

Item No.:	Classification: <i>Open</i>	Date: 27/07/05
To	Executive	
Report title	<i>Variation Decision</i> Elephant and Castle graphic design and brand management contract	
Ward(s) or groups affected	Cathedral	
From	Director of Elephant and Castle development team	

RECOMMENDATIONS

1. That Executive approve the variation of the Elephant and Castle graphic design and brand management contract to Wire Design

BACKGROUND INFORMATION

2. The initial annual cost of the contract was £150 000 for an initial period of 12 months making a total contract value of £150 000

Details of any previous variations

Date variation agreed	Nature of variation	Cost of variation
NO PREVIOUS VARIATIONS AGREED		

Key Aspects Of Proposed Variation

3. The nature of the proposed variation is to extend the length of appointment of Wire Design to provide design and brand management services for the Elephant and Castle regeneration for an additional period of approximately 18 months until commercial partner selection.
4. The estimated upper value of the variation is £ 300 000 making the total value of all variations (including this one) £ 300 000
5. The value of all variations to this contract as a percentage of the original contract value is 200%.

Background Of Contract

6. Southwark Council is currently running two regeneration programmes for Elephant and Castle; Elephant Links, a programme (currently in its final year) funded through the government's Single Regeneration Budget focusing on the social and economic renewal of the area; and the £1.5 billion physical development programme.
7. In July 2002, the Executive relaunched the regeneration scheme under the title 'A fresh start for the Elephant and Castle'. By mid 2003, a draft comprehensive development framework had been produced and the launch of a major consultation exercise necessitated the creation of a 'brand' that would unify all of the promotional, information and marketing material that the project would issue.

8. The council invited ten practices to come forward with proposals for the original rebranding brief which included responsibility for brand management graphic design. Tenders had two rounds of interviews, the first to discuss the scheme, learn about the proposals and discuss how they felt they could benefit the Elephant and Castle programme. The second meeting enabled the designers to come forward with specific ideas. Scoring was out of ten for criteria that included their design capabilities, empathy with the brief, value for money and skills fit with the brief. The procurement exercise was undertaken over a three-month period. The length of the appointment was for an initial year and to the approximate value of £150,000.
9. The introduction of a combined brand for the Elephant Links programme and the development programme has enabled the communications team to professionalise all written and online work, and has ensured consistency across all communications channels and messages to all audiences. The design has been highly effective in communicating the aims of the programme to a diverse range of audiences. There has been extremely positive feedback about the design from different target groups. The brand has established strong recognition in the press, both local and professional, in the property and development markets, in the housing association sector, and in relation to major regeneration projects nationally and across London. As members will be aware, the project was awarded the London Mayor's prize for best public sector planning organisation in November 2004. With two major procurement exercises currently under way (housing and commercial), there is an overriding need for continuity and consistency whilst these run their course. Given the enormous difficulties from which the project has been retrieved the project team considers that there is an unnecessary degree of risk associated with reinventing the design and brand approach to the project at a critical point in its development.
10. For this reason, the team has undertaken a market based price comparison exercise to ascertain whether the existing working arrangements can be continued whilst maintaining the principals of Best Value and Value for Money. This is relatively straightforward in this instance because of the extensive exercise that was undertaken in 2003. We have asked a representative selection of firms in the sector to confirm their current rates and it is apparent that there has been no significant change in absolute or differential fee rates to warrant a change of practice on cost grounds alone.
11. In line with Southwark's Contract Standing Orders it is necessary to apply for an extension of the provision of these services at the end of the current contract for the remainder of the 2005/2006 tax year and from the start of the 2006/2007 tax year, up to the point of commercial partner selection (approximately July 2006 - but in any event not later than the end of the financial year 2006/2007). At the point of creation of this partnership funding responsibilities will move to the partnership and therefore be subject to commissioning arrangements created through a contractual or corporate joint venture. The reason for extension of the originally intended period is mainly due to the fact that the European procurement arrangements for partner selection have proved more time consuming than was originally anticipated.

Alternative options considered: Because an extensive procurement exercise was undertaken in late 2003 which involved market testing (as detailed in paragraph 10 of this report) it is not recommended that the council would need to reprocure these services to provide Best Value. The only realistic alternative to extension of the existing contract would be a full market based competitive process and this is considered inappropriate and unnecessary for the reasons set out in paragraphs 11 and 12 above.

KEY ISSUES FOR CONSIDERATION

- 16 Continuing the brand at least over the next 18 months will ensure a smooth and consistent flow of information to key audiences

17. Elephant and Castle is a flagship council project and the project's reputation and the way it is perceived in the marketplace is important to its success.

Policy implications

18. NA

Effect of proposed variation on those affected

19. NA

Resource implications

20. Financial Implications

The variation will be funded through the Elephant and Castle development budget.

21. Investment Implications

NA

Legal Implications

see advice from Borough Solicitor

Consultation

22. NA

Other implications or issues

23. NA

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Borough Solicitor

24. The Executive is requested to approve the variation of an existing contract with Wire Design as set out in this Report;
25. Section 135 of the Local Government Act 1972 provides that a Local Authority may make standing orders with respect to the making of contracts by them;
26. Contract Standing Order 8 F1 provides that where the amount of a variation is more than 15% of the Tender Value this must be authorised by the Executive (unless the original Tender Value was under £25,000).
27. This report confirms that the value of the proposed variation in the Recommendations exceeds 15% of the original tender value, and the original tender value is more than £25,000. The Borough Solicitor and Secretary therefore confirms that Executive approval will be required.
28. Although the original contract sum and the value of the proposed extension both exceed the EU threshold for service contracts, these services can be defined either as speciality design services or direct marketing services both of which fall within Part B of the Regulations and therefore the EU Procurement Regulations do not prevent the extension of the current contract.
29. Wire Design have confirmed that in relation to the intellectual property and copyright aspects of the brand identity and subsequent designs either the copyright will vest with the Council or the Council will be granted a licence to use the material. Therefore, there is no copyright reason why a different organisation could not provide these services. However, this Report sets out other reasons why a change in provider at this stage could be counterproductive and may not achieve better value for the Council than the current provider. The Executive should consider these points and satisfy themselves that these proposals will represent best value for the Council in the particular circumstances described.

30. Contract Standing Order 2.8 states that no additional sums may be paid under a variation unless the expenditure involved has been included in approved estimates or on capital or revenue accounts, or has been otherwise approved by, or on behalf of the Council. Paragraph [21] – Resource Implications of this Report confirm how the proposed additional expenditure will be funded.
31. The client department will need to work with Legal Services to ensure that contract documentation is put in place to formalise the terms of any agreed extension to the current contract.

Director of Finance

32. NA

Head of Procurement

33. Although the variation value exceeds the current EU threshold, speciality design services fall within Part B of the EU Procurement Regulations and are therefore exempt from the OJEU procedures.
34. In normal circumstances this would fall, under CSO's, into the scope of a General Procurement and would warrant a publicly advertised competitive tender. However the reasons set out at 11 and 12 in the report provide an exceptional reason for not following the procedures as set out in CSO 3 and for following the Variation route detailed here in.
35. A market test (as stated in paragraph 10) has been undertaken and the results demonstrated that no additional best value regarding costs would be achieved by a full procurement exercise.
36. I am satisfied that this strategy fulfils best practice in line with Contract Standing Orders, considering the circumstances set out above. If the Executive is minded to do so, then the recommendations should be approved.

BACKGROUND PAPERS

Background Papers	Held At	Contact
Elephant and Castle SPG	3 rd Floor, Coburg House, 63-67 Newington Causeway SE1 6BD	Jon Abbott 020 7525 4902

AUDIT TRAIL

Lead Officer	<i>Chris Horn</i>		
Report Author	<i>Kura Perkins</i>		
Version	<i>Final</i>		
Dated	<i>19/07/05</i>		
Key Decision?	<i>no</i>	If yes, date appeared on forward plan	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER			
Officer Title	Comments Sought	Comments included	
Legal: Borough Solicitor & Secretary	<i>yes</i>	<i>yes</i>	
Chief Finance Officer	<i>no</i>	<i>no</i>	
Head of Procurement	<i>yes</i>	<i>yes</i>	
Executive Member	<i>no</i>	<i>no</i>	
Date final report sent to Constitutional Support Services	<i>19/07/05</i>		