) Willmott Dixon Holding Ltd
22. All these contractors are of significant size and scale, and the majority of them have experience of working on education projects in London.
23. The contract will be JCT 2011 Design Build contract, with council specific amendments and a Parent Company Guarantee will be required from the main contractor.

Identified risks for the procurement

The key risks for the main works are as follows:

Risk No.	Identified Risk	Likelihood	Risk Control
1.	Fewer than 3 LCP members express an	Low	The Council carried out soft market in November 2015 and this revealed that

Risk No.	Identified Risk	Likelihood	Risk Control
	interest to tender		there is sufficient market interest and capacity. The council will also develop a procurement brief that is sufficiently detailed and clear, so that providers can make an informed choice as to whether they wish to pursue this opportunity.
2.	LCP Framework limits Council's control over procurement	Low	Council officers have discussed the requirements of the framework with officers overseeing the LCP framework and have confirmed that the Council will have sufficient control over the process of procurement as proposed in this report.
3.	EFA funding is withdrawn and the project is unable to proceed.	Low	Council will enter into a Development agreement with the EFA before entering into a construction contract, based on a realistic programme of works and suitable level of risk share between the parties prior to entering into a construction contract.
4.	EFA funding is insufficient.	High	The council will need to ensure project is sufficiently funded and that the risk profile is acceptable with appropriate contingency as part of the design and costing process.
5.	Unable to obtain planning approval for the scheme.	Medium	A competent design team has been engaged and the design solution will be taken to a number of design review panels, prior to the submission of the planning application. There will be careful consultation prior to the submission of a planning application.
6.	Works being delayed due the project being unable to obtain Network Rail approval for works close to the railway lines.	High	The initial demolition and enabling works will take place outside the network rail exclusion zone. The Project Team will work closely with Network Rail and the main contractor will be expected to have experience of working with Network Rail.
7.	Viability of scheme. Tenders come back higher that anticipated and beyond the project budget.	Medium	Project scheme to be benchmarked by cost manager at each stage of the design and these costs will be tested with potential LCP framework contractors during the ITT process.
8.	Does not achieve competitiveness and value for money.	Medium	Tender is managed in a way that ensures a degree of competitiveness with the cost manager benchmarking all the tender

Risk No.	Identified Risk	Likelihood	Risk Control
			responses. The tender will be assessed on a Price and Quality basis. The two stage procurement process will ensure that the Council is able to obtain construction price competition prior to entering into the second stage and a pre construction services agreement.
9.	Inadequate cost control.	Medium	Agree cost ceilings and contractor's preliminaries, profits and overheads at stage 1 of the procurement. Establish a monitoring approach that enables transparent cost management on stage by stage basis. Only enter into the construction contract if the project is within budget.
10.	Construction market inflation.	Medium	Cost manager and contractor to work together to mitigate and foresee construction market inflation risks. Council to ensure that they have an adequate project contingency in the design stage prior to commencing procurement.
11.	Delays by the NHS in releasing parcel 3.	High	The council is working with the NHS to develop a viable planning application for both the TCSED and NHS sites to be submitted concurrently.
12.	Extensive contamination/asbestos uncovered in the existing buildings/site leads to extensive programme delays and/or additional costs.	Medium	Detailed surveys to be undertaken by the preferred contractor after the enabling works to ensure that any adverse site conditions and contamination is identified prior to entering into contract. The Council will liaise with the EFA to ensure that risk profile is acceptable.
13.	Slippage due to inadequate project control	Medium	Council to ensure that the internal and external resources are in place to deliver the project in a timely manner.
14.	Phase contractor 1 fails to perform and impacts on delivery of phase 2 of the project.	Medium	The Council will undertake a performance and value for money assessment of the phase 1 contractor to ensure they are able to deliver the phase 2.

Key /Non Key decisions

24. Due to the value of the contract this is considered to be a key decision.

Policy implications

25. This procurement exercise supports Fairer Futures Promise 1 – Value for money. The competitive tender process will ensure that the Council is receiving value for money when delivering this project.
26. This procurement exercise supports Fairer Futures Promise 9 – Revitalised Neighbourhoods. The project will provide high standard educational facilities which will increase number of available pupil places with the local area and support future investment and regeneration in the local area.
27. The procurement supports Fairer Futures Promise 4 – More and Better Schools. This will meet the demand for secondary school places and support the drive to improve standards across Southwark schools.
28. The existing Charter school is a high performing school with excellent A level and GCSE results and the new school will improve the availability and choice for Southwark residents.
29. The proposed development of the new school and health centre constitutes a major regeneration of a community asset within East Dulwich. The site is currently designated as Site 73P in the saved Southwark Plan (2007) for health, residential and community purposes. The Dulwich SPD (2013) sets out further guidance on the aspirations for the site. The council will be updating the designation for the site as part of the site allocations consultation in spring 2016.

Procurement Project Plan (Key Decisions)

Activity	Complete by:
Enter Gateway 1 decision on the Forward Plan	25 Jan 16
CCRB Review Gateway 1	7 April 16
Notification of forthcoming decision - Cabinet	18 April 16
Approval of Gateway 1: Procurement strategy report	26 April 16
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	3 May 16
Closing date for receipt of expressions of interest	31 May 16
Finalisation of contractors for first phase shortlisting	6 June 16
Completion of short-listing of applicants (first phase)	23 June 16
Invitation to tender (Stage 1)	28 June 16
Closing date for return of tenders (Stage 2 phase)	23 Sept 16
Completion of any clarification meetings/presentations/evaluation interviews	13 Oct 16
Completion of evaluation of tenders	02 Nov 16
Forward Plan (if Strategic Procurement) Gateway 2	05 April 16

Activity	Complete by:
DCRB Review Gateway 2	7 Nov16
CCRB Review Gateway 2	16 Nov 16
Approval of Gateway 2: Contract Award Report	25 Nov 16
End of scrutiny Call-in period and notification of implementation of Gateway 2 decision	9 Dec 16
Contract award	9 Dec 16
Add to Contract Register	9 Dec 16
Place award notice on Contracts Finder	12 Dec 16
Contract start- phase 1	20 Jan 17
Initial contract completion date	27 Aug 18
Contract completion date – (if extension(s) exercised)	2021

TUPE/Pensions implications

30. There are no specific implications.

Development of the tender documentation

31. A full design team is being appointed by the council to undertake the following activities: development of the design brief with TCSED; commission surveys; undertake the concept design up to RIBA Stage 3; and prepare and submit a planning application for the site master plan.
32. The design team and Southwark project management team will ensure a comprehensive set of tender documents are prepared. The team will develop plans to RIBA stage 3 and work with contractors to develop the detailed design and supply chain to RIBA stage 4.
33. Contractors will be encouraged to appoint the council's design team as retaining the existing design team to RIBA stage 4 would offer benefits as the existing team understand the complexities of the association with the NHS development and the detailed design and construction implications for the entire site.

Advertising the contract

34. Not applicable

Evaluation

35. Evaluation will be undertaken in accordance with the LCP framework criteria with for price and quality and as set out in the table above paragraph 19 of this report. The final evaluation processes will be agreed with the LCP framework manager.
36. There will be one council evaluation panel, who will undertake separate price and quality assessments.

37. Tenderers will be required to provide information to support their quality submission that demonstrates their ability to fulfil the requirements that were outlined in the Employers Requirements. The quality assessment will be weighted in relation to the level of importance put upon each criterion and will be set by the evaluation panel.

Community impact statement

38. LBS also recognise the impact that this development will have on surrounding communities in East Dulwich. The proposed development of TCSED will provide a clear link with the community with the school proposing to opening up the facilities to community use sage with particular focus on the leisure facilities of the new sports hall and Multi Use Games Area.
39. The TCSED will provide the local area with inclusive secondary school for 1680 pupils aged 11 – 18 and deliver the highest quality education for young people in its immediate diverse locality. Run by The Charter School Educational Trust, the school will build on the success of The Charter School on Red Post Hill, Dulwich.
40. It is anticipated that electronic communications are maintained with those engaged in the process to provide updates on the progress of the project.
41. The Council commissioned an Equalities Assessment (EA) in November 2015 that identified the risks and social considerations associated with this project. The recommendations have been implemented in response to this report.
42. The Council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, development partners engaged by the Council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. It is expected that payment of the LLW by the successful development partner for this contract will result in quality improvements for the Council. These should include a high calibre of multi-skilled operatives that will contribute to the delivery of works on site and will provide best value for the Council. It is therefore considered appropriate for the payment of LLW to be required. The successful development partner will be expected to meet the LLW requirements and contract conditions requiring the payment of LLW will be included in the tender documents. As part of the tender process, bidders will also be required to confirm how productivity will be improved by payment of LLW. Following award, these quality improvements and any cost implications will be monitored as part of the contract review process.
43. The LCP framework manager has confirmed that no provider appointed to the Framework and its Supply Chain shall engage in any conduct that is contrary to the Employment Relations Act 1999 (Blacklists) Regulations 2010, section 137 of the Trade Union and Labour Relations (Consolidation) Act 1992 and the Data Protection Act 1998 at any time in relation to the vetting and recruitment of their employees, contractors or agents. As part of the council's tender exercise, the bidders will be required to complete an offences certificate.
44. The council can exclude companies who break the law by blacklisting from public contracts if they are either still blacklisting or have not put into place genuine actions concerning past blacklisting activities. The council can require "self cleaning" which enables a potential contractor to show that it has or will take measures to put right its earlier wrongdoing and to prevent them from re-occurring and to provide

evidence that the measures taken by the economic operator are sufficient to demonstrate it has:

- “Owned Up”: clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities
- “Cleaned Up”: taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct, and
- “Paid Up”: paid or undertaken to pay compensation in respect of any damage caused.

45. The council is required to use a government standard form of pre-qualification questionnaire which allows for limited amendments. However, this will be amended to include the council’s standard preliminary assessment questions relating to blacklisting. The contract conditions will 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.

Environmental and Sustainability considerations

46. The Public Services (Social Value) Act 2012 requires the council to consider a number of issues including how what is proposed to be procured may improve the economic, social and environmental well-being of the local area. These issues are considered in the following paragraphs which set out economic, social and environmental considerations.
47. The LBS’s approach to procurement of the design, development and construction processes will ensure a requirement to maintain and improve sustainability at each stage in the project.
48. At design stage, requirements were in place to meet sustainable specifications. The lead architect on the project is required to “advise on the creative application of sustainability standards and the practical application of renewable energy and alternative forms of energy production”.
49. The new school building will be designed to a minimum of BREEAM very good standard of environmental performance where applicable. This entails designing efficient and cost effective low energy building engineering services. The new buildings and works will use recycled and low carbon material where possible and energy efficient fittings and building management systems where appropriate.
50. During construction the appointed contractor will be required to adhere to guidelines outlined in the London Construction Guide which include and are not restricted to the following:
- a) Procuring and using materials sustainably
 - b) Selecting materials with low lifecycle impacts
 - c) Using local materials
 - d) Use of materials with high recycled content
 - e) Meet minimum standards set out in Building Regulations.
51. As part of the evaluation of submissions during the selection process design proposals will be assessed in order to identify the implications on build costs. In

addition TCSED School who will be occupying the building will also be required to consider maintenance and staffing implications of each proposal and this will be included within the scoring criteria.

Economic considerations

52. The proposals for a new school will deliver significant benefits for the local area including provision of a new secondary school to meet the for secondary school places for the local area. The development will also provide a number of benefits to businesses and the local economy.

Plans for the monitoring and management of the contract

53. The LCP provides tools for monitoring and managing contracts procured under their framework.
54. The Project Manager will be (PM) required to submit monthly monitoring reports to the Design Steering group. These reports will highlight any issues and risks and enable the project to be closely monitored and managed throughout the delivery period.
55. The PM oversees a delivery team consisting of a lead consultant design team, technical advisor, planning consultant and Quantity surveyor to ensure effectively delivery of the project and works in collaboration with the NHS. The PM reports into the Project Steering Group which consists of the Education Funding Agency, Chair of Governors of TCSED, and Head of Regeneration.

Staffing/procurement implications

56. The Project Manager responsible for the delivery of the overall programme, under the management of the Head of Regeneration Capital works and Development who will be responsible for ensuring that the programme is adequately resourced and coordinated to deliver its objectives and procured efficiently and effectively in accordance with best practice for major projects procurement.

Financial implications

57. The Council has committed £5,000,000 of capital funds which is within the Council's Capital Programme.
58. The EFA have committed £36,542,000 of capital funds as part of the Department for Education Free Schools' programme. This figure has recently reduced from £39,200,000 due to the project locating a more cost effective temporary accommodation solution at the former Lewisham Southwark College Camberwell Annexe site in Southampton Way. The final budget allocation will be confirmed as part of the proposed Development Agreement.
59. Indicative spend profile for this project including this procurement (subject to the Development Agreement) is as follows:

	16/17	17/18	18/19	19/20	20/21	21/22	Total
Council capital	£850,000	£830,000	£830,000	£830,000	£830,000	£830,000	£5,000,000
EFA capital	£6,092,000	£6,090,000	£6,090,000	£6,090,000	£6,090,000	£6,090,000	£36,542,000
Total	£6,942,000	£6,920,000	£6,920,000	£6,920,000	£6,920,000	£6,920,000	£41,542,000

Consultation

60. The Charter School Educational Trust has been engaging with the local community to share proposals on the Dulwich Community Hospital site in order for the school to be operational from September 2016. Two consultation events were held on 6 October 2015 and 17 October 2015, to 'showcase' feasibility proposals for the site. Leaflets detailing the consultation events were distributed to all residents, businesses and other organisations within a 1 mile radius of the Dulwich Community Hospital site. The Trust made direct contact with 1,871 people and organisations which included 1,600 parents and others on its subscriber list, in excess of 110 community organisations, 43 local primary schools and parent, teacher, friends associations, and 70 NHS contacts and ward councillors.
61. Further pre planning consultations are scheduled took place in March 2016 and May 2016 to exhibit proposals to the local community and wider stakeholders. There will also be formal planning consultation taking place after submission of the planning application in July 2016.
62. The proposals have been subject to the decision making arrangements of the council's planning process, including consultation with relevant statutory consultees and stakeholders.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (FC16/001)

63. This report is seeking approval for the phased procurement strategy via the LCP framework for main works for The Charter School East Dulwich (TCSED) design and build contract at an estimated value of circa £35m (based on the current cost plan) for the period of January 2017 to September 2021.
64. The strategic director of finance and governance notes that the costs of this particular contract at an estimated £35m can be contained in the planned budget for this project of £41.542m which forms part of the current overall primary expansion programme budgets allocated within the council's approved capital programme. This contract represents 84% of the budget for this project, and taken with the proposed enabling works, means 86% of the available funding is committed.
65. The capital programme reported at February 2016 showed £175m for permanent expansions noting that overall the council's general fund 10-year capital programme was under funded by £82m. The external EFA contribution is reducing from an indicated £39,196,350 to £36,542,000 and so the capital programme and the budget for this school project will be reduced by £2,654,350. The council contribution of £5m has been earmarked from the 2017/18 basic need grant. As

necessary there will be a variation to the capital programme to reflect the reduced EFA grant.

66. The GW2 award report will detail the final agreed cost of this contract. The overall school expansion programme faces a risk that there will not be resources available to complete all planned projects within the programme budget. This is because as each individual school project is agreed at a sum which exceeds the initial budget for that project, remaining resources are reduced disproportionately. This risk becomes more likely to occur as each additional package of work or project is agreed in excess of the planned budget
67. Officers will reallocate budgets within the primary expansion programme to reflect the contract costs for monitoring and reporting as required and the financial position on the council's primary expansion programme will be reported to members on a regular basis. Officers should ensure that budgets for the contract are established and profiled on the council's financial information system for effective monitoring and reporting.
68. The on going running costs of the expansion programme will be met from existing schools budgets.
69. Staffing and any other costs connected with this contract are to be contained within existing departmental budgets.

Head of Procurement

70. This report seeks the cabinet member for children and school's approval for the procurement strategy for the main works for The Charter School East Dulwich (TCSED). The procurement strategy covers a design and build contract that is phased across the project with a maximum duration from January 2017 to September 2021. This decision-maker for this report is to be the cabinet member for children and schools following delegation of a cabinet decision to them made by the leader in line with the council's constitutional protocols.
71. The report seeks approval to undertake a mini-competition suppliers on the London Construction Programme (LCP) framework agreement as the route procure the contract for the works on the site. The report sets out in n paragraphs 15-22 the consideration of alternative sourcing options in order to identify a contract that is compliant with the Public Contract Regulations 2015. The procurement strategy is phased to reflect the nature and requirements of works on the site and reflect the phased nature, in order to manage risks and ensure continued value for money during project delivery associated with these phases.
72. Social Value consideration and opportunities for the winning contractor to offer apprenticeships and work placements should also be incorporated into the contract as part of the tender process.
73. Paragraphs 51-53 set out the plans for the monitoring and management of the contract that will include regular reporting to the Design Steering Group. 6-monthly reports to Departmental Contracts Review Board (DCRB) as well as an Annual Performance Report to Corporate Contracts Review Board (CCRB) will also be required in line with the Contract Standing Orders.

Director of Law and Democracy

74. This report seeks the cabinet member for children and school's approval to the phased procurement strategy for main building works for The Charter School East Dulwich. As the value of the contract is in excess of £15 million, the decision to approve the procurement strategy must be taken by cabinet. However, paragraph 3 highlights that this approach was not taken and that the leader of the council has given authorisation to delegate the cabinet decision to the cabinet member for Children and Schools.
75. Contract Standing Order 3.3.2 provides that any procurement involving the use of a third party's framework contract is subject to usual Gateway 1 procedures. This report seeks the approval to use the London Construction Programme (LCP) framework agreement. As the agreement has already been tendered in accordance the EU regulations, the council is not required to undertake a separate tendering exercise. The procurement strategy proposes the carrying out of a mini-tendering exercise between suppliers who are parties to the LCP framework agreement, as set out in this report, and which should enable a best solution to be agreed with a preferred provider.
76. The cabinet member for children and schools will be aware of the Public Sector Equality Duty (PSED) under the Equality Act 2010, and when making a decision to have regard to the need to eliminate discrimination, harassment, victimisation or other prohibited conduct, and to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristics and those who do not share it. The relevant characteristics are age, disability, gender reassignment, pregnancy and maternity, race, relations, religion or belief, sex and sexual orientation. The duty also applies to marriage and civil partnership but only in relation to the elimination of discrimination. The cabinet member for Children and Schools is referred to the community impact statement at paragraphs 38-43 of this report and specifically the Equality analysis contained in the background documents, which demonstrates how the council has had due regard to PSED in this procurement and the cabinet member should satisfy herself that this duty has been complied with when considering these recommendations. Paragraphs 59-61 of this report sets out the consultation that has taken place and the council must conscientiously take into account the outcome of consultation when making a decision on the recommendation of this report.

BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
Equality analysis TCSED development strategy and procurement strategy	School Place Planning Strategy Officer, Children's and Adults' Services	Ric Euteneuer 020 7525 5018
Link: http://moderngov.southwark.gov.uk/documents/s61430/Background%20document%20Equality%20analysis.pdf		

APPENDICES

No	Title
None	

AUDIT TRAIL

Lead Officer	Eleanor Kelly, Chief Executive	
Report Author	Omar Villalba, Project Manager	
Version	Final	
Dated	25 April 16	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
Cabinet Member	Yes	No
Date final report sent to Constitutional Team		25 April 2016