

Item No	Classification: Open	Date: 7 January 2013
To	Strategic Director of Finance and Corporate Services	
Report title	Gateway 3 - Variation Decision Burgess Park Revitalisation Project	
Ward(s) or groups affected	Faraday	
From	Strategic Director Environment & Leisure	

RECOMMENDATION

1. That the strategic director of finance and corporate services confirms his prior approval of the variation of the Burgess Park Revitalisation Project contract with 4 Futures, Southwark's Local Education Partnership, for a period from March to end June 2012.

BACKGROUND INFORMATION

2. In March 2009 the council was awarded £2m for the redevelopment of Burgess Park as part of the Mayor of London's Major Parks Scheme. This was following a competition to identify parks across the capital that would benefit from improvements to make them more attractive and safer for local communities. In addition, the Aylesbury New Deal for Communities Partnership and the council supplemented this funding to enable the delivery of the first phase of the revitalisation of Burgess Park.
3. A contract to deliver the Burgess Park Revitalisation Project was awarded to 4 Futures and commenced in June 2011 and was due for completion in March 2012.
4. The contract includes the following elements of work:
 - a. Earthworks
 - b. New playground
 - c. New entrances to Old Kent Road and Camberwell Road
 - d. New paths
 - e. New planting
 - f. Car park improvements
 - g. New bins and benches
 - h. Lake extension and lake improvements
5. During the execution of the contract it became necessary to incur further costs to deal with ground contamination, utility service diversions and additional works ancillary to the main contract.
6. These cost pressures were reported to the strategic director of environment and leisure and also the strategic director of finance and corporate services as soon as the liability became known and advised on necessary actions that had to be taken which included reporting these pressures in the capital reports to cabinet.
7. These cost pressures were reported to cabinet on the 22 November 2011 and the 7 February 2012 respectively and following allocation of additional funding within the capital programme at being agreed by the cabinet on 25 September 2012 this report is being brought forward for confirmation of the agreement of the variation of the value of the contract with 4 Futures as required by contract standing orders.

Rationale for proceeding with works

8. The scope of the additional work is set out in paragraph 14 below. It was necessary to undertake the works because the Environment Agency stipulated that the contaminated soil and tanks must be removed from site before the park was reopened to the public. All reasonable steps were taken to control cost but this was not possible given the scale of the additional works.
9. Failure to progress the works would have resulted in:-
 - a Incurring further unfunded contract costs
 - b For the minor associated works, further and higher unfunded costs for completion of the minor associated works outside of the main contract
 - c The overall park project missing its key delivery target of opening the park for residents to enjoy over the summer months

KEY ISSUES FOR CONSIDERATION

Key Aspects of Proposed Variation

10. The nature of the proposed variation is the scope of the works. The revised contract completion date was the 29 June 2012 which is within the three month extension allowable under the original contract.

Reasons for Variation

11. During the main contract works large and deep historic tanks that previously held diesel were discovered. The diesel had unfortunately leaked into the surrounding soil and contaminated the soil and the groundwater below. An extensive ground investigation prior to starting on site had been undertaken. However the tanks were deep and covered by large slabs of concrete so they went undetected. The Environment Agency specifically instructed for the tanks to be removed and that the surrounding contaminated soil had to be removed off site to a registered landfill site. As a result this spend was unavoidable in that both the tanks and contaminated soil had to be removed off site. The surrounding soil was tested and that soil that was deemed safe was used to fill the hole created by the tanks. The soils that were heavily contaminated with diesel were taken off site to a registered landfill site. These works added both cost and time to the project.
12. The tanks were discovered when undertaking the significant earthworks on the west side of the park and they were not detected by the original site survey due to them being covered by a significant layer of concrete. A third party was commissioned to review the site survey that had been undertaken to identify whether the contracted structural engineer had delivered to the original specification. The third party confirmed that there was no evidence of failure to deliver against the specification and it was decided that there was not a sufficient case to submit a claim from the then structural engineers.
13. Additional funding was identified to undertake works inside the park that were adjacent to or are near areas that had been refurbished as part of the main project scope. These included resurfacing of the hard standing areas around and leading to the lake as well as making further improvements to the infrastructure in key areas of the park.

14. These works included:
- a. Resurfacing around the lake
 - b. Removing redundant buildings around the lake that previously housed water pumps
 - c. Repairing the underpass at Wells Way
 - d. Removing redundant hard standing areas such as old bench bases
 - e. Repairing paths and formalising desire lines particularly near the lake
 - f. Fixing additional benches and bins

Future Proposals for this Service

15. There are no future works planned as phase 1 of the Burgess Park Revitalisation Project has been completed.

Alternative Options Considered

16. The work undertaken was not included within the scope of the original contract as the need to deal with the ground contamination was not identified from desk top surveys undertaken prior to works commencing. In relation to the improvement works set out in paragraph 14, these were not included as the initial scope was limited to works that could be funded solely from external sources.
17. Use of an alternative contractor was considered and dismissed on the basis of:
- a. The need to undertake the works in a short time frame
 - b. The current incumbent had demonstrated that they had the skills and competence to undertake the work
 - c. The independent quantity surveyor engaged on the project satisfied the design team that the costs quoted to undertake the works corresponded to market rates
 - d. The site was under the management of 4 Futures whom had full control of the site

Policy implications

18. This variation supports the following Fairer Future Promise themes of Encouraging Healthy Lifestyles by transforming Burgess Park.
19. The revitalisation project included the installation of a brand new over 5s play area, a 5km fitness trail and seven table tennis tables.

Contract management and monitoring

20. The contract was monitored on a day-to-day basis by the Burgess Park project manager and parks managers. Monthly progress meetings with the appointed Lead Designer were held to monitor progress against the programme and the budget.
21. A monthly monitoring meeting took place between the project manager, 4 Futures and the BSF project office. The BSF project officer approved the proposed contract variation. This project is integrated into LEP performance monitoring protocols and performance was monitored by the Strategic Partnering and LEP Board.
22. The project board also met monthly and a number of key stakeholders, funding partners plus the SSF director were members of this board.

Community Impact Statement

23. The overall impact on this development will be positive for all sectors of the local community.
24. The consultation scheme and the presence of a stakeholders group representing local stakeholders have been effective in ensuring input from the local community.
25. An Equalities Impact Assessment for parks services was agreed in April 2008. This identified a lack of detailed information regarding levels of use, needs and customer satisfaction of parks by equalities groups. A methodology for securing this information once the park is reopened is being implemented.

Economic considerations

26. The contractor has confirmed that they have a policy of paying staff to the level of the London Living Wage as a minimum

Social considerations

27. Throughout the contract the contractor sought to employ local people, where possible, and people within the Greater London, providing local employment. This practice was continued throughout the extension period. However due to the existing supply chain that the company uses this was not always possible.

Environmental considerations

28. The Environment Agency instructed that the contaminated soil should be removed from site and this action was taken to ensure that this environmental risk was addressed.
29. Where possible, materials specified in the scheme were obtained from sustainable sources. The scheme sought to ensure minimal ongoing use of resources such as water, energy and chemicals.

Financial Implications

30. The cost pressures emerging from ground contamination in the park from the discovery of buried diesel tanks and for addressing the utility service diversions were reported to cabinet on the 22 November 2011 and the 7 February 2012. The overall cost pressure which also included the costs for the additional works was reported to the cabinet on 25 September 2012. At that meeting, the cabinet approved additional funding from the Integrated Waste Solutions project, with the balance from other capital resources. Therefore, there is provision in the latest approved capital programme to contain this proposed variation.
31. All the costs will be incurred in this financial year 2012/13.
32. All revenue implications have been contained within existing resources of the parks and open spaces business unit.

Legal Implications

33. The legal implications are set out below in the concurrent report of the director of legal services.

Consultation

34. The governance of the project was managed through a project board represented by key stakeholders involved in the project and also consultation through a stakeholder group whom met on a regular basis
35. The additional works were identified by stakeholders through the stakeholder meeting and project board as works that needed to be undertaken prior to the park being opened.
36. The options for resolving the issue with the diesel tanks were raised at the stakeholder meeting and deliberated at the project board.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

38. This report seeks to vary the Burgess Park Revitalisation Project contract with 4 Futures for a period from March to end June 2012.
39. The report explains the rationale for the variation and confirms that the requirement for the additional works could not have been reasonably foreseen. The revised end date for the contract, which has now completed, is within the period allowable under the original contract.
40. The report notes that prior approval was given to the variation and that this approval is now being formalised.
41. The report confirms that the provider had demonstrated their skills and competence to deliver the contract and that the costs of the variation corresponded with the market rate.
42. In line with Contract Standing Orders this report is one which should be approved by the strategic director of finance and corporate services after consideration by CCRB.
43. This report has been considered by both CCRB and Environment and Leisure DCRB. The comments of the boards have been incorporated into this final report.
44. This concurrent has been provided by the head of environment and leisure procurement.

Director of Legal Services


45. The director of legal services ("DLS"), acting through the contracts section of the corporate team) has advised officers in connection with the issues raised in this report and notes the report recommendation. The strategic director of finance and corporate services had been consulted at the time of the events referred to in paragraphs 13 and 14 and had given approval to incur the additional expenditure necessary to fund the removal of fuel tanks and contaminated soil, hence his approval of the recommendation in paragraph 1 will not be treated as retrospective for the purposes of the council's Contract Standing Orders and other constitutional requirements.
46. Contract Standing Orders state that no variation of a contract may be made unless adequate funding shall have been identified and set aside for that purpose. The closed version of this report confirms how that requirement will be met. The DLS has advised officers in connection with the drafting of appropriate documentation which records the variation of the council's contract with 4 Futures.

Strategic Director of Finance and Corporate Services (F&CS13/001)

47. The variation is noted. The full costs are included within the current capital programme and departmental revenue budgets.

FOR DELEGATED APPROVAL

Under the powers delegated to me in accordance with the Council's Contract Standing Orders, I authorise action in accordance with the recommendation contained in the above report.

Signature  Date... 17.1.13....

Designation STRATEGIC DIRECTOR OF FINANCE AND CORPORATE SERVICES

BACKGROUND PAPERS

Background Papers	Held At	Contact
LEP approval	3rd Floor, Tooley Street	Ruth Miller 02075250877
Gateway 1/ 2 preconstruction Services	3rd Floor Tooley Street	Ruth Miller 02075250877

APPENDICES

Appendix number	Title of appendix

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director, Environment & Leisure
Report Author	Des Waters, Head of Public Realm, E&L
Version	Final
Dated	January 2013
Key Decision?	Yes

CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER

Officer Title	Comments Sought	Comments included
Head of Procurement	Yes	Yes
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes

Corporate Contract Review Board	Yes	Yes
Date final report sent to Constitutional Support Services	7 January 2013	