

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 2 November 2017	<b>Meeting Name:</b> Strategic Director of Finance and Governance
<b>Report title:</b>		<b>Gateway 3 – Variation Decision</b> Professional Technical Services Contract	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Director of Asset Management	

## RECOMMENDATIONS

1. That the strategic director of finance and governance approves the variation of the first Professional Technical Services contract to Calfordseaden LLP to extend the term of the contract for a period of 18 months from 1 November 2017 at an estimated cost of £1.88m, maintaining the contract value within £15.6m for five years and six months.
2. That the strategic director of finance and governance approves the variation of the second Professional Technical Services contract to Potter Raper Partnership to extend the term of the contract for a period of 18 months from 1 November 2017 at an estimated additional cost of £0.19m and to allow additional spend of £1.355m making a revised contract value of £5.35m for five years and six months.
3. That a quarterly update report be produced for CCRB on the progress of the procurement of the new technical services contract.

## BACKGROUND INFORMATION

4. On 30 September 2013 the deputy leader and cabinet member for housing management approved the award of two Professional Technical Services contracts. The first contract was awarded to Calfordseaden LLP (CS) for a period of four years at an estimated annual value of up to £1.125m with the provision for two extensions, each of up to three years. The second contract was awarded to Potter Raper Partnership (PRP) for a period of four years at an estimated annual value of up to £0.125m with the provision for two extensions, each of up to three years.
5. The contracts provide professional technical services, in particular to the major works team in housing, who are responsible for the delivery of the majority of the housing capital programme. A vigorous selection process took place on the basis of best value and only CS and PRP met the minimal quality criteria. The firms supply services including surveying, quantity surveying, clerk of works, and structural engineers.
6. Expenditure on the capital programme has increased and a corresponding increase has been required for each of these contracts.
7. A Gateway 3 report was approved on 30 April 2014 to allow additional spend for both contracts as substantial changes were made to the programme and variations were made accordingly to the contracts (i.e. schemes were brought forward and unforeseen additions were made to the programme). The figures increased as follows:

- a. CS's contract for the first two years increased to £3.9m making a revised contract value of £10.05m for the first four years of the contract, with a possible £16.8m for a contract up to ten years; and
  - b. PRP's contract for the first year of the contract increased to £1.25m and for the second year of the contract increased to £430k, making a total revised contract value of £1.805m for the first four years of the contract with a possible £2.555m for a contract of up to ten years.
8. A further Gateway 3 report was approved on 6 August 2015 to increase spend on both contracts - CS contract to £15.6m and the PRP contract to £3.805m for the first four years.

## KEY ISSUES FOR CONSIDERATION

### Key Aspects of Proposed Variation

9. The nature of the proposed variations is to exercise the option in the contracts with CS and PRP to be extended for a period of 18 months. The revised completion date will therefore be 30 April 2019. The reason for the extension is to allow for the new technical services contracts to be in place, which is still at Gateway 0 stage.
10. The estimated value of this proposed variation to the CS contract is £1.9m. Combined with the actual value of the approved initial contract term, additional spend, previous contract extension value and estimated value of this proposed variation, of initially £10.05m, increased to £16.8m and then to £15.6m, the latest variation will remain at a total of £15.6m. The value of this last variation to the contract as a percentage is therefore estimated to be 0% as there is no overall increase in the total contract sum.
11. The estimated value of this proposed variation to the PRP contract is £1.545m. Combined with the actual value of the approved initial contract term, additional spend, previous contract extension value and estimated value of this proposed variation, of initially £1.125m, increased to a possible £2.555m, and then to £3.805m respectively, bringing the total with the latest variation to £5.35m. The value of this last variation to the contract as a percentage is estimated to be 40%.
12. The CS contract has spends of approximately £6m (inclusive of commitments this stands at approximately £6.7m), and the PRP contract is approximately £2.9m of spend (inclusive of commitments approximately £3.8m). The PRP contract will require an additional approval of spend for approximately £1.545m to cover any anticipated work within the extra 18 months. A breakdown of spend to date is detailed in the table below.

Contractor	2014/15	2015/16	2016/17	2017/18	Total
Calford Seaden	£1,208,418	£1,658,105	£1,770,653	£1,469,014	£6,106,190
Potter Raper	£662,996	£1,425,950	£469,357	£420,533	£2,978,836

13. The PRP element will increase by a maximum of £1.295m over the initial £0.125m per annum to allow them to continue with work in the Borough & Bankside and Walworth areas and also on district heating schemes where they have gained extensive experience and knowledge over the current four years of the contract.

## **Reasons for Variation**

14. The services delivered through these contracts enable the council to deliver its housing asset management strategy and in particular the Quality Homes Investment Programme (QHIP).
15. CS and PRP's level of performance is covered in paragraph 28.
16. A variation to CS and PRPs' current contracts has been provisionally agreed with them which will form part of their contracts which will be executed through a deed of variation. This variation is to include clauses in relation to potential TUPE of staff on exit as a due diligence exercise needs to be undertaken with CS and PRPs' workforce. The termination clause will also be reduced so the new technical services contract can be used as soon as it is let.

## **Future Proposals for this Service**

17. The long term intention for the new combined asset management section is to procure a framework which can cover all the technical services support required for services including major works, day to day repairs, voids, engineering works etc. and possibly new build schemes. This procurement exercise will take approximately 18 months and a Gateway 1 report is being progressed to go to Cabinet in January 2018. Should there be any delays in procuring a new contract then a further extension could be considered via a new Gateway 3. If the new contracts are in place earlier then an early termination of the existing contracts could be pursued. The recommendation in the Gateway 1 is likely to be.
  - a. The council commences an immediate procurement for a council wide professional technical services framework as described to cabinet with an estimated total value of £200 million over 4 years, planned to come into effect on the expiry date of the existing contracts.
18. As a recommendation of this report, it is recommended that quarterly updates go to CCRB with an updated procurement plan and timetable and an analysis of the options at each CCRB.
19. Officers from asset management originally set out to procure a framework for its teams to ensure that specifications are bespoke and address the various work streams such as QHIP, new homes and Engineering. Asset management was then asked to incorporate Regeneration requirements which are complex and wide ranging.
20. Due to Regeneration being incorporated a Gateway 0 was presented to Cabinet on 18 July as the value of the proposed procurement triggered the Gateway 0 process.
21. The current project plan for the proposal is attached as Appendix 1.

## **Alternative Options Considered**

22. At this stage of the contracts, three options were considered but rejected for the following reasons:
  - 'Call-off' from a third party framework - these cannot be used as leaseholders were not specifically consulted on the framework proposals.

- Only extend the CS contract – this has not been recommended as it would lose the expertise and experience that PRP have built up over the four years of the contract.
- Bring the service back in-house –the necessary skills and knowledge are not available in-house as an economically viable package.

### Identified risks for the extension

23. The table below identifies the risks associated with this extension, the likelihood of occurrence and the control in place to mitigate the risks:

R/N	Risk Identification	Likelihood	Risk Control
R1	CS and/or PRP are unable to deal with new workload	Low	Both PRP and CS have sufficient staff to continue the contract.
R2	Challenge from leaseholders.	Low	The original consultation with home owners was for a possible ten year contract, so it is extremely unlikely there would be a challenge to this proposed extension. Home owners are aware this is a possible ten year contract and had the opportunity to advise firms to make an application to participate through the EU procurement process.
R3	CS and/or PRP cease trading, go into administration or liquidation,	Low	a. A financial check will be undertaken with Mint UK. b. Both firms are back up to each other.

### Policy implications

24. The professional services contracts help deliver on one of the council's Fairer Future promises, that of providing quality kitchens and bathroom for all residents.

### Contract management and monitoring

25. The performance of CS and PRP and any commitments made in their bids is monitored by the Investment team. The Investment team ensure that each time CS and PRP are instructed, that they follow the works brief for the scheme, are involved in the consultation process with residents, follow the timetable for the scheme and ensure that the works are carried out to the set quality on site by the successful contractors. Each project manager in the Investment team or other departmental officers using the contracts provide a quarterly monitor on the performance of CS and PRP and there are specific KPIs in each contract in the areas of time, cost and quality. KPIs are produced for both CS and PRP on a quarterly basis and these show that both CS and PRP are performing very well in terms of both quality, value for money, health and safety and timeliness with scores in the range of 7-8/10. The market for professional technical services firms is such, that having two quality firms in place is greatly beneficial to the council in providing quality and cost effective services. Tight control is kept on costs and savings and almost all contracts have come within contract sums.

26. The spend and performance on both contracts is monitored by the director of asset management and reported regularly to the repairs and major works core group led by the lead cabinet member for housing and modernisation. Although the contracts can cover a range of projects within the council, in practice it has been mainly designed and used for the works run by the Investment team and it is therefore priority will be given for those programmes, although other departments in the council will be able to use the contracts if capacity is available.

### **Community Impact Statement**

27. Having a consistent set of professional service firms working in the Borough has improved the quality of service and has also helped CS and PRP to ensure that, in particular with the major works partnering contractors, that they work comprehensively with the community.

### **Social Value considerations**

28. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well being of the local area can be secured. The social value considerations delivered are set out below.

### **Economic considerations**

29. There are no specific economic considerations to this report.

### **Social considerations**

30. CS and PRP employees and those of their subcontractors are paid in accordance with the London Living Wage and have equality policies that conform to the council's standards. The application of these policies is revised for compliance as part of the contracts' annual review. Each of them is required to employ apprentices and provide training and employment opportunities for Southwark residents. They must comply with the requirements of the Employment Relations Act 1999 (Blacklists) Regulations 2010 ("the Blacklists Regulations) and shall ensure that it will not during the Term/Contract Period/provision of the Works be a party to or concur in any discriminatory employment practice which could be construed as blacklisting or boycotting any person who has sought employment with the contractors in breach of the Blacklists Regulations.

### **Environmental/Sustainability considerations**

31. There are no specific sustainability/environmental considerations at this stage.

### **Financial Implications**

32. A Gateway 3 was approved on 6 August 2015 to increase spend on both contracts. The Calfordseaden Ltd contract was increased to a total of £15.6m and the Potter Raper Partnership contract to £3.805m for four years, from November 2013 until October 2017.

33. This Gateway extends both the Professional Technical Services contracts (Calfordseaden Ltd and Potter Raper Partnership) for a further 18 months until April 2019 at the original values (£1.25m and £0.125m per annum respectively) but also allows for a further £1.355m for Potter Raper Partnership.

34. As per paragraph 12, the Calfordseaden Ltd contract has spends and commitments of approximately £6.4m, so the total spend will be well within the overall contract value and the Potter Raper Partnership contract has spend and commitments of £3.8m. The Potter Raper Partnership contract therefore requires an additional approval of spend for approximately £1.545m to cover any anticipated work within the extra 18 months.
35. The estimated value of these contracts for the 18 month time period is £3.425m, and will help deliver the QHIP programme. The delivery of these works and the housing investment programme as a whole is subject to the availability of resources to fund it.

#### **Investment implications**

36. The costs for the Professional Technical Services contract will be charged to the respective projects.

#### **Legal Implications**

37. Please see the concurrent from the director of law and democracy.

#### **Consultation**

38. There was extensive consultation with leaseholders as part of the statutory process. In addition, a tenants' and a residents' representative were on the final tender evaluation panel as part of the consultation process with Tenants Council and Home Owners Council.

### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

#### **Head of Procurement**

39. This report is seeking approval to vary the two existing professional technical services contracts for a further period of 18 months. These contracts were let in September 2013 to deliver professional consultancy services for construction related projects mainly delivered through the major works programme within the Housing and Modernisation department.
40. Two previous GW3 reports have been approved, on 30 April 2014 and 6 August 2015 in order to allow for additional services and expenditure through these contracts. The report explains, these increases and the rationale for this further extension, namely to deliver the housing asset management strategy and provide time to explore alternative future arrangements which may include an option to procure new technical service contracts.
41. The report confirms that performance to date on both contracts has been good. There are management and monitoring arrangements in place which should go some way to ensuring that these levels of contract performance are maintained. It would appear that there is no reason why the council should not continue with these arrangements for the recommended extension period.

#### **Director of Law and Democracy**

42. This report seeks the approval of the strategic director of finance and governance to 2 professional technical services contracts which are being performed by Calfordseaden LLP and Potter Raper Partnership. This report sets out the extent of the extensions and the reasons why extensions of 18 months are necessary.
43. The nature of these variations is such that they are subject to the tendering requirements of the Public Contracts Regulations 2015 (PCR 2015). Regulation 72(1)(a) of PCR 2015 allows the council to vary the current contracts as this option was provided for in the initial procurement documents and does not alter the overall nature of the contracts. Paragraph 15 confirms that modifications will be made (as agreed with the contractors) to the current contracts. Regulation 72(1)(b) allows the council to include these modifications as long as they do not alter the overall nature of the contracts which they will not.
44. As the decision to approve these extensions fall within the circumstances noted in contract standing order 6.6.3(c), the decision is reserved to the strategic director of finance and governance, after consideration by the corporate contracts review board.
45. CSO 2.3 requires that a variation decision may only be made if the expenditure involved has been approved. Paragraphs 27-30 of this report confirm the financial implications of these variations.

**Strategic Director of Finance and Governance (H&M17/053)**

46. The capital programme reported as at July 2017 showed the housing investment programme was over committed (underfunded) by £211.1m over the life of the programme, and that there may be further demand on the capital programme as a consequence of local or national demands for resources following the tragic Grenfell fire. It is therefore important that the costs of these contracts are carefully monitored and that accurate forecasting is in place.

**Director of Exchequer**

47. Section 20 consultation was carried out on this Qualifying Long term Agreement in 2013. The consultation Notice specifically deals with the term of the contract and the Notice advised that there were extension options of two period of up to three years. This extension is therefore covered within the Notices issued on the agreement and the costs remain chargeable to leaseholders affected by any contracts of work that the agreement supports.

**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(s) contained in the above report.

Signature .....  ..... Date..... 10-11-17

Designation Strategic Director of Finance and Governance

**PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:**

- 1) All key decisions taken by officers
- 2) Any non-key decisions which are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available.

<b>1. DECISION(S)</b>
As set out in the recommendations of the report.

<b>2. REASONS FOR DECISION</b>
As set out in the report.

<b>3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION</b>
As set out in the report

<b>4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION</b>
None

<b>5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST</b>
<i>If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.</i>
N/A

<b>6. DECLARATION ON CONFLICTS OF INTERESTS</b>
<b>I declare that I was informed of no conflicts of interests.</b>



## BACKGROUND PAPERS

Background Papers	Held At	Contact
Gateway 2 'open' report – Professional Technical Services Contract	Chief Executive's – 160 Tooley Street	Everton Roberts, 0207 525 7221
Gateway 3 'open' report –Professional Technical Services Contract (April 2014)	Chief Executive's – 160 Tooley Street	Everton Roberts, 0207 525 7221
Gateway 3 'open' report –Professional Technical Services Contract (August 2015)	Chief Executive's – 160 Tooley Street	Everton Roberts, 0207 525 7221

## APPENDICES

No	Title
1	Project Plan for new professional services procurement

## AUDIT TRAIL

<b>Lead Officer</b>	Gerri Scott, Strategic Director of Housing and Modernisation
<b>Report Author</b>	David Markham, Director of Asset Management
<b>Version</b>	Final
<b>Dated</b>	2 November 2017
<b>Key Decision?</b>	Yes

## CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER

Officer Title	Comments Sought	Comments included
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Director of Exchequer	Yes	Yes
Cabinet Member	Yes	Yes
<b>Contract Review Boards</b>		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional/Community Councils/Scrutiny Team</b>		10 November 2017

Appendix 1 Project Plan for new technical services contracts

Activity	Complete by
Enter Gateway 1 decision on the Forward Plan	12/07/2017
DCRB Review Gateway 1	13/11/2017
CCRB Review Gateway 1	16/11/2017
Brief relevant cabinet member (over £100k)	20/11/2017
Notification of forthcoming decision - Cabinet	01/12/2017
Approval of Gateway 1: Procurement strategy report	23/01/2018
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	07/02/2018
Issue Notice of Intention (Applies to Housing Section 20 Leaseholder consultation only) (Note issued after approval GW0)	16/08/2017
Completion of tender documentation	28/02/2018
Publication of OJEU Notice	02/03/2018
Publication of Opportunity on Contracts Finder	06/03/2018
Hold bidders day	14/03/2018
Closing date for receipt of expressions of interest	06/04/2018
Completion of short-listing of applicants	08/06/2018
Initial Tender Stage – issue invitation to participate to negotiate	15/06/2018
Closing date for return of initial tenders	27/07/2018
Completion of evaluation of initial tender stage	20/09/2018
Tender Negotiation Stage – issue invitation to participate to dialogue	27/09/2018
Close of negotiation phase and call for final tenders	26/10/2018
Closing date for return of final tenders	26/11/2018
Completion of evaluation of final tenders	17/12/2018
Issue Notice of Proposal (Applies to Housing Section 20 Leaseholder consultation only)	14/01/2019
Forward Plan (if Strategic Procurement) Gateway 2	18/07/2018
DCRB Review Gateway 2:	21/01/2019
CCRB Review Gateway 2	24/01/2019
CMT Review Gateway 2 (if applicable)	28/01/2019
Notification of forthcoming decision – despatch of Cabinet agenda papers	01/02/2019
Approval of Gateway 2: Contract Award Report	19/02/2019
End of scrutiny Call-in period and notification of implementation of Gateway 2 decision	01/03/2019
Debrief Notice and Standstill Period (if applicable)	08/03/2019

Appendix 1 Project Plan for new technical services contracts

Activity	Complete by:
Contract award	12/03/2019
Place award notice in Official Journal of European (OJEU)	12/03/2019
Place award notice on Contracts Finder	12/03/2019
Add to Contract Register	14/03/2019
TUPE Consultation period (if applicable)	N/A
Mobilisation	22/04/2019
Contract start	23/04/2019
Initial contract completion date	22/04/2023
Contract completion date – (if extension(s) exercised)	N/A

Notes:

- These are estimated dates ONLY. We have still not confirmed the procurement route at present. The GW1 has been put back to December decision but it is likely to be put back to January as still awaiting Regen input and Leaders decision on either Council only of Pan London.
- You will note that this is not a two stage tendering route. Its procurement with tendering and then negotiating. Subject to the level of interest it maybe that tender evaluation takes longer.