

Fox Crescent and Hawthorn Special Free Schools: Authority to enter into a pre-construction services agreement for each school and future school agreement.

<b>Report title: Fox Crescent and Hawthorn Special Free Schools: Authority to enter into a pre- construction services agreement and future schools agreement</b>	
<b>Report to: Helen Lincoln, Executive Director for Children, Families and Education</b>	
<b>Report author: Ben Finlayson Head of Infrastructure Delivery</b>	
<b>Date: September 2019</b>	<b>For: Decision</b>
<b>Enquiries to: Martin Brown, Infrastructure Projects Team Manager</b>	
<b>County Divisions affected: Chelmsford North</b>	

## **1. Purpose of Report**

- 1.1 The purpose of this report is to authorise Essex County Council (“ECC”) to enter into:

1.1.1 a pre-construction services agreement (“PCSA”) with ISG Construction Ltd (ISG), the successful bidder for Hawthorn School, and to seek approval to enter into a PCSA with the successful bidder for Fox Crescent special Free School; and

1.1.2 to enter into a Future Schools Agreement (“FSA”) with ISG.

## **2. Recommendations**

- 2.1 To authorise ECC to enter into a PCSA with the successful bidder, ISG, for Hawthorn special Free School; and
- 2.2 To authorise ECC to enter into a PCSA for Fox Crescent special Free School when a suitable contractor has been selected; and
- 2.3 To authorise ECC to enter into a FSA with ISG;
- 2.4 To delegate authority to the Head of Infrastructure Deliver to enter into the FSA.

## **3. Summary of Issues**

- 3.1 In 2016 the SEAX Trust (MAT) applied to the Department for Education (“DfE”) for capital funding to open a special Free School (“the School”) for children with severe autism, Hawthorn School. The application was made to the DfE with the support of Essex County Council (“ECC”) to help address the shortage of special school places for children with autism. The application was successful and in 2017 the DfE notified the SEAX Trust and the Council that capital had been allocated to pay for the construction of the new special

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Free School in Chelmsford which is to be called Hawthorn School. This will be constructed on land at the former St Peter's College Site in Chelmsford North which is currently vacant.

- 3.2 In November 2016 the DfE invited Local Authorities to make the case for capital funding to build new special Free Schools. ECC submitted a bid for a special school in Chelmsford to meet the needs of children with social, emotional and mental health needs. In 2017 ECC was notified that capital had been set aside for the construction of a special Free School on land offered by ECC. The DfE appointed Beckmead Trust in January 2019 to run the school, which will be known as Fox Crescent Free School. This will also be built on the former St Peter's College Site in Chelmsford North.
- 3.3 ECC applied to the DfE to self-deliver Hawthorn special Free School using a DfE grant of £7.558m. On 26<sup>th</sup> February 2019 Cabinet authorised the self-delivery of the School ( at a total cost of £7.789m funded from £7.558m DFE funding and £231,000 Schools Forum funding) and the lease of the land on which the school will be built to the SEAX Trust at a peppercorn rent.
- 3.4 Similarly, ECC applied to the DfE to self-deliver Fox Crescent special Free School using a DfE grant of £7.578m. On 26<sup>th</sup> February 2019 Cabinet authorised the self-delivery of the School ( at a total cost of £7.808m funded from £7.578m DFE funding and £230,000 Schools Forum Funding ) and the lease of the land on which the school will be built to the Beckmead Trust at a peppercorn rent.
- 3.5 Cabinet delegated authority to the Head of Infrastructure Delivery to award each contract to the successful bidder when he was content that the following conditions were met:
  - 3.5.1 Satisfactory planning permission was granted;
  - 3.5.2 The construction costs were within the agreed budget and represented value for money;
  - 3.5.3 A funding agreement was signed with the Education and Skills Funding Agency; and
  - 3.5.4 ECC had control of the site and that any lease has been surrendered.
- 3.6 The report did not explicitly provide authority for ECC to enter into a PCSA with the successful bidder for each school. In order to progress these Construction Projects, ECC need to enter into a contract with each successful bidder for pre-construction services. The value of the PCSA is £645,000 for Hawthorn special Free School. This sum falls within the total of £7.789m agreed by Cabinet in February 2019.
- 3.7 No contractor has yet been appointed for the Fox Crescent special Free School. The value of the PCSA for Fox Cres special Free School is therefore yet to be agreed but estimated to be £650,000 and therefore will fall within the sum of £7.808m approved by Cabinet in February 2019. The contract sum is expected to be agreed shortly and approval is sought at this time to avoid any delays to the programme.

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- 3.8 A PCSA enables the contractor to collaborate with ECC to develop detailed designs and to develop the main contract works. The contractor's involvement at the pre-construction stage is valuable and often essential in the final design process of a project, as well as making preparations for the construction phase, such as the programme, cost plans, buildability and any additional specialist procurement.
- 3.9 Accordingly ECC wish to enter into the PCSA with ISG Construction for Hawthorn special Free School ahead of the final design and build contract being entered into at a future date.
- 3.10 The design and build of Hawthorn Free School and Fox Crescent Free School have been procured as a "Batch". Hawthorn Free School is the sample school ("the Sample School") and Fox Crescent Free School is a future school ("the Future School"). Once the PCSA has been entered into with ISG for Hawthorn Free School, ECC need to enter into a FSA with ISG in relation to Fox Crescent. Similarly, ECC wish to enter into a PCSA with the successful bidder for Fox Crescent special Free School as soon as a contractor has been identified.

## **4. Options**

### **Option 1 - Do Nothing**

- 4.1 The Construction Projects cannot progress without ECC entering into contract for pre-construction services with each successful bidder and a FSA.

### **Option 2 – Enter into a Pre-Construction Services Agreement**

- 4.2 The combined value of the pre-construction services for both construction projects falls within the financial threshold of an Executive Director for and would allow ECC to progress the Construction Project without delay and without the need to return to Cabinet for further approval. On entering into the FSA with ISG, ECC will be able to ask ISG to produce an outline proposal for the design and build of Fox Crescent Free School.

## **5.1 Financial implications**

- 5.2 The total cost associated with entering into a PCSA is £645,000 for Hawthorn special free school which falls within the total budget of £7.789m included in the capital programme for future years. This is funded by £7.558m DfE grant and £231,000 Schools Forum Funding.
- 5.3 The value of the PCSA for Fox Crescent special free schools has not yet been determined, but is estimated to be £650,000 which will fall within the total budget of £7.808m included in the capital programme for future years. This is funded by £7.578m DfE grant and £230,000 schools forum funding.

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- 5.4 The costs associated with entering the FSA for both are estimated to be £20,000 this cost is covered by the DFE funding for both projects.

## **6.2 Legal implications**

- 6.1 The conditions specified in the Cabinet Report for the award of contract to the successful bidders have not been satisfied and cannot be satisfied for the purposes of entering into a PCSA. By its very nature, a PCSA is used to appoint a design and build contractor to carry out services before entering into a formal building contract.
- 6.2 Under the terms of the Framework, ECC can run a procurement for two or more construction projects that are grouped into a "Batch". A "Batch" will consist of a sample school and future schools. The successful bidder of the sample school can subsequently be invited by ECC to submit proposals to deliver the future schools. This process is governed by the FSA. Once a selected panel member is appointed under a PCSA for the sample scheme, the FSA can be signed.

## **7. 6.2 Equality and Diversity implications**

- 7.1 An Equality Impact Assessment was prepared for the Report to Cabinet dated 26<sup>th</sup> February 2019. The equality impact assessment indicated that the proposals in the Cabinet report would not have a disproportionately adverse impact on any people with a particular characteristic. The proposal to build two new special Free Schools will have a very positive impact on those children with severe and complex learning needs living in the Mid Essex area. These children will now be educated in their community and will not have to travel considerable distances to access specialist provision.

## **8. List of Background papers**

- 8.1 Report to Cabinet dated 26<sup>th</sup> February 2019
- 8.2 Equalities Impact Assessment for the Fox Crescent and Hawthorn special Free School projects.

<b>I approve the above recommendations set out above for the reasons set out in the report.</b>	<b>Date</b>
<b>Helen Lincoln Executive Director For Children, Families and Education.</b>	<b>19.9.2019</b>

**In consultation with:**

<b>Role</b>	<b>Date</b>
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<b>Councillor Ray Gooding Cabinet Member for Education and Skills</b>	24.09.19
<b>Executive Director for Corporate and Customer Services (S151 Officer)</b> <i>Please send to your Head of Finance/Finance Business Partner who will arrange S151 sign off.</i>	18.09.19
<b>Margaret Lee</b>	
<b>Director, Legal and Assurance (Monitoring Officer)</b>	<b>02/09/2019</b>
<b>Laura Edwards on behalf of Paul Turner</b>	