

Item No.	Classification: Open	Date: 1 July 2020	Meeting Name: Strategic Director of Finance and Governance
Report title:		Gateway 3 – Variation Decision Extension to the Garages minor works and maintenance contract	
Ward(s) or groups affected:		Tenants of council owned garages	
From:		Homeownership Services Manager	

RECOMMENDATION(S)

1. That the Strategic Director of Finance and Governance approves the contract extension of the garages minor works and maintenance contract (the contract) to PRB Estates Ltd (PRB) for a period of 18 months from 15 July 2020 to 31 January 2022 with a three month break clause at an estimated cost of £923,000.

BACKGROUND INFORMATION

2. The current contract with PRB commenced on 15 July 2016 for a period of four years for an estimated value of £4m. The Gateway 2 for this contract was approved on 30 October 2015. The current contract is due to expire on 14 July 2020 with no provision for extension.
3. Prior to this report Homeownership Services (HOS) were in the process of procuring a new contract. This would have been for a period of four years from 15 July 2020 at an estimated value of £600k per annum, with options to extend for a maximum of two years, making a total estimated contract value of £3.6m. However, following the outbreak of COVID-19 (Coronavirus) and the resulting level of uncertainty the decision has been made to delay the current procurement process. It is expected that a new contract could be tendered for and approved for the start of the 2021-22 financial year.

KEY ISSUES FOR CONSIDERATION

Key Aspects of Proposed Variation

4. The contract extension will commence on 15 July 2020 for a period of eighteen months ending 31 January 2022.
5. The current contract provides the following works across all trades to council-owned garages:
 - Structural repairs and maintenance to garages
 - Periodic garage site refurbishment and upgrade projects
6. The extension will cover a similar scope of works but with an emphasis on day to day maintenance and repairs. The proposed scope of works will be:
 - Construction works to garages
 - Fire signage works
 - Electrical works including installation of emergency lighting systems where required

- Fire doors and frame works
 - Decoration works
 - Sump pump and drainage works
7. The current contract includes fire protection and metal works. Since the start of the contract in 2016 the council has procured two fire protection contracts independently which will cover any sprinkler systems and fire safety works required to garages. It is also proposed that the corporate contract with Traded Services' Asset Management Service be used to provide all metal works internally.
 8. Since 2016 the council has also worked to refurbish a number of garage sites across the borough. In addition, almost 400 previously closed, derelict or abandoned garages have been reopened in that period. As a result there has been a fall in the number of garage sites in need of significant refurbishment or upgrade therefore altering the scope of works of the contract extension.
 9. The change in emphasis of the scope of works, the new fire protection contracts and the proposed use of Traded Services to carry out the metal works account for the drop in the estimated value of the contract from £1m per annum in 2016 to £600k per annum in 2020.

Reasons for Variation

10. Following the restrictions imposed by COVID-19, advice has been provided to all contract managers, requiring them to review the tender and contracts arrangements for which they are responsible, to ensure that they remain fit for purpose during this period of uncertainty. There is a presumption that no new OJEU or tender/quote processes should be started before 30 June 2020, and this date might be extended. Contract managers (in the light of this advice) have been asked to consider extending existing contractual arrangements to cover any delays in completing tender processes and awarding contracts. As noted in paragraph 3, a procurement process was due to commence to allow a new contract to be awarded by 15 July 2020, but it is now intended that the procurement is delayed, and the existing contract extended to cover this period. Whilst there are no extension options in the contract, both parties are free to agree an extension of the contract period to cover these circumstances.

Future Proposals for this Service

11. At the time of writing it is not possible to produce an outline procurement plan due to the uncertainty of the full impact of COVID-19 on the procurement process. However the HOS team now have a draft gateway 1 ready to be signed off and a set of tender documents in place ready for submission once the situation becomes clearer. A detailed procurement plan will be included in the gateway 1 as a new contract will need to be procured for commencement on 1 February 2022.

Alternative Options Considered

12. Prior to this report, as indicated in paragraph 3, the council was in the process of procuring a new contract. The available options considered for the new contract were also considered as part of this variation request. These included:
 - Do nothing – this is not an option available to the council. As a landlord and employer, it is essential that the council maintains its garage sites in the

interests of health and safety and in the continued efforts to sustain and build upon revenue streams.

- The council uses its existing major works partnering contract – most building major works are of a very different type and scope to the works proposed in this contract. Consequently it is considered that the demands of this service are best addressed independently of this contract, and that best value will be obtained by the procurement of a single contractor.
- The council provides these services in-house – there are limited resources that exist within the council to undertake these types of works on this scale or volume.
- The use of internal or external frameworks – as with the use of an existing major works partnering contract, the requirements for garage refurbishments are better served by being managed via a specific contract because the requirements are different in key areas. Forming part of a larger framework (for example the LHC or SEC frameworks) would potentially pose a risk to service delivery.

13. In the gateway 1, drafted for the procurement of the new contract, the invitation to tender in the project procurement plan was scheduled for 6 April 2020. However due to the outbreak of COVID-19 in March 2020 concerns were raised over the feasibility of completing the process in the time allotted. It was therefore deemed that the most suitable option available at such short notice was to extend the existing contract with PRB.

14. The council’s Asset Management team have been in contact with PRB and they have agreed to an eighteen month extension taking the current contract up until 31 January 2022. PRB have performed well against the contract KPIs. They are flexible and work in partnership with the garages team to provide the best possible outcomes for our customers. Works are conducted professionally and within agreed timescales and they make a particular effort to assist both vulnerable and challenging customers.

Identified risks for the Variation

15. The table below identifies the risks associated with this extension, the likelihood of occurrence and the control in place to mitigate the risks, likelihood being rated 1 (least likely) to 5 (most).

R/N	Risk Identification	Likelihood	Risk Control
R1	Extension results in unexpected uplift in cost	1	PRB have agreed a maximum value.
R2	PRB Estates Ltd goes out of business	1	Financial stability of PRB Estates Ltd has been established. A recent MINT credit check has been carried out for PRB that shows that they meet the minimum requirement of the credit checks usual for the council (40 or above).

R3	PRB are unable to fulfil the requirements of the contract e.g. poor performance, leading to the need to terminate the contract.	1	In the event of the contractor failing, the council's approved list of contractors will be used to distribute works while the contract is re-procured. PRB have performed well against the contract KPIs.
R4	The council's decision to extend the current contract with PRB rather than procuring a new contract is challenged.	1	Prior to this extension plans were in place to procure a new contract starting 15 July 2020 and the GW1 had been to DCRB. However due to the outbreak of COVID-19 in March 2020 and the restrictions put in place as a result it was deemed that the most suitable option available was to extend the existing contract with PRB. The GW1 is anticipated to be signed-off in September 2020 and the tender documents have been prepared therefore as soon as restrictions have been lifted the council will resume the process of procuring a new contract.

Policy implications

16. There are no planning or building control requirements for the proposed scope of works at present. These will be addressed separately in the event they arise.

Contract management and monitoring

17. Day to day management and monitoring of the contract will be handled by the garages team with technical assistance and QA support from the asset management division.
18. The garages team will review all applications for payment and monitor and administer defaults and recovery of costs for poor performance.
19. To ensure robust contract management arrangements are in place, officers will undertake audit site inspections to ensure that method statements are adhered to and surveys are accurate.
20. Monthly progress meetings, to be attended by officers, will be arranged and recorded to review performance and compliance. Annual performance reports will be taken to DCRB in line with contract standing orders.

Community Impact Statement

21. With respect to the Public Sector Equality Duty, it is considered that this contract will have no impact on local people or communities in terms of equalities as it is for the provision of works to garages; it is not directed at any group or triggered by any issue related to equalities.

Social Value considerations

22. 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 were included in the tender.

Economic considerations

23. The full cost to the council and the lifespan of the contract are set out in paragraph 1 of this report.

24. Financial implications are contained in paragraph 30.

Social considerations

25. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, contractors and sub-contractors engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. PRB have confirmed to HOS that all relevant staff will continue to be paid a minimum of the LLW.

Environmental/Sustainability considerations

26. All components and equipment, being replaced, will be disposed of in accordance with the latest Waste Electrical and Electronic Equipment Regulations (WEEE).

27. All recyclable packaging is set aside and disposed of via a recycling centre.

28. No hazardous materials are used.

29. PRB have been issued with the council's current asbestos register to avoid any risk of exposure to the contractor or the residents.

Financial Implications

30. The estimated cost of the proposed extension is an estimated £923,000 and will be resourced from within the garage repairs and maintenance budget. This annual budget is allocated from 1 April 2020 for this purpose.

Investment Implications

31. None identified.

Legal Implications

32. Please see concurrent from Director of Law and Democracy.

Consultation

33. No statutory consultation is required. Where a major refurbishment is required for a garage site consultation will be carried out with the local tenants and resident association if required.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (HM20/014)

34. This report seeks approval for the extension of the existing contract with PRB from 15 July 2020 for a period of just over 18 months ending 31 January 2022 for the reasons stated in the report. This will allow sufficient time to undertake a new procurement for the provision of a repairs and maintenance and minor works contract for the council's garage portfolio. The proposed annual cost of the contract is £600k per annum which is lower than the existing value contract as it excludes fire protection and metal works which are now provided under separate contract arrangements.
35. The garage portfolio is a valuable asset and over the medium term there has been a programme of garage refurbishment to bring derelict garages back into use and generate an ongoing revenue stream. However, the scope for this has weakened as garage sites are being appropriated for new homes development and affordable business space which are deemed to be of higher priority. There are currently no proposals to make savings in this area for 2020-21 therefore the proposed contract can be contained within the existing HRA budget allocation. In the event that savings were required in subsequent years, programmed activity will need to be re-profiled to match the resources available.

Head of Procurement

36. This report seeks approval of the Strategic Director of Finance and Governance for a contract extension for the garage minor works and maintenance contract for a period of 18 months with PRB Estates Ltd. The extension would run from 15 July 2020 to 31 January 2022 at an estimated cost of £923,000. The contract would include a three month break clause to be used if required.
37. The current contract is due to expire on 14 July 2020 and was in the process of being re-procured but with the current pandemic and uncertainty, it is recommended in line with the advice in the published Procurement Policy Note, that an extension is approved to allow continuity of service to cover this period before a new procurement can be undertaken as detailed in the risk table. The performance of the current contractor is good and flexible as covered in paragraph 14.
38. The contractor pays London Living Wage and arrangements for the management and monitoring of the contract are set out in paragraphs 17-20.

Director of Law and Democracy

39. This report seeks the approval of the Strategic Director of Finance and Governance to the extension of the garage minor works and maintenance contract with PRB for a further period of 18 months as further detailed in paragraph 1. By virtue of contract standing order 6.6.3(e) the decision can be taken by the relevant chief officer or under their delegated authority.

40. The original appointment of PRB was subject to, and awarded in accordance with the Public Contract Regulations 2015 (PCR15), and it is therefore necessary to ensure that any variation to that contract is permitted within those Regulations. Regulation 72 of the PCR15 permits modifications to be made to contracts during their term, in certain circumstances. This includes at Regulation 72(1)(e) where the modification is not substantial. Having considered the circumstances noted at Regulation 72(8) which notes those modifications which are considered substantial, it is felt that the contract can be varied under this provision. Whilst there remains a risk of challenge when extending a contract which doesn't include specific extension provisions, in view of the reasons for extension (to allow a pause of the procurement process during Covid-19) it is thought that the risk of a successful challenge is low. To further mitigate that risk, the Strategic Director will note that a 3 month break clause will be included to allow the council to terminate this arrangement in the event that the procurement is able to conclude at an earlier time, limiting the extension to that needed to allow the procurement to take place.

41. Contract standing order 2.3 requires that no steps are taken to vary a contract unless the expenditure involved has been included in approved estimates, or is otherwise approved by the council. Paragraph 30 confirms the financial implications of this variation.

PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS

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 3 July 2020..

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.

1. DECISION(S)
As set out in the recommendations of the report.
2. REASONS FOR DECISION
As set out in the report.

3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION

As set out in the report.

4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION

None.

5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST

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.

Not applicable.

6. DECLARATION ON CONFLICTS OF INTERESTS

I declare that I was informed of no conflicts of interests.*

or

~~I declare that I was informed of the conflicts of interests set out in Part B4.*~~

(* - Please delete as appropriate)

BACKGROUND PAPERS

Background Papers	Held At	Contact
Title of document(s)	Title of department / unit Address	Name Phone number
Link: (Insert hyperlink here)		

APPENDICES

No	Title
	None

AUDIT TRAIL

Lead Officer	Louise Turff, Homeownership Services Manager	
Report Author	Sam Robson, Project Officer	
Version	Final	
Dated	1 July 2020	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
Director of Exchequer (for housing contracts only)	Yes	No
Cabinet Member	No	No
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	No	No
Cabinet Member	No	No
Date final report sent to Constitutional/Community Councils/Scrutiny Team	18 May 2020	