

**RECORD OF DECISION TAKEN UNDER
DELEGATED AUTHORITY FROM
EXECUTIVE/COUNCIL/COMMITTEE
DELEGATED POWERS OUTLINED IN
THE CONSTITUTION**



DELEGATED OFFICER DECISION TAKEN BY: DELEGATED BY:	Deputy Director Legal and Governance
-------------------------------------------------------------------	--------------------------------------

IN CONSULTATION WITH:	Chief Officer
----------------------------------	---------------

PORTFOLIO AREA:	Children, Young People and Education
------------------------	--------------------------------------

**SUBJECT: Change to FM Contractor Guarantor – Building Schools for the Future Project
Phase 1- Pleckgate High School Phase 2 – Witton Park High School/Blackburn Central High
School**

1. DECISION

Consent has been sought from the Council to replace the existing Facilities Management (FM) Contractor Guarantor for the Building Schools for the Future Phase 1 and Phase 2 contracts. The Council consents to the entry by the parties to the FM PCG Release, Replacement FM Contractor Guarantee, and the FM Deed of Variation.

2. REASON FOR DECISION

Equans Services Limited (formerly Balfour Beatty Workplace Limited)) (the "FM Contractor") proposes to release the Outgoing Guarantor, International Power Ltd (CRN: 02366963), from its obligations under the Facilities Management (FM) Guarantee under the terms of a deed of termination and enter into a guarantee in respect of the FM Agreement with EQUANS Holding UK Limited (CRN: 08155362) ("the Company").

3. BACKGROUND

Under the Building Schools for Future contract arrangements the FM Contractor currently provides facilities management services at the BSF schools to Blackburn with Darwen and Bolton Phase 1 Limited ("**Project Co**") pursuant to a contract dated 12 January 2010/ Blackburn with Darwen and Bolton Phase 2 Limited ("**Project Co**") pursuant to a contract dated 15 October 2010 and as amended, supplemented, novated and varied from time to time (the "**FM Agreement**"). The FM Agreement is guaranteed by International Power Ltd (the "**Existing Guarantor**") pursuant to a parent guarantee dated 13 February 2019.

In connection with this matter, , it is also proposed that the rights, benefits, liabilities, duties and obligations of the Existing Guarantor pursuant to a FM contractor direct agreement dated 13 February 2019 between the FM Contractor, Project Co, the Existing Guarantor, Equans Holding UK Limited (formerly Engie Services Holding UK Limited) and U.S. Bank Trustees Limited, as amended, supplemented, novated, varied and replaced from time to time (the "**FM Contractor Lender Direct Agreement**"), be novated to the Company and that certain amendments are made to the FM Contractor Lender Direct Agreement in order to reflect the entry into the Guarantee.

4. KEY ISSUES AND RISKS

Equans will remain liable to perform all on-going obligations under the FM Agreement. A greater level of guarantor is expected in terms of company stature and credibility. Reports commissioned by Project Co that demonstrate this have been shared with the Council.

The Council has also reviewed reports on Company Watch for both the Company and the Existing Guarantor and whilst the Existing Guarantor scores slightly better the scores for the Company are still similar and more than acceptable with it getting the lowest possible risk rating.

5. FINANCIAL IMPLICATIONS

The monthly Unitary Charge payments will remain the same adjusted on 1st April each year in line with RPIx. As a consequence, there will be no additional financial implications for the Council.

6. LEGAL IMPLICATIONS

Legal documentation will be in a form reviewed and agreed by solicitors in Legal and Procurement Services.

7. RESOURCE IMPLICATIONS

None

8. OPTIONS CONSIDERED AND REJECTED

If the Council did not give consent it could face legal action for not acting reasonably when an suitable guarantor has been proposed

9. CONSULTATIONS

As this relates to facilities management, the Strategic Director, Growth & Development has been consulted.

10. DECLARATION OF INTEREST

All Declarations of Interest of the officer with delegation and any Member who has been consulted, and note of any dispensation granted should be recorded below:

VERSION: 1

CONTACT OFFICER:	Heather Bailey/Christopher Bradley
DATE:	1 st December 2023
BACKGROUND DOCUMENTS:	Authority consent letters