

REQUEST FOR ASSISTANT DIRECTOR DECISION – ADD337

Title: East Wick Primary School Grant, Lease and Indemnity Agreements

Executive Summary:

ADD266 gave approval for the London Legacy Development Corporation ("LLDC") to enter into a grant agreement for up to £4,546,890 with the London Borough of Hackney for the provision of East Wick School. Due to unforeseen ground obstructions, associated programme delays and a 3.5 per cent increase in costs for the main building due to buoyancy across the London construction market, LLDC needs to provide additional funding of £1,070,019 for the project making its total contribution £5,616,909. Savings have been identified in LLDC's budget for the additional costs, all of which fall to LLDC to fund. In addition LLDC has to provide an underwrite to London Borough of Hackney until the project reaches financial close by 31 July to prevent delays to the construction programme and opening of the school. LLDC and London Borough of Hackney commissioned an independent review of the revised project cost and it was assessed as still being good value for money.

Consent is required under Sections 209 (1) and 213 of the Localism Act 2011, and Paragraph 3.2 of the LLDC Governance Direction 2013, (approved by MD1227). The decision is taken by the Head of Governance and Performance, under delegated authority from the Mayor (approved by MD1276).

Decision:

That the Head of Governance and Performance consents, under delegated authority from the Mayor (approved by MD1276), to the LLDC's decision to:

- (i) Provide additional financial assistance of £1,070,019 to the London Borough of Hackney for delivery of East Wick Primary School; and
- (ii) underwrite the London Borough of Hackney's costs for piling mat, ground works and cut and fill exercise up to financial close, expected by 31 July 2015.

AUTHORISING ASSISTANT DIRECTOR/HEAD OF UNIT:

I have reviewed the request and am satisfied it is correct and consistent with the Mayor's plans and priorities.

It has my approval.

Name: Tom Middleton

Position: Head of Governance & Performance

Signature:



Date:

31.07.15

PART I - NON-CONFIDENTIAL FACTS AND ADVICE

Decision required – supporting report

1. Introduction and background

- 1.1 ADD266 gave approval for LLDC to enter into a grant agreement of up to £4.55m, a 125 year lease and indemnity agreements with London Borough of Hackney.
- 1.2 The funding approved at LLDC's Final Project Approval (FPA) was £4.55m, based on an overall construction budget of £11.157m. Since the FPA, changes to the internal project budget have been as follows:
- LLDC was required to purchase Thames Water liability insurance, representing an additional cost of £53k);
 - Once the enabling works package began and the extent of the site complications became known, a second Change Control Notice (CCN) was approved in March 2015 for £200k;
 - a third CCN for £100k was approved in April 2015, resulting in the current total of £4.86m.
- 1.3 LLDC's Final Project Approval included a project contingency of £459,500, as well as an additional undeclared contingency of £500,000. Due to delays in discharging pre-commencement conditions for the utilities works and necessary changes to the utility works package and monitoring requirements, an updated commercial offer was provided. A summary of some of the changes to the enabling works costs since FPA approval is provided below:
- Subcontractor delays as a result of discharging pre-commencement conditions and redesign work due to Thames Water information; revised scope for vibration, noise and dust monitoring;
 - Fees for fluvial risk report and for planning consultants, and substantial additional fees for remediation due to additional monitoring measures being required;
 - Subcontractors rates are higher than anticipated. Final market testing of the main building works has indicated an average of 3.5% increase in costs, circa £400,000, with 100% of the design tested;
 - Thames Water piling risk – the contractor has had to revisit the type of piling because the pile depth was unacceptable to Thames Water. The team has reduced the requirement and this is now acceptable. The piling cost is circa. £48,000.;
 - Obstructions: significant below ground obstructions were discovered located along the line of the surface water diversion route. While LLDC is waiting a claim from the contractor, removal of the obstructions and costs associated with the rerouting of the diversion work are anticipated to be circa £250,000;
 - HS1 – additional survey requirements are anticipated to be circa £40,000. London Borough of Hackney is currently in discussion with Network Rail to ascertain exact requirements.
- 1.4 A summary table of the most recent changes to budget and potential sources of additional LLDC funding arising from an ongoing exercise to identify LLDC activities that can cease for other reasons are provided below:

Item	Budget	Current Cost
Construction cost	11,455,207	12,207,639
LLDC Start-up Funding to Mossbourne	90,000	90,000
Temporary reception class at Brook Primary	50,000	50,000
Thames Water Insurance requirement	53,000	53,000
Total Project Cost	11,648,207	12,400,639
DfE Targeted Basic Needs Grant	6,783,730	6,783,730
Total LLDC contribution	4,864,477	5,616,909
Budget Shortfall		752,432
Additional Funding Potentially Identified		
Capital savings community & business engagement (interim uses 2016/17)		150,000
Capital savings community and business engagement (interim uses 2017/18)		330,000
Capital savings physical regeneration and design (local programme 2015/16)		40,000
Capital savings physical regeneration and design (workspace)		150,000
Total		670,000
Additional funding unidentified – propose to draw from Corporate Contingency		82,432

- 1.5 The target start on site date for the main works in order to maintain current programme is June 29th, yet financial close is not expected to occur until 31 July. To prevent further delays to programme, London Borough of Hackney has requested that LLDC send a letter of underwriting to London Borough of Hackney in the lead up to financial close to underwrite the costs for the piling mat, ground works and cut and fill exercise. When the project reaches financial close, the contractor will be entering into a fixed price contract where only risks below the ground could be subject to additional cost.
- 1.6 Under the terms of the Funding Agreement between LLDC and the London Borough of Hackney, the LLDC is responsible for meeting all substantiated project costs surpassing the Department for Education (DfE)'s Targeted Basic Needs Grant Funding of £6.8m. A decision not to commit the required additional funding would delay the programme and put the DfE's funding at risk and could therefore result in the project being undeliverable. This represents a reputational risk to the LLDC and DfE as the school is scheduled to open in a temporary location in September 2015, and in its permanent location in September 2016. Under the Legacy Communities Scheme (LCS), the school would need to be delivered by 2018 in order to meet the needs generated by the Chobham Manor

development. LLDC and Hackney commissioned an independent review of the revised project cost, comparing with other relevant projects, and it was assessed as still being good value for money.

- 1.7 The LLDC is therefore seeking to provide additional financial assistance of £1,070,019 with the London Borough of Hackney for delivery of East Wick Primary School and to underwrite the costs for the piling mat, ground works and cut and fill exercise up to the point of financial close. Approval is required under Sections 209(1) and 213 of the Localism Act 2011; and paragraph 3.2 of the LLDC Governance Direction 2013.
- 1.8 The Head of Governance and Performance consents, under delegated authority from the Mayor (approved by MD1276) to the LLDC's decision to provide additional financial assistance to London Borough of Hackney of £1,070,019 in respect of ADD266 for a capital contribution of up to £5,616,909 and to underwrite costs up to financial close, not expected to occur until 24 July 2015.

2. Objectives and expected outcomes

- 2.1 The objectives of the grant, lease and indemnity agreements are to enable successful construction and delivery of the Mossbourne Primary Academy School to the highest design quality, in fulfilment of the LLDC's S106 obligation.

3. Equality comments

- 3.1 An Equality Statement was submitted as part of the planning application for the LCS, which summarised the detailed consultation which was done with equality groups in the run up to the 2012 Games and the implications for equality. Hence the Equality Analysis on whether and where to locate the school, for example, was taken account of within this process.
- 3.2 In addition to this, and in direct response to the planning requirements, the LLDC took the school before its Built Environment Access Panel of older and disabled people (BEAP) in October 2014, and the BEAP comments were incorporated into the Design and Access Statement for the schools detailed planning application. Some significant changes are being incorporated into the design to ensure the school is more inclusive, including changes to the external ramp layout, an additional second accessible WC, and the architects have proposed to increase the staff changing area to allow incorporation of an adjustable height changing bench to be used by any building user as required.
- 3.3 Any issues pertaining to the operation of the school are the responsibility of Mossbourne Academy Trust, the operators of the school, and this would be an issue to address directly with the school provider/local authority, but the LLDC has worked with them to ensure significant decisions, such as the admissions policy are appropriate for the local area. The LLDC is currently formulating a new 5-year strategy and is looking to undertake an equality analysis on its overarching plans as part of this process.
- 3.4 Early delivery of the Mossbourne Primary Academy School will meet demand created by residential developments within the LCS, and will be pivotal in creating neighbourhoods where families choose to live and grow.

4. Other considerations

a) key risks and issues

The LLDC has identified risks around budget, funding, delivery programme, planning and development, and third party dependencies associated with the project which were set out in ADD 266. As set out at 1.4 a decision not to commit the required additional funding would delay the

programme and put the DfE's funding at risk and could therefore result in the project being undeliverable. Budget savings for the costs have been identified.

b) links to Mayoral strategies and priorities

The Mayor's London Plan 2015 states that: *"The Mayor will work with and through the London Legacy Development Corporation to promote and deliver physical, social, economic and environmental regeneration of the Olympic Park and its surrounding area, in particular by maximising the legacy of the 2012 Olympic and Paralympic Games, by securing high quality sustainable development and investment, ensuring the long term success of the facilities and assets within its direct control and supporting and promoting the aim of convergence, and will seek to close the deprivation gap between the Olympic host boroughs and the rest of London. This will be London's single most important regeneration project for the next 25 years. It will sustain existing stable communities and promote local economic investment to create job opportunities (especially for young people), driven by community engagement.*

Early delivery of outstanding education facilities at the Mossbourne Primary Academy School, operated by an Academy Sponsor with a track record of obtaining Ofsted Outstanding ratings, will make a significant contribution to Convergence by helping to raise aspirations, educational attainment and skill levels in the area.

c) impact assessments and consultations.

Delivering the Mossbourne Primary Academy School early will provide social infrastructure to benefit the diverse communities around the Park, and help to integrate existing communities with the new residents of QEOP. The provision of an excellent, high quality designed primary school at East Wick will be an important part of the community-making function of QEOP. It will contribute to creating an attractive neighbourhood in which families choose to live and grow, reduce churn, assist in the development of a sustainable community, and promote community cohesion.

The LLDC has consulted its Executive Management Team on the additional funding required and the letter of underwriting to London Borough of Hackney. It is not considered that the Mayor needs to undertake any further impact assessment or consultation in respect of this specific decision.

5. Financial comments

- 5.1 Provision for LLDC's increased capital contribution of £1,070,019 for the project exists through savings that have been identified in its planned budget for 2015-16. Therefore there would be no additional requirement for funding from the GLA's own budget which includes its capital support to the Corporation. The financial risk for LLDC from the underwriting would fall away at financial close, expected on 31 July 2015.

6. Planned delivery approach and next steps

6.1 London Borough of Hackney

Activity	Timeline
Target start date for the main works	29 June 2015
Financial close for the contract with the contractor	31 July 2015
Mossbourne Primary Academy School opens on temporary site - 30 place reception class only	September 2015
Construction of main build completed	December 2015
Mossbourne Primary Academy School opens on permanent site	September 2016

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary.

Note: This form (Part 1) will either be published within one working day after approval or on the defer date.

Part 1 Deferral:

Is the publication of Part 1 of this approval to be deferred? NO

If YES, for what reason:

Until what date: (a date is required if deferring)

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – NO

ORIGINATING OFFICER DECLARATION:

Drafting officer
to confirm the
following (✓)

Drafting officer:

Ray Smith has drafted this report in accordance with GLA procedures and confirms that the Finance and Legal teams have commented on this proposal as required, and this decision reflects their comments.

✓

HEAD OF GOVERNANCE AND RESILIENCE:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature:



Date:

30 JULY 2015