

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 30 November 2020	<b>Meeting Name:</b> Strategic Director of Housing and Modernisation
<b>Report title:</b>		<b>Gateway 3 – Variation Decision</b> Responsive Repair and Maintenance - Communal Repairs Chargeable Contracts (North & South)	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Director of Asset Management	

## RECOMMENDATIONS

1. That the Strategic Director of Housing and Modernisation formalises his prior approval for the variation of carrying out of communal repairs in the north of the borough by its own direct labour organisation, Southwark Building Services (SBS) in accordance with the tender documentation to extend the term for a period of 8 months from 1 October 2020 (as further detailed in paragraph 15) at an estimated additional cost of £560k making a total estimated contract value of £2.71m.
2. That the Strategic Director of Housing and Modernisation formalises his prior approval for the variation of Contract B (south of the borough) Communal Repairs Chargeable contract to BuildTrust Ltd (BuildTrust) to extend the term of the contract for a period of 8 months from 1 October 2020 (as further detailed in paragraph 15) at an estimated additional cost of £880k making a total estimated contract value of £3.67m.
3. That the Strategic Director of Housing and Modernisation notes the shortening of the notice period provision to be given to SBS and BuildTrust from 6 months to 2 months for this variation.

## BACKGROUND INFORMATION

4. A Gateway 2 report was approved on 15 August 2018 to award two Communal Repairs Chargeable contracts:
  - Contract A (north of the borough) is carried out by SBS for a period of 2 years at an estimated annual sum of £700k with the option to extend for a further 12 months making a total estimated contract value of £2.1m;
  - Contract B (south of the borough) was awarded to BuildTrust for a period of 2 years at estimated annual sum of £600k with the option to extend for a further 12 months making a total estimated contract value of £1.8m.
5. The contracts (Contracts A and B) encompass the following work streams:
  - roads, pavements, soft and hard standings and associated works;
  - below and above ground drainage and associated works;
  - water mains – repair and replacement, including all enabling and associated ground works;

- boundary walls and fences;
  - masonry repairs and redecoration works;
  - windows, doors, glazing and associated works;
  - all scaffolding, mobile towers, hydraulic lifts and working platforms required to facilitate the works.
6. The separation of Contracts A and B across a geographical split of the borough (north and south) (Contract A – north - Walworth, Borough and Bankside, Bermondsey, Rotherhithe and Contract B – south - Camberwell, Peckham, Nunhead and Peckham Rye, Dulwich) provide all of the works noted at paragraph 5 above. The contracts contain the provision for SBS and BuildTrust to provide back up to each other to ensure that works are always delivered using their own tendered rates and ensuring that the council is able to meet its obligations.
7. The prices were fixed until 1 April 2020 and both contracts contain a general maintenance index adjustment that is calculated and applied annually thereafter.
8. The actual expenditure to date against the original Gateway 2 approval is shown below in tables to illustrate the financial year and contract year expenditures:

**Contract A – North - SBS**

<b>Contract Spend in Financial Years</b>			
Period		Original Gateway Approval	Actual Expenditure Contract A
01/10/2018	31/03/2019	£350k	£372k
01/04/2019	31/03/2020	£700k	£1.35m
01/04/2020	30/09/2020	£350k	£424k
	<b>Totals</b>	<b>£1.4m</b>	<b>£2.146m</b>
<b>Contract Spend in Contractual Years</b>			
Period		Original Gateway Approval	Actual Expenditure Contract A
01/10/2018	30/09/2019	£700k	£1.03m

01/10/2019	30/09/2020	£700k	£1.12m
	<b>Totals</b>	<b>£1.4m</b>	<b>£2.15m</b>

### Contract B – South – BuildTrust

<b>Contract Spend in Financial Years</b>			
Period		Original Gateway Approval	Actual Expenditure Contract A
01/10/2018	31/03/2019	£300k	£447k
01/04/2019	31/03/2020	£600k	£1.7m
01/04/2020	30/09/2020	£300k	£645k
	<b>Totals</b>	<b>£1.2m</b>	<b>£2.79m</b>
<b>Contract Spend in Contractual Years</b>			
Period		Original Gateway Approval	Actual Expenditure Contract A
01/10/2018	30/09/2019	£600k	£1.19m
01/10/2019	30/09/2020	£600k	£1.6m
	<b>Totals</b>	<b>£1.2m</b>	<b>£2.79m</b>

9. The estimated annual expenditure in the original gateway approval was based on the anticipated demand for communal repair works. The actual expenditure with contractors in proceeding months and their level of activity subsequently increased.
10. This increased expenditure has been driven by demand which was unrecognised in the original analysis and reflected in the budget. Due to inaccurate order data from the previous contractors carrying out these works, the estimated expenditure was lower than the work necessitated. Specifically, there were inaccuracies in the cost of window and door repairs due to the reporting process. The budgets have subsequently been redressed to account for increased expenditure over any extension period.
11. Contract A currently has expenditure of around £70k per month. Taking into account previous spend on this contract (£2.15m) and an 8 month extension

at current expenditure (£560k) will provide a total revised estimated contract value of £2.71m.

12. Contract B currently has expenditure of around £110k per month. Taking into account previous spend on this contract (£2.79m) and an 8 month extension at current expenditure (£880k) will provide a total revised estimated contract value of £3.67m.
13. This report is formalising the Strategic Director's prior approval for an 8 month extension for each contract to 31 May 2021 to ensure service continuity whilst a longer term procurement exercise is undertaken as approved following Housing and Modernisation's DCRB on 16 March 2020.

## **KEY ISSUES FOR CONSIDERATION**

### **Key Aspects of Proposed Variation**

14. The nature of the proposed variations is to exercise the option in the contracts with SBS and BuildTrust to extend the term for a period of 8 months and increase the value to £6.38m. The revised completion date will therefore be 31 May 2021.
15. Both contracts have an end date of 30 September 2020 unless the extension provisions are effected. From 1 October 2020 urgent and emergency orders have been instructed and placed with either SBS or BuildTrust. When approval is obtained for these variations and they are implemented the contracts will continue from their current end date until 31 May 2021.

### **Reasons for Variation**

16. As the council is a landlord, it is essential that it has the capability to deliver communal repair works across the borough to manage its housing stock; to ensure resident and other user health and safety; and to reduce financial and reputational risks.
17. Due to a delay on progressing this report to approval stage, the council was unable to give the contractors at least 6 months written notice to extend the contracts (in accordance with clause 9.4 of the supplemental provision section of the contracts) and the necessary approval is being sought in this report to shorten the notice period at paragraph 3. Although SBS and BuildTrust were aware of the council's intention to extend the contracts, both SBS and BuildTrust confirmed on 7 August 2020 their agreement to receiving 2 months written notice for this variation. These extensions will be executed through a deed of variation.

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

18. Asset management will prepare a procurement strategy for new communal repair chargeable contracts following guidance from the Repairs Improvement Strategy Board; which is chaired by the Strategic Director of

Finance and Governance. A Gateway 1 report will be prepared and presented for approval in January 2021 when this is established.

### Alternative Options Considered

19. The following alternative options to this extension were considered:

- **Do nothing** – this is not a viable option for the reasons set out in paragraph 16 above.
- **Bring the service fully in-house** – the council’s SBS department delivers these works to the north of the borough and does not presently have the capacity to undertake this work across the entire borough.
- **Competitively tender** – this is not a viable option as there is insufficient time available to re-procure contracts.
- **Use an external framework** – whilst there are external frameworks for communal repairs available such as South East Consortium (SEC), this is not a viable option as there is insufficient time available to join and carry out a tender process.
- **Utilise 8 months of the 12 month extension provision** – this is a viable option and the recommended option for this report.

### Identified risks for the Variation

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

R/N	Risk	Likelihood	Risk Control
R1	BuildTrust ceases trading, goes into administration or liquidation.	Low	<p>The contract contains the provision for SBS to act as backup to BuildTrust. If BuildTrust ceases trading, then the council’s SBS department and the works approved list will be used whilst re-procuring the contract.</p> <p>Financial credit checks were carried out on BuildTrust on 9 November 2020. The financial stability of BuildTrust will be monitored throughout the contract through the contract management process.</p> <p>Contractors are paid on the basis of a monthly valuation dependent on the quantity of work claimed. If</p>

			BuildTrust should cease trading, they would only be paid for the work they complete. These monthly claims and payments help mitigate the risks involved of company failure.
R2	BuildTrust or SBS are unable to fulfil the requirements of the contract e.g. poor performance, leading to the need to terminate the contract.	Low	The council will use backup arrangements within the contract. If both contractors fail then the council's Approved list of contractors will be used to distribute the works whilst contracts are re-procured. Alternatively, an external framework could be accessed.
R3	Covid-19 pandemic risks	Low	Asset management has contacted SBS and BuildTrust to ensure that they are able to operate safely on site and in their administrative functions during the crisis.  BuildTrust are monitored for any change in trading status via alerts from Companies House and industry information.
R4	Brexit: Risk of disruption to supply chain following UK's departure from the European Union	Low	Monitoring government notices regarding trade negotiations and import tariff proposals.  Contract managers and quantity surveyors to liaise with SBS and BuildTrust regarding their supply chains in respect of tariffs, administration costs and budgetary impacts.  Contract managers to liaise with SBS and BuildTrust to ensure that measures are taken to ensure continuous component supply where they are obtained from the EU.

### **Covid-19 implications**

21. In March 2020, in response to the Covid-19 crisis, asset management carried out financial checks on BuildTrust to identify potential risks. These have been repeated again in November 2020 with a secure score. The contract managers contacted each contractor to ensure that appropriate action was being taken to ensure the health and safety and welfare of employees, client and members of the public.
22. The work being carried out currently on these contracts mostly excludes contact with residents and the general public. The works are generally outside properties with the exceptions of works to windows and doors. There is sufficient space for operatives to work on a property/block whilst maintaining social distancing. Contractors' staff has been working safely with these conditions since the Covid-19 pandemic began and is experienced in using necessary PPE and practising safe distancing on site.

### **Brexit Implications**

23. The United Kingdom left the European Union (EU) on 31 January 2020 and the transition period ends on 31 December 2020.
24. In the event of UK not concluding a trade deal with the EU the UK Global Tariff will take effect on 1 January 2021 and apply to imports from the EU.
25. Council officers are monitoring the potential impact of Brexit upon the supply chain and are liaising with contractors to ensure that appropriate preparations are made by them and their suppliers

### **Policy implications**

26. The extension to these contracts will assist the council to continue to contribute to the council's Fairer Future Promise of quality affordable homes, improving housing standards and revitalising neighbourhoods.

### **Contract management and monitoring**

27. The contracts will continue to be managed by a contract manager from asset management's repairs team with dedicated officers who carry out daily joint inspections to ensure quality and compliance with the contract and specifications.
28. Monthly progress meetings are held to discuss performance with SBS, BuildTrust and asset management.
29. They will continue to be assisted by a quantity surveyor from the commercial team to ensure financial integrity, compliance and performance management in regards to measuring key performance indicators (KPIs), carrying out credit checks and continuing with monthly valuations.
30. Technical officers in asset management will continue to carry out an intensive inspection regime across all the estates within the borough to

ensure repairs are identified and orders issued in accordance with the contract conditions. On completion of the works they are post inspected jointly by asset management and contractors, to ensure quality. Where issues are identified monies are withheld until works are corrected.

31. The contracts are subject to KPIs and the performance to date is set out below:

Percentage of orders started and finished within stipulated time periods – Priority 1s & 3s				
Quarter	Source	Target	BuildTrust	SBS
Q3 2018/19	System generated	95%	93.1%	89.0%
Q4 2018/19	System generated	95%	93%	83.2%
Q1 2019/20	System generated	95%	91.5%	79.2%
Q2 2019/20	System generated	95%	94%	84.3%
Q3 2019/20	System generated	95%	96.9%	76.8%
Q4 2019/20	System generated	95%	96.7%	79.2%
		<b>Latest Trend</b>	↓	↑
		<b>YTD since April 2019</b>	95.1%	79.8%

Average time to complete – Priority 4s, 15 day calendar day target				
Quarter	Source	Target	BuildTrust	SBS
Q3 2018/19	System generated	<15	8.5	13.4
Q4 2018/19	System generated	<15	11.9	26.3



<b>Q1 2019/20</b>	System generated	<15	<b>17.1</b>	<b>28.3</b>
<b>Q2 2019/20</b>	System generated	<15	<b>15.7</b>	<b>24.4</b>
<b>Q3 2019/20</b>	System generated	<15	<b>14.7</b>	<b>23.3</b>
<b>Q4 2019/20</b>	System generated	<15	<b>16.2</b>	<b>28.3</b>
	<b>Latest Trend</b>		↓	↓
	<b>YTD since April 2019</b>		<b>15.9</b>	<b>26</b>

32. Due to the impact of Covid-19, many communal repair works were put on hold and a decision was taken to stop running the KPIs from April 2020 as they no longer represented anything meaningful. Data started to be measured again in September 2020 and KPIs will continue to be measured throughout any extension period.

### **Community Impact Statement**

33. Both contracts are of low impact to tenants, homeowners and other stakeholders as these works will be done externally.

### **Social Value considerations**

34. 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.

### **Economic considerations**

35. The full cost to the council and the life span of the contracts are set out in paragraph 14 of this report. To date the actual expenditure for the year has been more than the initial approved value as set out in paragraphs 9 and 10 above.

### **Social considerations**

36. BuildTrust have their own Equal Opportunity Policy and are fully aware of and compliant with the council's policies.

37. BuildTrust have confirmed that all relevant staff continue to be paid in excess of the minimum London Living Wage hourly rate and comply with council

policies relating to GDPR, Blacklisting, Modern Slavery, Health & Safety and Equalities

38. SBS have 1 site based apprentice for their contract area and have also provided work experience for local schools for a placement of two weeks, twice per year.
39. SBS have supported Sacred Heart School in their Careers Aspiration event. As part of their social value outreach they are also carrying out works with care leavers in Southwark and have been part of National Care Leavers week for Southwark Council.
40. BuildTrust have 2 site based apprentices on this contract. In addition, they have had 2 local residents and 1 student completing work experience on site and office based.

### **Environmental considerations**

41. Both contracts encouraged the use of low emission vehicles and the minimisation of journeys needed. SBS has invested in a number of electric vehicles and charging points at their depot to reduce emissions from journeys. Where possible, works have been planned and carried out in grouped localities to reduce the number of journeys and fuel expended.
42. In communal groundwork repairs Tarmac is removed and recycled for sub-surface reconstruction. As a result it offers savings in both transport and disposal costs. It also offers major environmental benefits from reductions in the use of energy and primary aggregates.
43. The use of the council's e-procurement system Pro-Contract 3 limited the amount of paper used and use of postal services during the procurement process.

### **Financial Implications**

44. The total value of the contracts including any previous variations is £6.38m.
45. The contracts will be extended using the same prices as originally tendered. Any changes in spend will be dependent upon the quantity of work ordered through these contracts.
46. The level of activity is anticipated to be maintained at previous levels and spend will be distributed across the two contracts geographically.
47. The budget for Communal Repairs Chargeable Contracts (North & South) has been adjusted to reflect the ongoing level of activity.
48. It should be noted that the values quoted for the in-house direct labour organization (SBS) are the based on the nominal contract values, not the actual costs of completing the works.

## **Legal Implications**

49. Please see the supplementary advice from the Director of Law and Democracy.

## **Consultation**

50. Not applicable.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Finance and Governance (FIN1223)**

51. The Strategic Director of Finance and Governance notes that these arrangements will be extended at the existing prices, consequently there are no further budgetary implications arising from this decision.

## **Head of Procurement**

52. This report is seeking Strategic Director of Housing and Modernisation approval to vary two Communal Repair contracts for an 8 month period from 1 October 2020.

53. The report summarises the context and rationale for these variations explaining that a new procurement strategy is currently being prepared and is timetabled for January 2021. Varying these contracts should allow for continuity whilst this procurement exercise is conducted.

54. The report confirms that due to the impact of Covid-19, many communal repair works were put on hold and a decision was taken to stop running the KPIs from April 2020 as they no longer represented anything meaningful. Data started to be measured again in September 2020 and KPIs will continue to be measured throughout any extension period.

55. The report also confirms that officers will continue to closely monitor the impact of the Covid 19 pandemic in relation to the repairs and maintenance of communal areas and ensure they are conducted in the safest possible way in accordance with government guidance.

## **Director of Law and Democracy**

56. This report seeks the Strategic Director of Housing and Modernisation to formalise his prior approval to the extension of 2 responsive repair and maintenance communal repair chargeable contracts (Contract A – north of the borough and Contract B – south of the borough) which are being performed by SBS and BuildTrust Ltd respectively and to shorten the notice period provision from 6 months to 2 months notice. This report sets out the extent of the extensions and the reasons why an extension of 8 months is

necessary. As the value of these variations is less than £1m, the decision to approve these extensions is reserved to the relevant chief officer (or under his delegated authority).

57. The nature of these variations is such that it is 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 18 of this report confirms that a new procurement strategy will commence in January 2021.
58. CSO 2.3 requires that a variation decision may only be made if the expenditure involved has been approved. Paragraphs 44 to 46 of this report confirm the financial implications of these variations

#### **Director of Exchequer (for housing contracts only)**

59. The communal repairs contract is a qualifying long term agreement under the terms of the Commonhold and Leasehold reform Act 2002, and is subject to S20 consultation under schedule 2 of the regulations.
60. S20 Notice was served on all leaseholders in the borough on 6 April 2018. The Notice advised that the term of the contract was for two years with an option to extend for a further twelve months. The proposed extension is within that term and no further statutory consultation is required with leaseholders where that option is taken.

#### **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 10/12/2020

**Michael Scorer, Strategic Director of Housing and Modernisation**

#### **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>
<b>4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION</b>
<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>
<b>6. DECLARATION ON CONFLICTS OF INTERESTS</b>
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
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Southwark Building Services – review of supply chain and procurement options	Housing & Modernisation, Asset Management	Gavin Duncumb x50685
Link: <a href="#">SBS Review of Supply Chain and Procurement</a>		
Annual Performance Report - Responsive Repair and Maintenance - Communal Repairs Chargeable Contracts (North & South)	Housing & Modernisation, Asset Management	Gavin Duncumb x50685
Link: <a href="#">Communal Repairs - APR Report .docx</a>		
Gateway 2 - Contract Award Approval  Responsive Repair and Maintenance - Communal Repairs Chargeable Contracts (North & South)	Housing and Modernisation, Asset Management	Gavin Duncumb x50685
Link: <a href="#">G:\Asset Management\Engineering &amp; Compliance\Engineering Procurement\2018 Communal Repairs Chargeable\Gateways\GW2\Signed Communal Repairs Gw2 Closed.pdf</a>		
Gateway 1: Procurement Strategy Approval  Responsive Repair and Maintenance - Communal Repairs Chargeable Contracts (North & South)	Housing and Modernisation, Asset Management	Gavin Duncumb x50685
Link: <a href="#">G:\Asset Management\Engineering &amp; Compliance\Engineering Procurement\2018 Communal Repairs Chargeable\Gateways\GW1\GW1 Communal Repairs Signed.pdf</a>		

## APPENDICES

No	Title
N/A	

## AUDIT TRAIL

<b>Lead Officer</b>	Dave Hodgson, Director of Asset Management	
<b>Report Author</b>	Steven Johnston, Senior Quantity Surveyor	
<b>Version</b>	Final	
<b>Dated</b>	30 November 2020	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
<b>Strategic Director of Finance and Governance</b>	Yes	Yes
Head of Procurement	Yes	Yes
<b>Director of Law and Democracy</b>	Yes	Yes
Director of Exchequer (for housing contracts only)	Yes	Yes
<b>Cabinet Member</b>	N/a	N/a
<b>Date final report sent to Constitutional Team</b>		