

CABINET MEMBER SIGNING

Friday, 23rd June, 2023, 9.00 am

Members: Councillors Zena Brabazon

1. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

2. DECLARATIONS OF INTEREST

A member with a disclosable pecuniary interest or a prejudicial interest in a matter who attends a meeting of the authority at which the matter is considered:

- (i) must disclose the interest at the start of the meeting or when the interest becomes apparent, and
- (ii) may not participate in any discussion or vote on the matter and must withdraw from the meeting room.

A member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Register of Members' Interests or the subject of a pending notification must notify the Monitoring Officer of the interest within 28 days of the disclosure.

Disclosable pecuniary interests, personal interests and prejudicial interests are defined at Paragraphs 5-7 and Appendix A of the Members' Code of Conduct

3. STROUD GREEN PRIMARY SCHOOL - CONTRACT AWARD FOR PHASE 3 REMAINING WORKS - CONSTRUCTION CONTRACT (PAGES 1 - 6)

4. EXEMPT REPORT

Item 5 is not for publication as it contains exempt information as defined in Section 100a of the Local Government Act 1972 (as amended by Section 12A of the Local Government Act 1985); paras 3 and 5, namely information relating to the financial or business affairs of any particular person (including the authority holding that information) and information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

5. EXEMPT - STROUD GREEN PRIMARY SCHOOL - CONTRACT AWARD FOR PHASE 3 REMAINING WORKS - CONSTRUCTION CONTRACT (PAGES 7 - 10)

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Thursday, 15 June 2023

Report for: Cabinet Member Signing

Title: Stroud Green Primary School – Contract Award for Phase 3 Remaining Works – Construction Contract

Report authorised by : Ann Graham, Director of Children’s Services

Lead Officer: Chris Hill Project Manager
email: chris.hill@haringey.gov.uk

Ward(s) affected: Stroud Green

**Report for Key/
Non Key Decision:** Key Decision

1. Describe the issue under consideration

- 1.1 To approve the award to Diamond Build Plc to undertake Phase 3 Remaining Works pursuant to Contract Standing Order 10.01.1 (a) and 16.02.
- 1.2 Pursuant to Contract Standing Order 9.07.3 to approve the issuance of a letter of intent up to £100,000.

2. Cabinet Member Introduction

- 2.1 N/A

3. Recommendations

- 3.1 For Cabinet member for Children’s Schools and Families to approve a waiver pursuant to Contract Standing Order 9.01.1
- 3.2 For Cabinet member to approve the contract award to Diamond Build Plc to undertake Phase 3 remaining works to the main building at Stroud Green Primary School as a main contractor for the fixed price sum of £537,480.28
- 3.3 For Cabinet member to note Phases 1 & 2 previously awarded to Diamond Build Plc as a waiver of contract standing orders under delegated powers.
- 3.4 For Cabinet member to note a total award for all 3 phases set out in the exempt Part B.
- 3.5 For Cabinet member to approve the construction contingency sum set out in the exempt Part B.

- 3.6 Pursuant to Contract Standing Order 9.07.3, to give authority for the issuance of a letter of intent to the value of £100,000 pending the issuance and execution of a formal contract.

4. Reasons for decision

- 4.1. The original contract for these works at Stroud Green Primary School was terminated by the Council on 30 March 2023. Further details are set out in the exempt part of the report. In order to maintain site set-up, security and scaffolding a contract was awarded to Diamond Build PLC under delegated approval as Phase 1. Subsequently an additional waiver for Phase 2 Annex works was approved under delegated authority and a contract issued to the contractor. The final remaining works contract is under consideration in this award report, Phase 3. In line with relevant legislation and contract standing order 6.03 on aggregation of contracts, this report references the previous awards.
- 4.2. The remaining works in Phase 3 include minor flat roof works, minor pitched roof works, minor window remedial works, window decorations, above ground drainage, below ground drainage and boundary wall repairs.
- 4.3. Due to the project's urgent nature a direct award is considered to offer the Council best overall value. Diamond Build Plc are a local supplier and LCP Major Works Framework Supplier with a proven track record and have the capacity to undertake the work. The price submitted has been evaluated against market rates and considered acceptable. The direct award was raised via the HPCS.
- 4.4. Due to the above a waiver is requested under CSO 10.01.2(d)ii, i.e., that it is in the Council's overall interest.

5. Alternative options considered

- 5.1 There are no resources within the Council that have the capacity along with the necessary experience, qualifications, and expertise to deliver this service in house.
- 5.2. Use of the LCP Major Works Framework; Education Lot was discounted as this framework is not available for works below £1m.
- 5.3 The Dynamic Purchasing System (DPS) does not permit a direct award.
- 5.4 A mini competition (via the DPS or LCP Major Works Framework) was discounted as it was felt negotiating with a contractor would be most efficient due to the urgent need to replace the previous failed contractor. An independent quantity surveyor and contract administrator is appointed to evaluate all costs to ensure value for money.

6. Background Information

- 6.1 Due to the urgent nature of the project it was essential to mobilise a contractor in June 2023 in order to facilitate completion of the original Stroud Green scheme and secure re-occupation of the schools accommodation for the start of the Autumn term 2023. The original scheme was executed in 2 phases (Phase 1 – Mechanical works; Phase 2 – Building Fabric). The original phase 2 contract is incomplete, which the 3 new contracts awarded aim to address.
- 6.2 To achieve this, the work was divided into 3 phases. Diamond Build Plc, who are a supplier on the Council's London Construction Framework and a local supplier to Haringey, were approached and confirmed they had sufficient resources at short notice to mobilise to meet our programme requirements.
- 6.3 Phase 1 & 2 were approved as a waiver of contract standing orders under delegated approval.
- 6.4 Phase 1 is currently ongoing. This phase was for the take over and hire of scaffolding already erected on site and to manage site security and set up prior to the 2 contracts commencing.
- 6.5 Phase 2 is currently on site. Following significant water penetration and damage to the Annex building on site the most immediate condition works were identified and contracted to Diamond Build to enable re-occupation of the building in a timely manner. This work includes window repair and decoration, internal remedial works, roofing and guttering repairs.
- 6.6 All works have been specified and measured by independent design and cost consultants to ensure best value for the Council against pre-determined market rates.
- 6.7 Due to the urgent requirement to complete the works, a waiver of CSO 9.01.1 (requirement to tender) is sought on the basis set out in CSO 10.01.2 d) (i.e that it is in the Council's overall interest).
- 6.8 Budget information by phase is set out in Part B of the report.

7. Contribution to Strategic Outcomes

- 7.1 This project proposal supports outcomes as outlined in the Corporate Plan 22-23 and 23/24. All projects commissioned by Officers of the Council are expected to align with this plan and will be reflected in key capital project documentation such as project briefs, design briefs, business cases, project initiation documents (PID) and award reports. The relevant Borough Outcome for this project is: **Theme 3 – Children & Young People** - our vision is one where all Haringey's children and young people achieve their potential.
- 7.2 Stroud Green Primary School falls into wave 1 (priority 1) of the Children's Service's asset management plan (CSAMP) and is therefore procured in accordance with the priorities set out in the Children's Capital Programme.

7.3 As part of the works undertaken during the first phase at Stroud Green School energy efficiency improvements were made with a contribution from the Government Salix Programme. This has supported the Borough's carbon reduction and climate change ambition.

8. Statutory Officers comments (Chief Finance Officer, Procurement, Assistant Director of Corporate Governance, Equalities).

8.1 Finance

8.1.1 The recommendation to appoint Diamond Build Plc at a cost of £0.534m (plus the contingency set out in part b) will be funded from the approved Children's Services capital programme.

8.2 Procurement

8.2.1 Strategic Procurement support this award and confirm it is allowed under 72.1 d ii of the PCR 2016, as the original contractor abandoned the site and is now subject of a CVA. Direct award was the only option to maintain project in a safe and timely manner.

8.3 Legal

8.3.1 The Head of Legal and Governance (Monitoring Officer) has been consulted in the preparation of this report.

8.3.2 The works are below the threshold where the tendering requirements set out in the Public Contracts Regulations 2015 apply.

8.3.3 A waiver of CSO 9.01.1 (requirement to tender) is sought as allowed under CSO 10.01.2 (d) (ii) i.e that it is in the Council's overall interest. If a waiver is approved, a recommendation to award the contract to Diamond Build Plc is also requested.

8.3.4 A decision to waive a contract which has a value of £500,000 or more would normally be taken by Cabinet (CSO 10.01.1 a). In between meetings of Cabinet, the Leader may take any such decision or allocate to the Cabinet Member with the relevant portfolio (CSO 16.02). This will also apply in respect of the award of contract.

8.3.5 A recommendation is also included for the Cabinet Member to approve the issue of a letter of intent for up to £100,000 as allowed under CSO 9.07.3.

8.3.6 The award of the contract will be a Key Decision and, as such, will need to comply with the Council's governance processes in respect of Key Decisions including publication in the Forward Plan.

8.3.7 The Head of Legal and Governance (Monitoring Officer) confirms that there are no legal reasons preventing the Cabinet Member for Children, Schools and Families to approve the recommendations in this report.

8.4 Equality

8.4.1 The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share those protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not.

8.4.2 The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty. Although it is not enforced in legislation as a protected characteristic, Haringey treats socioeconomic status as a local protected characteristic.

8.4.3 The proposed decision is to approve the contract award to Diamond Build Plc, to undertake Phase 3 remaining works to the main building at Stroud Green Primary School. This will affect roughly 300 students and members of staff. The remaining works in Phase 3 include minor flat roof works, minor pitched roof works, minor window remedial works, window decorations, above ground drainage, below ground drainage and boundary wall repairs.

8.4.4 As this work will require the presence of scaffolding to facilitate access, it is recognised that this measure may result in reduced access along pavements covered by scaffolding for disabled persons. To mitigate potential inequalities caused by a reduction of access, along pavements and/or entrances to the school accommodation covered by scaffolding, Diamond Build Plc, have a dedicated site compound to segregate staff and students from the major works, ensuring proper access is maintained to Stroud Green Primary School accommodation for staff and students. Therefore, no negative consequences are identified for those who share a protected characteristic, and it is concluded that the major works will have a positive impact by improving the building lifespan, addressing necessary remedial and repair works, the proposed decision therefore represents a proportionate means of achieving a legitimate aim.

8.4.5 As an organisation carrying out a public function on behalf of a public body, Diamond Build Plc will be obliged to have due regard for the need to achieve the three aims of the Public Sector Equality Duty as stated above. Appropriate contract management arrangements will be established to ensure that the delivery of the major works does not result in any preventable or disproportionate inequality.

9 Use of Appendices

Appendix A – Part B

10 Local Government (Access to Information) Act 1995

This report contains exempt and non-exempt information. Exempt information is under the following categories (identified in amended Schedule 12A of the Local Government Act 1972): Information relating to financial or business affairs of any particular person (including the statutory holding that information).

By virtue of paragraph(s) 3, 5 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is exempt

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