

<b>Item No.</b> N/a	<b>Classification:</b> Open	<b>Date:</b> 29 April 2020	<b>Meeting Name:</b> Cabinet Member for Housing and Modernisation
<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 Cabinet Member for Housing Management and Modernisation approves the variation of the first Professional Technical Services contract to Calfordseaden LLP to extend the term of the contract for a period of 12 months from 1 May 2020 (as further detailed in paragraph 15) at an estimated additional cost of £2m making a revised estimated contract value of £10.6m for seven years and six months.
2. That the Cabinet Member for Housing Management and Modernisation approves the variation of the second Professional Technical Services contract to Potter Raper Ltd (formerly Potter Raper Partnership) to extend the term of the contract for a period of 12 months from 1 May 2020 (as further detailed in paragraph 15) at an estimated additional cost of £1m making a revised estimated contract value of £8.35m for seven years and six months.

## BACKGROUND INFORMATION

3. It is worth noting that Potter Raper Ltd changed its legal status from a partnership to a limited company on 17 December 2018. A separate GW3 report was approved on 21 May 2019 to effect the novation of their contract from Potter Raper Partnership to Potter Raper Ltd.
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 Ltd (PRL) 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. This team is responsible for the delivery of the majority of the housing capital programme. A rigorous selection process took place on the basis of best value and only CS and PRL met the quality criteria. The firms supply services including surveying, quantity surveying, clerk of works, and structural engineers.
6. Whilst CS carries out the majority of the work under the first contract, the extension to PRL's contract is intended to be a useful and committed back up option to CS and will only be used if needed.
7. Following approval to exercise the options to extend, to increase the contract value in line with the approved capital programme, to effect the extension provisions contained

within the contracts on 20 April 2014, 6 August 2015, 10 November 2017 and 1 August 2019, the current contracts have an end date of 30 April 2020.

8. This report is seeking approval for a 12 month extension to the CS and PRL contracts to ensure service continuity for known programmes and any urgent matters which may arise for the period 2020/21.

## KEY ISSUES FOR CONSIDERATION

### Key Aspects of Proposed Variation

9. The nature of the proposed variation is to exercise the option in the contracts to be extended for a period of 12 months. The revised completion date will be 30 April 2021. The reason for the extension is to allow for the new Professional Technical Services framework to be procured. The framework is anticipated to be in place by September 2020 and therefore the likelihood is that 12 months will not be needed and the contracts will be terminated.
10. The estimated value of the proposed variation to the CS contract is not expected to exceed £2m at this stage as it is only intended for use until the new framework is in place, and/or for urgent work, and the PRL contract is not expected to exceed £1m at this stage as it is only intended as a back up to the CS contract. Almost all the known programmes for 2020/21 and 2021/22 have already been commissioned and the intention is to use the extension only to deal with urgent works requirements.
11. The CS contract has spends of approximately £10.3m. The breakdown of spend to date is detailed in the table below.

Contractor	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	Total
CS	£1,208,418	£1,658,105	£1,770,653	£1,469,014	£2,006,449	£2,197,597	£10,310,236

12. The PRL contract has spends of approximately £6.5m. A breakdown of spend to date is detailed in the table below.

Contractor	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	Total
PRL	£662,996	£1,425,950	£469,357	£505,000	£853,079	£2,578,549	£6,494,931

### Reasons for Variation

13. 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). It should be noted although the approval is nominally extended no orders have been given outside of the current approval period.
14. CS and PRL's levels of performance are covered in paragraphs 21 and 22.
15. A variation to the current contracts has been provisionally agreed with CS and PRL which will form part of their contracts which will be executed through a deed of variation. In the event that the contracts are terminated earlier than anticipated, these variations

will limit the payment following termination clause to ensure that CS and PRL only incur reasonable fees and expenses for the services they are instructed to do.

12. The contracts have an end date of 30 April 2020 unless the extension provisions are effected. Once implementable, the contracts will continue from their current end date until 30 April 2021. No new orders have been given. The report seeks approval for these variations for one key reason. The key reason is the uncertainty around dates for the procurement of the new professional services contracts, and the risk of dates slipping due to Covid-19. This is now expected to be as follows:
  - Issue ITT – November 2019
  - Tender return – February 2020
  - Tender Evaluation –February 2020 to May 2020
  - NOPs June 2020
  - Cabinet decision - September 2020
  - Feedback sessions September 2020 and contract awards
13. The Key Performance Indicators (KPI's) for the year were collected in January 2020 and both CS and PRL have performed to the required standard. Therefore it is appropriate for an extension to be considered.

#### **Future Proposals for this Service**

14. It is anticipated that the new Professional Technical Services framework will enable the new combined asset management section to use the various Lots 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.

#### **Alternative Options Considered**

15. At this stage of the contracts, two other options were considered but rejected for the following reasons:
  - 1) 'Call-off' from a third party framework - these cannot be used as leaseholders were not specifically consulted on the framework proposals.
  - 2) 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**

16. 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 PRL are not able to deal with new workload.	Low	CS and PRL have sufficient staff to continue the contract.

R/N	Risk Identification	Likelihood	Risk Control
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 or PRL cease trading, go into administration or liquidation.	Low	A financial check was undertaken on 25 February 2020 of CS and the rating was to a very high standard. A detailed financial report for PRL is currently not available as PRL started trading as a limited company from 1 May 2019. At present, there are no grounds for concerns about PRL's financial security. Furthermore, PRL is only to be used as a backup to CS.
R4	Other firms challenge the decision	Low	This is very unlikely given that there is a clear process in place for the new procurement.
R5	Other procurement for new contracts doesn't meet timetable	Medium	This is the reason for a 12 month extension beyond the current date, and the termination clauses will be operated in the event that the new framework is in place before 30 April 2021.

### Policy implications

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

### Contract management and monitoring

18. The performance of CS and PRL and any commitments made in their bids is monitored by the Investment team. The Investment team ensure that each time that CS and PRL are instructed, they follow the works brief for the scheme and are involved in the consultation process with residents. The Investment team also ensure that they 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 PRL. There are specific KPIs in the contract in the areas of time, cost and quality. KPIs are produced for asset management staff concerning their performance on a quarterly basis and these show that CS and PRL are performing well in terms of quality, value for money, health and safety and timeliness.
19. Spend and performance on the contracts is monitored by the Director of Asset Management. Although the contracts can cover a range of projects within the council, in practice they have been mainly designed and used for the works run by the Investment team and priority will therefore be given to those programmes, although other

departments within the council will be able to use the contracts if capacity is available. Their performance will be monitored especially closely as the contracts near completion to ensure CS and PRL maintain a high level of performance. Performance review reports will go to Departmental Contract Review Board (DCRB) and Corporate Contracts Review Board (CCRB) annually.

### **Community impact statement**

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

### **Social Value considerations**

21. 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**

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

### **Social considerations**

23. CS and PRL 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 they 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. CS have offered work experience placements, worked with schools, and continue to attend training and employment fairs to encourage Southwark residents to work for them, with multiple Southwark residents currently employed. CS had one apprentice from Southwark who has now moved on to another company, and another Southwark resident who has secured a full time job as a graduate engineer at CS after gaining work experience with them. PRL have employed a Southwark resident and have been to Southwark Careers Fairs, school events and provided work experience. Both will continue with their programmes during the extension period.

### **Environmental/Sustainability considerations**

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

### **Financial implications**

25. The CS and PRL contracts have spends and commitments of approximately £17m so total spend is currently well within the total contract values. The majority of their work is funded from the QHIP programme so funds are available for both contracts in the coming year.

26. The costs for the Professional Technical Services contracts will be charged to the respective projects.

### **Legal implications**

27. Please see the concurrent from the Director of Law and Democracy.

### **Consultation**

28. 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**

29. This report is seeking the approval of the cabinet member for housing and modernisation to vary both professional technical services contracts with Calfordseaden LLP and Potter Raper Ltd for a period of 12 months at a total contract value of £3m bringing the total expenditure over 7.5 years to £18.95m.
30. The report details the rationale for this/these extension/s, to allow completion of a procurement for new professional technical services framework which is due in September 2020 subject to an improved situation in relation to the Covid-19 pandemic.
31. Paragraph 18 of the report sets out the alternative options for the delivery of this service.
32. Paragraphs 21 to 22 outline the contract management arrangements that will be established to ensure the quality of these services is maintained and that the provider delivers on the key performance indicators set out in the contract.
33. Due to the relatively short nature of this extension 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**

34. This report seeks the approval of the Cabinet Member for Housing Management and Modernisation to 2 professional technical services contracts which are being performed by Calfordseaden LLP and Potter Raper Ltd (formerly Potter Raper Partnership). This report sets out the extent of the extensions and the reasons why extensions of 12 months are necessary. As the values of the proposed variations are between £2-4m, the decision to approve these variations is reserved to the relevant cabinet member after consideration by the CCRB of the report.
35. 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 14 confirms that modifications will be made in light of the Covid-19 pandemic 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.

36. CSO 2.3 requires that a variation decision may only be made if the expenditure involved has been approved. Paragraph 28 of this report confirms the financial implications of these variations

### **Strategic Director of Finance and Governance (H&M 19/031)**

37. This report seeks approval to vary the Professional Technical Services contracts awarded to Calfordseaden LLP and Potter Raper Ltd by extending the terms of the contracts by a further 12 months at an estimated cost of £2m and £1m respectively. The Strategic Director of Finance and Governance notes the reason for the extension is to allow time for the new Professional Technical Services framework to be procured and the need to ensure service continuity in the interim. The new framework is expected to be in place by September 2020. Work undertaken during the extension period will be on existing contractual terms and the costs will be met from resources funding the Housing Investment Programme; the financial implications of which are set out in paragraphs 28 and 29 of this report.

### **Director of Exchequer**

38. This contract was subject to consultation under section 20 of the Landlord and Tenant Act 1985, and Notice was served on a borough wide basis under schedule 2 of the regulations prior to the letting of the contract. Notice of Proposal was served on 15.7.13. The Notice identified that the contract had provision for extension and this proposed extension is within that provision. No further consultation is required within the provisions of section 20.

### **BACKGROUND DOCUMENTS**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
Gateway 2 'open' report – Professional Technical Services Contract	Constitutional Team, 160 Tooley Street London SE1 2QH	Paula Thornton 020 7525 4395
Gateway 3 'open' report – Professional Technical Services Contract (April 2014)	Constitutional Team, 160 Tooley Street London SE1 2QH	Paula Thornton 020 7525 4395
Gateway 3 'open' report – Professional Technical Services Contract (August 2015)	Constitutional Team, 160 Tooley Street London SE1 2QH	Paula Thornton 020 7525 4395
Gateway 3 'open' report – Professional Technical Services Contract (November 2017)	Constitutional Team, 160 Tooley Street London SE1 2QH	Paula Thornton 020 7525 4395
Gateway 3 'open' variation decision - Professional Technical Services Contract (June 2019)	Constitutional Team, 160 Tooley Street London SE1 2QH	Paula Thornton 020 7525 4395

## APPENDICES

No	Title
None	

## AUDIT TRAIL

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<b>Report Author</b>	David Hodgson, Director of Asset Management	
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<b>Dated</b>	28 April 2020	
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<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
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
<b>Cabinet Member</b>	Yes	Yes
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