

Item No.	Classification: Open	Date: 24 March 2016	Decision Maker: Strategic Director of Children's and Adults Services
Report title:		Gateway 2: Contract Award Approval: Albion Primary School	
Ward(s) or groups affected:		Rotherhithe	
From:		Director of Regeneration	

Not for publication by virtue of category 3 of paragraph 10.4 of the Access to Information Procedure Rules of the Southwark Constitution

RECOMMENDATIONS

1. That the strategic director of children's and adults' services approves the award of the design and build contract and documents outlined in Table 2, for Albion Primary School to Morgan Sindall plc., for the contract term of 100 calendar weeks commencing on 9 May 2016 and completing on 9 April 2018 subject to:
 - The total financial implications for the council, including pre-construction services and enabling works, being no more than the value disclosed in the closed version of this report.
 - Confirmation from the council's Cost Consultant that the project represents value for money;
 - The submission from Morgan Sindall plc satisfying the council's requirements.

BACKGROUND INFORMATION

2. On 16 July 2013 Cabinet approved a primary school investment programme to address the shortfall in primary school places for a number of schools and sites which included Albion Primary School. It was envisaged that the works would be procured through the Improvement and Efficiency South East construction and management framework (IESE) and that the projects would be split into two packages.
3. On 22 July 2014 Cabinet approved the procurement strategy to appoint 2 contractors, one for Package A and one for Package B, using IESE. It was envisaged that the contractor for each Package would carry out preconstruction services, the works and, where necessary, enabling works and these services and works would be approved in a number of gateway 2 reports. It was approved by Cabinet that the decision maker for these Gateway 2 reports would be delegated to the Strategic Director of Children's and Adults Services (irrespective of their estimated value).

4. The new school for Albion Primary School falls within Package B. The new school is also a key element of the regeneration of the larger Canada Water regeneration area and is located on Albion Street.
5. On 17 November 2014 the Strategic Director of Children's and Adults Services approved the appointment of Morgan Sindall plc to carry out the pre-construction services for Package B, under the Improvement and Efficiency South East (iESE) regional framework arrangements for construction and management using the two-stage Design and Build method.
6. The construction of the new school will allow Albion Primary Schools site to be reorganised to maximise out door play and teaching areas as well as a new 2FE school building. This will allow part of the school site to be released for social housing as part of the Councils new housing programme and feeds into the wider regeneration plans for Canada Water and Rotherhithe.
7. Full Planning permission was received for the new Albion Primary School development in May 2015. In addition, and in order to progress with the programme for the works, a number of enabling works contracts have been entered into with Morgan Sindall plc, as approved by the Strategic Director (Children's and Adults' Services, and are summarised in table 1 below. The Enabling Works Contract for Demolition of the main school and some associated works is still progressing and these works have not yet been completed.

Table 1 – Enabling Works Contracts

Contract Name	Parties	Value of Contract	Initial Term
Enabling Works Temporary Classrooms	London Borough of Southwark and Morgan Sindall plc	£375,177	6 weeks
Enabling Works - Demolition of caretakers house and Associated Works	London Borough of Southwark and Morgan Sindall plc	£389,599	6 weeks
Enabling Works – Demolition of main school	London Borough of Southwark and Morgan Sindall plc	£488,172	7 weeks

8. In August and September 2015 respectively, the Strategic Director for Children's and Adults' services approved variations to Enabling Works to be issued to Morgan Sindall plc as included in Appendix 1 of the closed version of this report.
9. The Enabling Work for the temporary classrooms is complete and these are now in use by the school. The care takers house has been demolished and the contractor is in the process of demolishing the northern part of the existing school.
10. The existing school has been separated from the main construction site so that the new school buildings can be constructed safely. The school has established itself in a mix of temporary classrooms and the careful division of the existing building to

preserve the existing teaching spaces. These will be demolished once the new building has been completed and the school has moved in. Albion School are also using the nearby Southwark Park to supplement their out door play and sports facilities until the new building is finished.

11. The contracts to be entered into at contract award are outlined in table 2 and are based on JCT 2011 Design and Build Contract with the council's standard and special amendments. This documentation has been subject to detailed review by Southwark Legal Services, with advice from external legal advisors (Sharpe Pritchard).

Table 2: Contracts to be signed

Contract	Contract purpose	Parties	Contract term
Design and Build Contract – Albion Primary School	Detailed design work and build of the Albion Primary School	London Borough of Southwark and the Morgan Sindall plc	100 calendar weeks dependent on completion of build and defects period (approx. 3 years)
Associated documents and agreements	Other linked and associated documents and agreements relating to the headline contracts, e.g. collateral warranties	London Borough of Southwark and the Morgan Sindall plc London Borough of Southwark and London Overground	Various

Procurement project plan (Key Decision)

12. The timetable of the procurement process for Albion Primary School is set out in the table below.

Procurement project plan

Activity	Completed by/Complete by
Forward Plan for Gateway 2 decision	December 2015
Approval of Gateway 1 – Procurement Strategy Approval: Appointment of Contractors for Primary Expansion Programme	22 July 2014
Approval of Gateway 2 (Pre-Construction Services): Contract Award Approval	17 November 2014
Contract Award (Pre-Construction Services)	26 November 2014
Approval of Gateway 2: Award of Contract for Temporary Classrooms	24 June 2015
Approval of Gateway 2: Award of Contract for the Caretakers House demolitions and associated works	16 July 2015

Activity	Completed by/Complete by
Approval of Gateway 3: Award of Contract for the Demolition of the main school building	08 December 2015
Albion CCRB Review: Gateway 2: Contract Award Approval for the Design and Build of the Albion Primary School (this report)	07 January 2016
Notification of forthcoming decision – Five clear working days	15- 21 March 2016
Approval of Gateway 2: Contract Award Report	22 March 2016
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	31 March 2016
Finalisation of contract terms	18 March 2016
Contract award (subject to sign-off by the Strategic Director)	4 April 2016
Add to Contract Register	5 April 2016
Contract start	9 May 2016
Contract date for completion	9 April 2018

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

13. This procurement will lead to the expansion of Albion Primary School from one form to two forms entry. The works consist of a complete new build primary school to the north of the site facing directly onto Albion Street with a roof play deck, new multi use games area (MUGA) and associated external landscaping.
14. The existing school site will also be reorganised to deliver the new school building and facilities to the north of the existing site and this will release land for the Council to build new social housing on. The new school has been designed to complement the wider aspects of the regeneration proposals for Canada Water and Rotherhithe. The new development also forms part of the Albion Street regeneration.
15. Paragraphs 30 and 31 of this report outline the positive impact that the new school will have on the local community.

Key/Non Key decisions

16. This report is for a key decision.

Policy implications

17. The expansion of Albion Primary School will help to fulfil Southwark's ongoing commitment to its community, helping to encourage improved educational attainment for the borough's children, and assist with the council's statutory duty to provide additional school places. Albion Primary School's expansion forms part of the borough wide Primary Investment Strategy and assists in the regeneration objectives for the Canada Water Area.

Tender process

18. Morgan Sindall plc was appointed by way of a mini-competition, in line with the procedure prescribed by the iESE framework arrangements.

19. The procurement for Stage 1, pre-construction services followed the standard IESE two-stage approach, in which the contractor has the following core responsibilities:

Stage 1 (pre-construction)

- Fully developing the design proposals from RIBA Work Stage E onwards
- Packaging and competitively tendering the works on an open book basis
- Submitting contractor's proposals and pricing document, including the proposed contract sum, for decision by the council (this report).

Stage 2 (construction) – subject to a separate gateway 2 approval (this report)

- Carrying out and completing the works in compliance with the contract documents

20. The Gateway 2 report for the award of the contractors for Stage 1 (pre-construction services) was approved in November 2014. That report detailed the evaluation method followed to award the most economically advantageous tender. From the Stage 2 process, the gateway 2 reports as outlined in table 1 were awarded for Enabling Works 1, Enabling Works 2 and Enabling Works 3.

21. With this two stage approach to procurement, there is an expectation and likelihood that the contractor appointed for pre-construction services would be appointed for the works contract, subject to the formal decision of the contracting authority to proceed. Value for money is obtained through the application of competitively tendered framework rates for main contractor's core costs (i.e. management, design, certain preliminaries and overheads and profit) and by competitive tendering of the works packages by the main contractor.

22. This report deals with the Gateway report to appoint Morgan Sindall plc for the main contract works. The design and specification for the project was developed by the consultant team under the direction of the council's Project Management consultants, Mace Limited, which together with the overall scheme proposals were issued to Morgan Sindall plc in the form of Employer's Requirements.

23. Following the process of design development and packaging of the scheme proposals, the contractor has obtained competitively tendered prices for the various packages which, together with their construction phase core costs (previously tendered and reported in the Gateway 2 for pre-construction services) combine to make up the proposed contract sum for the main works.
24. Morgan Sindall plc provided a detailed scope and cost breakdown for the main works . This is being reviewed by the consultant project manager, client design advisor and quantity surveyor to ensure that the works are those that are required and that the price is representative of the works being carried out.

Tender evaluation

25. Discussions have been held between the contractor, council officers from Regeneration, Capital Works, and the design team to clarify a number of items in the proposed scope. These continue to be worked through to ensure that the council is satisfied before the main works can be awarded.
26. The submission from Morgan Sindall plc will continue to be considered by the Capital Projects team, the council's external legal advisor and external Cost consultant, against the council's requirements in order to ensure that it meets these and the approval criteria in terms of value for money.
27. The approval to enter into the contract with Morgan Sindall plc for the Design and Build of Albion Primary School (this report) is recommended subject to the council's requirements (as outlined above and in paragraph 29 of this report) being met. This approval is being sought now to ensure that the programme can remain on target, enabling construction to commence immediately following finalisation of the contract documentation and the requirements of the council being satisfied. This will enable the overall date for completion of 9 April 2018 to be achieved. There will be sectional completion in the contract for the new school building to be completed first and allow either partial use of the building for August 2017 or in temporary classrooms. This is to allow the school to expand into the new building pending full decant into the new building from the temporary school arrangements. The original school buildings will then be demolished and the school grounds landscaped and completed.

Plans for the transition from the old to the new contract

28. Not applicable

Plans for monitoring and management of the contract

29. The project clienting, including the management and administration of the consultant and contractor appointments, will be run and resourced through the Regeneration - Capital Works team. Progress with the contract works and performance of the

consultant team will be subject to constant scrutiny and monthly formal review, including reviews on cost, programme and quality. The experienced officer client team will use a number of mechanisms for monitoring and controlling the financial and programme performance of the contract, including:

- Strategic cost plan, which will be regularly reviewed and updated
- Monthly financial statements by the consultant quantity surveyor/contractor
- Monthly appraisals of progress against the contract programme
- Monthly progress reports by:
 - The project manager/Employer's Agent
 - Main contractor
 - Other design consultants
- Monthly progress meetings on site
- Tracking and chasing actions on critical issues
- Weekly 'look ahead' meetings with principals / directors
- Periodic project team 'look ahead' workshops covering key phases of work and risks
- Risk and issues logs

Identified risks for the new contract

	RISK	RISK LEVEL	MITIGATION ACTION
1.	Contractor has inadequate resources and management arrangements to deliver the main works project	Low	Ensure prior to appointment – (1) that the contractor plans to deploy adequate resources and is willing to supplement additional resources to the project, if required. (2) that the contractor proposes to put adequate management arrangements in place to deliver the project.
2.	Insolvency of framework contractor	Low	An up-to-date financial check was obtained and this found the contractor to be at 'very low risk'. Morgan Sindall plc to provide a parent company guarantee as a condition of contract. Closely monitor performance of firms once appointed.
4.	Construction delays on site due to: <ul style="list-style-type: none"> • Hidden obstructions below ground 	Low	Desktop studies and non-intrusive surveys have been undertaken to anticipate and plan for potential hazards on site. Investigation and remediation works undertaken in

	<ul style="list-style-type: none"> Contamination below ground 		enabling work contracts have de-risked the site in readiness for the main contract works as any obstructions would have been discovered and removed under the early work contracts
5.	Delay in signing the Asset Protection Agreement (APA) with London Overground (LO).	Low	The APA has been agreed with LO and we are waiting for this to be signed by them. Morgan Sindall have also agreed the terms of the APA and this will be backed off to them.
6.	Construction delays on site and additional costs	Medium	Pre-order components with long delivery period. Ensure that site operations are thoroughly and realistically planned by the contractor, prior to commencement of the works. Allow appropriate contingency provision in the programme to cover possible loss and expense claims arising from delay and disruption of the works. Include Liquidated Damages for non-completion of contract by the contractor.
7.	Delay to approval of planning conditions	Medium	Ensure effective forward planning and regular communication with the planning officer and relevant parties to the decision making process. Information to be submitted for planning approval in a timely manner to allow for approval periods.
8.	Construction issues with building over the London Overground Tunnel and potential damage to the tunnel.	Medium	Monitoring has been installed to monitor the tunnel before construction starts. This is to confirm that the tunnel is stable and achieve a benchmark to monitor against. The monitoring will continue for a period after construction to ensure that there are no deleterious effects on the tunnel. The design of the foundations has taken into account the tunnel and extensive modelling of the effect on the tunnel has

			<p>been carried out by specialist structural engineers.</p> <p>The Asset Protection Agreement (APA) with London Overground sets out the level of insurance and lines of responsibility and these have been backed off to Morgan Sindall if they cause any damage to London Overground assets.</p>
9.	Unexploded Ordnance (UXO) discovered during groundworks phase	Low	<p>There is a small risk to the northern part of the site containing unexploded ordnance from the bombing during WW2. The UXO report highlights a potential risk to this on the site and the contractor will be monitoring the site during the groundwork phase and undertaking further ground tests to ensure that any bombs are located and dealt with if present at all. If they are encountered then this will be a small delay to the programme, but they have allowed for a period of testing in order to identify if this is a genuine risk on this site.</p>
10.	Default by key subcontractor/supplier.	Low	<p>A select list of well established sub-contractors by trade maintained by the main contractor, which includes financial health checks and performance monitoring.</p>
11.	Delay to final agreement of contractor's proposals and contract documents, leading to a delay in contract award.	Medium	<p>On-going monitoring and forward programming to ensure close can be achieved.</p>
12	The contract cannot be awarded to Morgan Sindall as they have failed to meet the requirements set out in Para 1.	Low	<p>On-going discussions and review of the cost plan with senior directors from Morgan Sindall to bring the cost plan in line with the Councils expectations and demonstrates Value for Money.</p>

Community impact statement

30. Generally the provision of additional school places, which this contract will ultimately provide, will have a positive impact on communities with increased provision of places in areas where they are in need. The proposals are consistent with promoting the safeguarding and well being of all local children and young people by providing sufficient school places to meet forecast need.

31. The project will provide a new building and extension for the borough's children.

Economic Considerations

32. Morgan Sindall plc will be expected 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:

- Supply chain and procurement with local businesses;
- Use of local labour and training initiatives, including a 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;
- A commitment to construction apprenticeships in proportion to the size and scale of the development as agreed in the Partnering Agreement; and
- Corporate social responsibility and sustainability.

33. Discussions have commenced to ensure that there is a coordinated approach to provide a number of apprentice positions across the expansion programme. The Contractor has had meetings with the supply chain to ensure this is implemented and a number of apprentices have already been appointed. Monitoring information will be required quarterly, to a standard format including basic equalities data.

Social Considerations

34. 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. Morgan Sindall plc will meet LLW requirements and contract conditions requiring the payment of LLW will be included in contract documents, which will result in quality improvements for the council. These should include a higher calibre of multi-skilled operatives that will contribute to the delivery of works on site and will provide best value for the council.

35. 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.

36. 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. This report sets out the considerations which have been given to the PSED General Duty, which the Strategic Director of Children's and Adult's Services should consider when making this decision.

Environmental Considerations

37. The completion of this procurement will create a new school which will demonstrate commitment to the carbon reduction measures required by Southwark council, through the application of design principles to manage the use of energy most efficiently.
38. The scheme will be achieving a BREEAM rating of Very Good.

Market considerations

39. Morgan Sindall plc has over 250 employees and a national area of activity.

Staffing implications

40. There will be no direct impact on staffing as a result of the award of this contract.

Financial implications

41. This report is seeking approval from the strategic director of children's and adults' services to award the contract for the development works for Albion Primary School, to Morgan Sindall plc at a cost not exceeding the value disclosed in the closed version of this report including the cost of pre-construction services and enabling works packages 1 -3.
42. Southwark's External Cost Consultant continues to independently assess the contract proposals to ensure value for money. The contract will only be entered into once confirmation has been provided from the Cost Consultant that the contract proposals are value for money. Officers are reviewing options to ensure that the cost of the contract can be contained in the departmental capital budgets for Albion Primary School project allocated within the council's capital programme.
43. Officers should ensure that budgets for the contract are established and profiled on the Council's financial information system for effective monitoring and reporting.
44. The schools will be responsible for any on going revenue implications as a result of the expansions.
45. Staffing and any other costs connected with this contract to be contained within existing departmental revenue budgets.

46. Whilst the total project budget requirement exceeds the allocation, officers have made every effort to ensure that the tender achieves value for money in the current market. The project can be contained in the current overall primary expansion programme budgets allocated within the council's approved capital programme. The financial position on the council's primary expansion programme will be reported to members on a regular basis.

Legal implications

47. Pursuant to the Cabinet Report dated 22 July 2014 the decision maker for this report is the Strategic Director of Children's and Adults Services.
48. Please see the legal concurrent.

Consultation

49. The proposals have been subject to the decision making arrangements of the council's planning process, including consultation with relevant statutory consultees including Transport for London.
50. The headteacher of Albion Primary School has been involved in the design development process. Consultation has been carried out locally ahead of the statutory consultation being conducted through the planning process.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (CAP15/203)

51. This report is seeking approval from the strategic director of children's and adults' services to award the design and build contract for Albion Primary School to Morgan Sindall plc at the value disclosed in the closed version of this report including the cost of pre-construction services and enabling works.
52. The strategic director of finance and governance notes that the costs of the contract can be contained in the current overall primary expansion programme budgets allocated within the council's approved capital programme.
53. It is also noted the financial position on the council's primary expansion programme will be reported to members on a regular basis.
54. Officers should ensure that budgets for the contract are established and profiled on the council's financial information system for effective monitoring and reporting.
55. It is also noted that the on going running costs of the expansion programme will be met from existing schools budgets.
56. Staffing and any other costs connected with this contract to be contained within existing departmental revenue budgets.

Head of Procurement

57. This report recommends that the strategic director of children's and adults' services approves the award of the design and build contract and documents for Albion Primary School to Morgan Sindall plc. The contract is the second part of the Design and Build contract that follows preparatory work on the project following a mini-competition from the IESE framework agreement. This report follows the project requirement that a break clause within the two-stage process allows for the contractor to submit a proposals for the remaining project construction work with a do not exceed value disclosed in the closed version of this report.

58.

59. The report confirms that cost consultants and due diligence has been carried out to ensure that this figure offers Value for Money. The contract period is 100 calendar weeks and due to commence on 9 May 2016 and complete on 9 April 2018.

Director of Law and Democracy

60. This report seeks approval of the award of a design and build contract to Morgan Sindall plc for the development of Albion Primary School.

61. The report advises that Morgan Sindall plc had been appointed under the IESE construction and management framework which had been procured in line with EU procurement regulations and that the proposed contract award forms part of the second stage of a two-stage process prescribed under the terms of that framework. As noted in the Gateway 1 report the procurement process is also in line with the requirements of the council's Contract Standing Orders ("CSOs").

62. The report further advises that the proposed contract award is consistent with the Council's various statutory duties and powers and with corporate policy. The decisions to approve the award of this and other contracts associated with the IESE packages had been delegated previously by Cabinet to the Strategic Director of Children's and Adult Services.

CSOs provide 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. The concurrent report for the Strategic Director of Finance and Governance advises how this requirement is to be satisfied.

FOR DELEGATED APPROVAL

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 *[Handwritten Signature]*

Date 20/08/16

Designation *STRATEGIC DIRECTOR*

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Cabinet report of 16th July 2013 – Primary Investment Strategy	Capital Works, Regeneration, 160 Tooley Street, SE1 2QH	Rebecca McTier – 02 7525 4808
Cabinet Report of 22nd July 2014: Gateway 1 Procurement Strategy Approval Appointment of Contractors for Primary Expansion Programme	Capital Works, Regeneration, 160 Tooley Street, SE1 2QH	Rebecca McTier – 020 7525 4808
Cabinet Report of 17 th November 2014 : Gateway 2: Appointment of Contractors for Primary Expansion Programme for Pre-Construction Services	Capital Works, Regeneration, 160 Tooley Street, SE1 2QH	Rebecca McTier – 020 7525 4808
Enabling Works 1 - Temporary classrooms	Capital Works, Regeneration, 160 Tooley Street, SE1 2QH	John Ryan – 020 7525 5376
Enabling Works 2 – Caretakers House Demolition and Associated Works	Capital Works, Regeneration, 160 Tooley Street, SE1 2QH	John Ryan – 020 7525 5376
Enabling Works 3 – Demolition of main school	Capital Works, Regeneration, 160 Tooley Street, SE1 2QH	John Ryan – 020 7525 5376

APPENDICES

Appendices

AUDIT TRAIL

Lead Officer	Bruce Glockling, Head of Regeneration	
Report Author	John Ryan	
Version	V5 Final (OPEN)	
Dated	11 March 2016	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Cabinet Member	No	No
Contract Review Boards		
Departmental Contract Review Board	Yes	No
Corporate Contract Review Board	Yes	Yes
Date final report sent to Constitutional Team		

BACKGROUND DOCUMENT – CONTRACT REGISTER UPDATE - GATEWAY 2

Contract Name	Gateway 2: Contract Award Approval for the Design and Build of the Albion Primary School
Contract Description	To award a contract to Morgan Sindall plc, in the sum of £[x], for the Design and Build of Albion Primary School
Contract Type	Design and Build
Lead Contract Officer (name)	Bruce Glockling
Lead Contract Officer (phone number)	020 7525 0138
Department	DCE
Division	Regeneration
Procurement Route	iESE Framework
EU CPV Code (if appropriate)	
Departmental/Corporate	Departmental
Fixed Price or Call Off	Fixed Price
Supplier(s) Name(s)	Morgan Sindall plcs
Contract Total Value	£
Contract Annual Value	£
Contract Start Date	9 May 2016
Initial Term End Date	
No. of Remaining Contract extensions	n/a
Contract Review Date	n/a
Revised End Date	n/a
SME/ VCSE (If either or both include Company Registration number and/or registered charity number)	
Comments	

London Living Wage	Yes

This document should be passed to the member of staff in your department responsible for keeping your departmental contracts register up to date.

