

## PLYMOUTH CITY COUNCIL

**Subject:** Capital Investment Delivery for University Technology College

**Committee:** Cabinet

**Date:** 12 June 2012

**Cabinet Member:** Cllr Tudor Evans

**CMT Member:** Anthony Payne (Director for Place)

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**Ref:**

**Key Decision:** Yes

**Part:** I

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### Executive Summary:

On 21 February 2012, Cabinet gave approval for the Council to formally become a co-sponsor of the University Technology College (UTC) and to act as procurement agent for the capital project. This was done to support the development of an employer led education facility in the south west quarter of the city that is focused on the marine and advanced engineering industries. The Council, acting as procurement agent will also assist the delivery of investment into the facility that will see the former Parkside School transformed into a high quality engineering teaching facility. This is planned to be achieved for opening of the UTC in September 2013.

The UTC's sponsors are led by Plymouth University, and include City College Plymouth and Plymouth City Council. The employer sponsors are led by Babcock Marine, and include: Princess Yachts International, Plymouth Manufacturers Group, Plymouth Chamber of Commerce and Industry, and Plymouth Federation of Small Businesses. The UTC Ltd is now an Academy Trust with articles of association written to the approval of the Education Funding Agency (EFA) to allow the Academy Trust to enter into a funding agreement to receive state funding direct from the Government.

The EFA have set a budget of £7.9 million, which is for all capital costs and has been confirmed in a letter to the Council on the 10 May 2012. The capital investment into the city will have an important impact on the local economy. It is estimated that as much as 80 per cent of this value will be spent in Plymouth and the demand for skilled trades will also allow the Council to negotiate that the contractor will take on apprentices as part of the proposal.

Ministers have signed off the allocation on the basis that the delivery of this capital investment is procured through the EFA Academies Framework. In the discussions between the EFA and sponsors it was indicated that the funding allocated is reliant on the procurement being through this route and managed by the Council, it was for this reason that Cabinet took the decision to become the procurement agent on February 2012.

Technical advisors appointed by the EFA and have produced a feasibility study considering the building options and setting out a control scheme that meets the objectives of the UTC. The control scheme has been evaluated to ensure that it is deliverable and within the allocated budget. The feasibility study was submitted to the EFA and approved on 31 May 2012. The technical advisors have been novated to the Council to supply technical and project management support through the remaining delivery stages.

On 21 February 2012, Cabinet took the decision to appoint BAM Construction Ltd as the preferred panel member (contractor) to develop the Marine Academy Plymouth (MAP) and the UTC as a batched procurement project. BAM Construction Ltd was therefore approached, through a formal design engagement process, to develop the UTC project through the design development stage.

BAM Construction Ltd submitted an Invitation to Tender (ITT) offer on 1 June 2012, which has been evaluated for quality and value for money using the EFA agreed evaluation criteria. The evaluation demonstrates that BAM Construction Ltd is recommended as the confirmed selected panel member. This recommendation has been endorsed by the UTC and by the UTC's main sponsor, the University of Plymouth.

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### **Corporate Plan 2012 - 2015:**

This programme aligns with and supports the following corporate priorities:

- Deliver growth and promote Plymouth as a thriving growth centre by creating the conditions for investment in quality new homes, jobs and infrastructure. The UTC investment will improve education infrastructure that supports the growth of the city by supplying good quality education provision that meets need; making the city an attractive place to live and work. This paper brings to Cabinet opportunities for substantial investment into the city.
  - Raise aspiration and the skills and expectations of Plymouth residents to ensure our young people achieve better qualifications and find high quality jobs. The investment this paper describes will significantly improve the secondary school and specialist further education infrastructure in the city that is aligned to the city's employers' needs.
  - Reduce inequalities by reducing the large economic and health gaps between different areas of the city by improving the educational offer in these parts of the city. The proposals in this paper are targeted at narrowing the gaps in inequality of education that exist in the city.
  - Provide value for communities and become more efficient and joined up with partners and local residents to deliver services in new and better ways. These proposals seek to support the UTC, which is now one of the Council's partner organisations, brokered to achieve the maximum value for the communities it serves.
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### **Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land**

The sum of £7.9 million, approved by the Education Funding Agency (EFA) as the investment budget, is to be allocated in the following way:

- Construction Costs £5,481,995.45
- External Works and Abnormal Costs £429,825.08
- Fees (contractor) £595,467.63
- FFE £600,000.00

- ICT Infrastructure £135,000.00  
**D&B Contract sub-total £7,242,288.16**
- ICT Hardware £480,000.00
- Client Contingency £27,711.84
- Fees (consultant) £150,000.00

Under the terms of the EFA framework the contract budgets above are fixed contractual sums. The scope of the works delivered by the design and build contractor is a variable throughout the procurement and the quality and quantity of the offer is what has been evaluated using EFA's strict procurement process.

Whilst the contracting risks are small, it should be understood that acting as procurement agent the Council will take on liability for the project should there be a legitimate claim. However, the EFA have devised a client biased contract that offers a considerable amount of comfort in that much of the risk is transferred to the contractor. The procurement will also be undertaken with some rigour; therefore, the onward risk is considered low.

Within the fee element for the UTC, the sum of £150,000 was top sliced for the Council to use for procurement costs. Based on analysis of costs, this top slice is unlikely to be sufficient to fund the full costs of managing a project. However, the academy lead sponsor has agreed to meet procurement costs above this provision, based on the view that reduced expenditure in this area would be a false economy. The Council's time in gaining internal approvals, letting and monitoring the building and technical advisors contracts etc. cannot be recovered against the allocated funding. This combined with the contribution of the proposed asset, the 125 year lease of the former Parkside School, represents the Council's contribution in support of the UTC project.

The ongoing operation and condition liability of the UTC falls to the Academy Trust and the Government, so there are no direct costs falling to the Council.

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**Other Implications: e.g. Child Poverty, Community Safety, Health and Safety, Risk Management and Equality, Diversity and Community Cohesion:**

Schools are a key facility in their local communities and support wider cohesion in the area. An Equality Impact Assessment has not been completed as the investment in school buildings would be designed to current building regulations, which are fully DDA compliant. In addition, these are community facilities, which are open to all; therefore, issues surrounding discrimination on the basis of age, faith, gender, race, or sexual orientation are not applicable.

Capital investment into education facilities offers the opportunity for organisations to resolve many issues of health and safety and community safety that have become long-standing in such facilities. This capital investment will resolve building condition issues that in the long term will improve the former school building fabric that could lead to health and safety breaches.

The proposal, targeted in an area of the city where deprivation and child poverty is of concern, is aimed at improving the aspirational outcomes for children and young people. When the UTC is 'up and running' it will offer significant opportunities for children and young people to develop their skills in key areas of employment in the city, giving them selves the very best possibility to rise out of poverty.

A fully compliant risk register has been developed for the project.

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**Recommendations and Reasons for recommended action:**

1. That Cabinet recommend to Council that a sum of £7.9 million be placed into the capital programme for the delivery of the UTC on the former Parkside School site.
2. That Cabinet confirms the appointment of BAM Construction Ltd as the selected panel member to deliver the capital improvements to the University Technology College on the former Parkside School site.
3. That the final approval to agree the scope and quality of works be delegated to the Director for Place.

Reasons for these recommendations are to comply with the EFA approval process that contractual decisions should be made with speed and efficiency; to fully comply with the Council's constitutional arrangements; and to ensure that this centrally allocated investment is delivered through the EFA construction framework process and procedure.

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**Alternative options considered and reasons for recommended action:**

The project undertook a detailed feasibility study that considered a number of building options before a control scheme was chosen as a preferred design. Through the procurement process a contractor has developed alternative options that have been carefully evaluated for design compliance and value for money.

Consideration of different procurement routes were considered on 18 October 2011 and consideration of options not to go ahead with the proposals were considered at the 21 February Cabinet.

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**Background papers:**

1. [Plymouth City Council Children's Services Strategy for Change Investment for Children](#)
  2. [Capital Investment Delivery for Marine Academy Plymouth and All Saints Academy, Plymouth. Cabinet 18 October 2011](#)
  3. [Capital Investment Delivery for Marine Academy Plymouth. Cabinet 21 February 2012](#)
  4. [University Technology College, Plymouth. Cabinet 21 February 2012](#)
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**Sign off:**

Fin	People F EC121 3 001	Leg	14866/ ALT	HR	NA	Corp Prop	CJT/10 4/2505 12	IT	NA	Strat Proc	JK/SP U/CP/ 280/05 12
Originating SMT Member: David Draffan											

## **1.0 Background**

1.1 On 21 February 2012, Cabinet gave approval for the Council to formally become a co-sponsor and to act as procurement agent for the University Technology College (UTC). This was done to support the development of an employer led education facility in the south west quarter of the city focused on the marine and advanced engineering industries. The Council, acting as procurement agent will also assist in the delivery of investment in the facility that will see the former Parkside School transformed into a high quality engineering teaching facility. This is planned to be achieved for an opening of the UTC in September 2013.

1.2 The UTC sponsors are led by Plymouth University, and include City College Plymouth and Plymouth City Council. The employer sponsors are led by Babcock Marine, and include: Princess Yachts International, Plymouth Manufacturers Group, Plymouth Chamber of Commerce and Industry, and Plymouth Federation of Small Businesses. The UTC Ltd is now an Academy Trust with articles of association written to the approval of the Education Funding Agency (EFA) to allow the Academy Trust to enter into a funding agreement to receive state funding direct from the Government.

1.3 The EFA initially set a budget of £7.6 million capital funding for the project; however, following detailed discussion with the agency this budget has been raised to £7.9 million. This budget is for all capital costs including the building works, ICT infrastructure and hardware, equipment and furniture, including specialised engineering and manufacturing equipment used in the training facility. Certain specialist equipment may be donated via the employers; however, there is no reliance on such donations to the running of the base curriculum.

1.4 The Department for Education (DfE) capital funding is made available to the Council in the form of a ring fenced capital grant. The capital investment into the city will have an important impact on the local economy. It is estimated that as much as 80 per cent of this value will be spent in Plymouth and the demand for skilled trades will also allow the Council to negotiate that the contractor will take on apprentices as part of the proposal.

1.5 Ministers have signed off the allocation on the basis that the delivery of this capital investment is procured through the EFA Academies Framework. In the discussions between the EFA and sponsors it was indicated that the funding allocated is reliant on the procurement being through this route and managed by the Council, it was for this reason that Cabinet took the decision to become the procurement agent on 21 February 2012.

1.6 Technical advisors appointed by the EFA through the Office of Government Commerce (OGC) Advisor Framework have produced a feasibility study that considers the building options and sets out a control scheme that meets the objectives of the UTC. The feasibility study has also been through a pre-application planning process. The control scheme has been evaluated to ensure that it is deliverable and within the allocated budget. The feasibility was submitted to the EFA and approved on 31 May 2012. The technical advisors have been novated to the Council to offer the Council technical and project management support through the remaining delivery stages.

1.7 On 21 February 2012, Cabinet took the decision to appoint BAM Construction Ltd as the preferred panel member (contractor) to develop the Marine Academy Plymouth (MAP) and the UTC as a batched procurement project. BAM Construction Ltd was therefore approached, through a formal design engagement process, to develop the UTC project through the design development stage.

1.8 BAM Construction Ltd submitted an Invitation to Tender (ITT) offer on 1 June 2012, which has been evaluated for quality and value for money using the EFA agreed evaluation criteria. The evaluation has been completed by the technical advisor along with key representatives of the UTC and the sponsors. This evaluation demonstrates that BAM Construction Ltd is recommended as the confirmed selected panel member. This recommendation has been endorsed by the UTC, and by the UTC's lead sponsor, the University of Plymouth, and the Project Board.

## **2.0 Demographics for UTC places and its effect on other secondary provision**

2.1 Whilst the city is growing, for the past three years the current numbers for secondary age children has been falling and will continue to do so until 2015. After this there will be a sharp rise in Key Stage 3, as growth currently being experienced in the primary sector will feed into the secondary sector. Plymouth City Council's Strategy for Change, known as Investment for Children, shows how secondary pupil numbers had been declining and how the Council has been following policies to cut back secondary school size to allow for new growth as the demographic demand lifts.

2.2 The raising of the participation age, requiring young people to stay in education and training until 17 years of age by 2013 and until 18 years of age by 2015, has also been factored into the pupil place planning in the city; swelling the numbers in Key Stage 4, which will partly balance the reducing numbers due to the demographics.

2.3 The development of a high quality UTC with state of the art industrial quality resources would inevitably be a popular choice for aspirational young people and their families, not just from Plymouth but also Cornwall and Devon. The UTC has a target area of South East Cornwall and South Devon. This means that the number of places proposed in the UTC is not directly comparable with the Plymouth boundary.

2.4 The net effect on the overall pattern of post-14 provision in the city will be students transferring from traditional providers at an age of 14; but the effect on pupil places will be more notable in the shift of post-16 places. This means that the numbers of secondary age children moving from the secondary sector would be relatively minor. It is envisaged that the UTC would have an eventual capacity for 600 14-19 students, which would add capacity to the city to meet growth post 2015, and allow current capacity used for post-16 in secondary schools to be used for what will be rapidly growing Key Stage 3 students. The growth of the UTC will also be gradual, initially opening in 2013 with as few as 120 students and then swelling to full capacity until the demographic demand has turned.

2.5 Modelling has been undertaken on the numbers of young people to which a UTC with a manufacturing and engineering specialism would be attractive. The picture that emerged showed that students from all secondary schools within the city could be attracted by the opportunities. The analysis has indicated that a maximum of 15 Year 11 students from any one school might choose the UTC over a traditional school place. At these levels it is unlikely that any secondary school in the city would be threatened by the UTC. However, the introduction of choice and the high quality links to employment in key industries for the city are a significant boost for the city's economy, and outweigh the perceived threats.

## **3.0 Proposed scope of the project**

3.1 The feasibility control scheme included the demolition of the entrance and single storey part of the old school; this was built in the 1960s but significantly refurbished in the 1980s. It also allowed for the demolition of the Raising of School Leaving Age (ROSLA) block, constructed in the early 1970s. The remainder of the 1980s refurbished buildings, including the hall and gym, will be refurbished and remodelled. In addition, a new wing of specialist engineering workshops will be added.

3.2 The balance of new build to refurbishment is as follows:

- New Build 1,943m<sup>2</sup>
- Light Refurbishment 252m<sup>2</sup>
- Remodelling 3,279m<sup>2</sup>
- **Total 5,474m<sup>2</sup>**
- Demolition 650m<sup>2</sup>

3.3 The proposed work by the recommended selected panel member was similar to the control scheme in that it made the same judgements about the quality of the existing three storey building. However, the proposal contains significant additional demolition and new build over the control option with a gross reduction in area of build by 229 m<sup>2</sup>.

3.4 The balance of new build to refurbishment of the recommended Selected Panel Member is as follows:

- New build 2,843m<sup>2</sup>
- Refurbishment/Refresh 688m<sup>2</sup>
- Remodelling 1,714m<sup>2</sup>
- **Total 5,245m<sup>2</sup>**
- Demolition 1,279m<sup>2</sup>

## 4.0 Financial position

### 4.1 VAT – UTCs:

4.1.1 The treatment of VAT has been simplified following a change in VAT legislation in April 2011, which means that all academies are now able to reclaim any VAT which they incur in relation to the provision of statutory education. The UTC operates under the same legislation as an academy so the same rules on VAT apply.

### 4.2 VAT – Plymouth City Council

4.2.1 A Tenancy at Will (TAW) will be granted to the UTC, effective from the date on which the funding agreement is signed. This TAW will be amended during the construction period so that the Council will retain an interest in the land and buildings when the works are undertaken. The Council will contract with the contractor and incur all the design and build costs. The Council will receive funding in the form of a ring fenced capital grant from the DfE, which it will use to make all contract payments. Once the works are completed, the TAW will be terminated and a 125 year peppercorn lease granted to the UTC.

4.3 Provided that the lease granted to the UTC is a true peppercorn, i.e. a lease granted for no consideration in money or kind, the Council is able to fully recover the VAT relating to the construction contract. However, if the lease does not represent a true peppercorn lease the grant of an interest in land would be made in the course of business. The default liability of a supply of land is exempt from VAT, but this could result in a proportion of the Council's VAT becoming irrecoverable, potentially at a cost of more than £1 million. The EFA will only allow the use of a standard lease that has been approved by the HM Revenue & Customs (HMRC) as a true peppercorn to avoid this situation.

4.4 The Council will opt to tax the UTC site as an insurance to protect its ability to recover input tax, should it be deemed by HMRC that the lease is not a true peppercorn lease.

## **5.0 Legal position**

5.1 Whilst changes have been introduced by the Academies Act 2010, the Council does retain the power to act as a procurement agent in the type of arrangements proposed.

5.2 As the UTC is set up as a separate organisation to the Council, there will be the need to transfer collateral and other warranties from the consultants, contractors and manufacturers of the works. The Council would not hold a residual role following the completion of the works as the UTC will retain responsibility for the ongoing repair and maintenance of the property as set out in the standard 125 year academy lease. The legal work in connection with the leases is the responsibility of the Council as the landlord of the asset.

5.3 At the completion of the works contract the responsibility for the ongoing contractual obligations is transferred in a standard Development Agreement between the Council and the UTC, this agreement, drafted by the EFA, will clearly set out the transfer of the completed building works to the UTC. The legal work in connection with the project contracts will be undertaken by external lawyers funded through the project costs.

5.4 The EFA has also set out a standard Memorandum of Understanding (MoU) between the Council and themselves that formally sets out the agreement that the Council will follow EFA processes and use all of their standard documents including the frameworks design and build contract. This was agreed when setting out on the academy projects which were the first projects the Council procured through the EFA Academies Framework.