

Item No.	Classification: Open	Date: 29 September 2021	Meeting Name: Strategic Director of Housing and Modernisation
Report title:		Gateway 3 – Variation Decision Responsive Repair and Maintenance - Roofing and Rainwater Chargeable Contracts (North & South)	
Ward(s) or groups affected:		All	
From:		Director of Asset Management	

RECOMMENDATION(S)

1. That the Strategic Director of Housing and Modernisation approves the variation of Contract A (north of the borough) Roofing and Rainwater Chargeable Contract to Bridgewater Roofing Contractors Ltd to extend the term of the contract for a period of eight months from 1 October 2021 to 31 May 2022 at an estimated extra over cost of £969k making a total revised estimated contract value of £4.754m.
2. That the Strategic Director of Housing and Modernisation approves the variation of Contract B (south of the borough) Roofing and Rainwater Chargeable Contract to A&E Elkins Ltd to extend the term of the contract for a period of eight months from 1 October 2021 to 31 May 2022 at an estimated extra over cost of £832k making a total revised estimated contract value of £3.719m.

BACKGROUND INFORMATION

3. A Gateway 2 report was approved on 29 June 2018 to award the two roofing and rainwater chargeable contracts.
4. Contract A (north of the borough) was awarded to Bridgewater Roofing Contractors Ltd (Bridgewater) for a period of two years at an estimated annual sum of £650k with the option to extend for a further 12 months making a total estimated contract value of £1.95m.
5. Contract B (south of the borough) was awarded to A&E Elkins Ltd (Elkins) for a period of two years at an estimated annual sum of £650k with the option to extend for a further 12 months making a total estimated contract value of £1.95m.
6. A Gateway 3 report was approved on 27 October 2020 to vary the two roofing and rainwater chargeable contracts for eight months of the original 12 month option to extend giving an expiry date of 31 May 2021 and leaving four months available to extend further.
7. A further Gateway 3 report was approved on 19 July 2021 to vary the two roofing and rainwater chargeable contracts for the remaining four months

of the original 12 month option to extend giving an expiry date of 30 September 2021.

8. The scope of the contracts (Contracts A and B) encompass the following work streams:
 - Repair, overhaul and renew all types of coverings to pitched roofs, including all associated works;
 - Repair, overhaul, renew all types of coverings to flat roofs, including all associated works;
 - Repair, overhaul, renew all rainwater goods and services of all types of materials and sizes;
 - Repair, overhaul, renew fascia's, soffits and other associated works;
 - Sundry and minor building works;
 - All scaffolding, mobile towers, hydraulic lifts and working platforms to facilitate the works; and
 - Repair all external associated repairs.
9. The separation of roofing and rainwater chargeable works 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 8 above. The contracts contain the provision for the contracts to provide back up to each other that ensures that the council is able to meet its obligations.
10. The prices were fixed until 1 April 2020 and both contracts contain a general maintenance index adjustment that is calculated and applied annually thereafter.
11. The actual expenditure to date against the original Gateway approvals is shown below in tables to illustrate the financial year and contract year expenditures.

Contract A – North – Bridgewater - Spend in Financial Years (as of Jun 21)			
Period		Original Gateway Approval	Actual Expenditure Contract A
01/10/2018	31/03/2019	£325k	£384k
01/04/2019	31/03/2020	£650k	£1.201m
01/04/2020	31/03/2021	£1.045m	£1.508m
01/04/2021	31/03/2021	£737k	£328k
Totals		£2.757m	£3.421m

Contract A – North – Bridgewater - Spend in Contractual Years (as of Jun 21)			
Period		Original Gateway Approval	Actual Expenditure Contract A
01/10/2018	30/09/2019	£650k	£896k
01/10/2019	30/09/2020	£650k	£1.435m
01/10/2020	30/09/2021	£1.457m	£1.090m
	Totals	£2.757m	£3.421m
Contract B – South – Elkins - Spend in Financial Years (as of Jun 21)			
Period		Original Gateway Approval	Actual Expenditure Contract B
01/10/2018	31/03/2019	£325k	£306k
01/04/2019	31/03/2020	£650k	£968k
01/04/2020	31/03/2021	£763k	£958k
01/04/2021	31/03/2021	£555k	£344k
	Totals	£2.293m	£2.576m
Contract B – South – Elkins - Spend in Contractual Years (as of Jun 21)			
Period		Original Gateway Approval	Actual Expenditure Contract B
01/10/2018	30/09/2019	£650k	£732k
01/10/2019	30/09/2020	£650k	£908k
01/10/2020	30/09/2021	£993k	£936k
	Totals	£2.293m	£2.576m

12. The estimated annual expenditure in the original gateway approval was based on the anticipated demand for roofing and rainwater works. The actual expenditure with contractors in proceeding months and their level of activity subsequently increased. Whilst expenditure across both contracts is higher than originally estimated, Contract B has increased markedly in value especially in year two.

13. This increased expenditure has been driven by demand which was unrecognised in the original budget. Due to inaccurate order data from the previous contractors carrying out these works the estimated expenditure was lower than the work necessitated. The budgets have subsequently been redressed to account for increased expenditure over any extension period.
14. Contract A currently has expenditure of around £121k per month. Taking into account previous spend on this contract (£3.421m), anticipated spend until October 2021 (£363k) and an eight month extension at current expenditure (£969k) will provide a total revised estimated contract value of £4.754m.
15. Contract B currently has expenditure of around £104k per month. Taking into account previous spend on this contract (£2.576m), anticipated spend until October 2021 (£312k) and an eight month extension at current expenditure (£832k) will provide a total revised estimated contract value of £3.719m.
16. This report is seeking the Strategic Director to approve the variation to extend each contract by eight months to 31 May 2022 to ensure service continuity whilst a new longer term procurement exercise is carried out.

KEY ISSUES FOR CONSIDERATION

Key Aspects of Proposed Variation

17. The nature of the proposed variations is to extend the term of the contracts with Bridgewater and Elkins for a period of eight months and increase the value to £8.473m. The revised completion date will therefore be 31 May 2022.

Reasons for Variation

18. The reason for the extension is that as a landlord, it is essential that it has the capability to deliver roofing and rainwater 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.
19. Both contractors are demonstrating good levels of performance in terms of quality of work evidenced on their work orders. They also continue to provide a value for money service with rates consistent with the market.
20. Six months' notice to vary the contracts was given to Bridgewater and Elkins in January 2021 in accordance with clause 9.4 of the contracts and they provisionally agreed. These extensions will be executed through a deed of variation document.

Future Proposals for this Service

21. A Gateway 1 report has been approved for the new procurement strategy and a new procurement exercise will be carried out and is due to be published in September 2021.

Alternative Options Considered

22. The asset management team only considered extending the existing contracts as a new procurement exercise is due to commence.

Identified risks for the Variation

23. The table below identifies the specific risks associated with these contracts, the likelihood of occurrence and the controls in place to mitigate the risks.

R/N	Risk	Likelihood	Risk Control
R1	The procurement process is not completed during variation period	Low	Effective procurement project management
R2	Bridgewater and/or Elkins cease trading, go into administration/liquidation	Low	Financial credit checks were carried out on Bridgewater and Elkins on 08/07/2021. Bridgewater scored "normal" and Elkins scored "secure". Bridgewater and Elkins are paid on the basis of a monthly valuation dependent on the quantity of work claimed. If Bridgewater or Elkins 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.

R3	Bridgewater or Elkins are unable to fulfil the requirements of the contract e.g. poor performance, leading to the need to terminate the contract.	Low	The contracts contain the provision for the contractors to act as back up to each other. If both contractors fail then the council's works approved list will be used to distribute the works whilst new contracts are procured. Alternatively, an external framework may be accessed.
R4	Covid-19 pandemic risks	Low	Bridgewater and Elkins and the council developed an effective working procedure to ensure that Bridgewater and Elkins is able to operate safely on site, in their operational functions and comply with social distancing measures. Bridgewater and Elkins are monitored for any change in trading status via alerts from Companies House and industry information.
R5	Brexit implications:	Low	Contract managers and quantity surveyors to liaise with contractors regarding their supply chains in respect of tariffs, administration costs and budgetary impacts. Contract managers to liaise with contractors to ensure that measures are taken to ensure continuous component supply where they are obtained from the EU.
R6	Legal challenge to the extension of the contracts	Low	At these extension values there is no requirement to tender in accordance with the PCR 2015, and extensions are to permit a procurement process to be undertaken.

Policy framework implications

24. 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

25. The council's contract register publishes the details of all contracts over £5,000 in value to meet the obligations of the Local Government Transparency Code. The Report Author must ensure that all appropriate details of this procurement are added to the contract register via the eProcurement System.
26. 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 inspection to ensure quality and compliance with the contracts and specifications.
27. The contract manager continues 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 and progress meetings.
28. The contracts are subject to KPIs based on the time to complete work orders.
29. Due to the Covid 19 pandemic, since March 2020 the contract manager has been unable to publish performance data against these indicators.
30. During the proposed extension period the improved contract management will continue to ensure work orders are completed to the existing high quality and also within stipulated timeframes. Both contractors have been educated on the need to vary complex orders to allow for realistic completion targets and this in turn will produce better KPIs. This was essentially an administrative issue for both contractors which have now been dealt with.

Community, equalities (including socio-economic) and health impacts

Community impact statement

31. Both contracts are of low impact to tenants, homeowners and other stakeholders as these works will be done externally.
32. Elkins has 1 office based apprentice and 2 improver roofers who are site based on this contract. Bridgewater has provided work experience for 3 University students during holiday periods. 1 student was site based and 2 office based.

Equalities (including socio-economic) impact statement

33. Asset Management's Equality Impact Assessment (EqIA) deemed the potential impact of roofing and rainwater works on people with protected characteristics to be neutral and there has been no change.
34. The works are selected based on the condition of the assets to ensure that they are maintained and provide good homes to all residents equally.

Health impact statement

35. Maintaining and repairing roofing and rainwater goods is an essential requirement for the health of residents by providing them a warm, dry and safe environment in which to thrive.

Climate change implications

36. Where necessary roofing works will include improved insulation to assets to reduce heat wastage.

Social Value considerations

37. 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 included in the tender (as outlined in the Gateway 1 report) are set out in the following paragraphs in relation to the tender responses, evaluation and commitments to be delivered under the proposed contract.

Economic considerations

38. The full cost to the council and the life span of the contracts are set out in paragraphs 14 and 15 of this report.

Social considerations

39. Both Bridgewater and Elkins have confirmed that all relevant staff continues to be paid in excess of the minimum London Living Wage hourly rate and will continue to comply with council policies relating to GDPR, Blacklisting, Modern Slavery, Health & Safety and Equalities.

Environmental/Sustainability considerations

40. The contracts contain requirements to recycle roof and timber products.
41. Both contracts encouraged the use of low emission vehicles and the minimisation of journeys needed. Where possible, works have been

planned and carried out in grouped localities to reduce the number of journeys and fuel expended.

42. Chemical safe products approved by the water authorities are used for rainwater and drainage works.

Financial Implications

43. The total value of the contracts including any previous expenditure is £8.473m.
44. The total combined revenue and estimated capital spend for the variation is made up as follows;
 - Revenue £1.17m
 - Capital £630k
 - Total: £1.8m
45. The revenue budget for 2021/22 is £1.297m. There is also a £3m allocation for capitalisation of repairs from which around 35% of roofing and rainwater works are funded. This requested variation would be met by the existing budget.
46. 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.
47. The level of activity is anticipated to be maintained at previous levels and spend will be distributed across the two contracts geographically.

Legal Implications

48. Please see supplementary advice from the Director of Law and Governance.

Consultation

49. Please see supplementary advice from the Director of Exchequer.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance

50. Noting the continuation of the existing pricing, there are no additional budgetary issues arising from this decision

Head of Procurement

51. This report seeks the approval of the Strategic Director of Housing and Modernisation for the variation of Contract A, north of the borough for the Roofing and Rainwater Chargeable Contract to Bridgewater Roofing Contractors Ltd. The extension of the term of the contract for a period of eight months from 1 October 2021 to 31 May 2022, at an estimated cost of £969k for the variation period. This makes a total revised estimated contract value of £4.754m.
52. The report also seeks the approval of Strategic Director of Housing and Modernisation of the variation of Contract B, south of the borough to Roofing and Rainwater Chargeable Contract to A&E Elkins Ltd. The extension of the term of the contract for a period of eight months from 1 October 2021 to 31 May 2022 at an estimated cost of £832k for variation period. This makes a total revised estimated contract value of £3.719m.
53. The details of the risks associated with the extension are set out in table at paragraph 23. London Living Wage is payable under both these arrangements (paragraph 39).
54. The plans for the management and monitoring of the contract are in paragraphs 25-30.
55. Equalities information for these contracts are in paragraphs 33-34, Health Impact information in paragraph 35 and climate change implications within paragraph 36.

Director of Law and Governance

56. This report seeks the approval of the Strategic Director of Housing and Modernisation to the extension of the Roofing and Rainwater chargeable contracts with Bridgewater Roofing Contractors Limited (contract A) and A & E Elkins Limited (contract B) as further detailed in paragraphs 1 and 2.
57. The contracts were awarded on the basis of an initial contract period of 2 years, with an option to extend by a further 12 month period (a maximum contract period to 30 September 2021). This variation will extend the contract beyond that anticipated contract period, and it is therefore necessary to consider any possible risks. The procurement of these contracts was not subject to the tendering requirements of the Public Contract Regulations 2015 (PCR15) due to their value, and the extension values also fall below the PCR15 threshold. The contracts are being extended for a short period to allow the longer term procurement exercise to be carried out, and accordingly the risk of challenge to these extensions is considered very low.

58. 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. Paragraphs 43-47 confirms the financial implications of this variation.

Director of Exchequer (for housing contracts only)

59. This agreement is a Qualifying Long Term Agreement under the terms of the Commonhold and Leasehold Reform Act 2002, and subject to consultation under S20 of the Landlord and Tenant Act 1985 (as amended). Notice was served on all leaseholders in the borough on 29th March 2018 under Schedule 2 of the regulations. The notice advised, in compliance with the regulations, of the term of the contract, which was for two years plus an option to extend for a further twelve month period. The extension for a further eight months lies outside of the period given in the notice in 2018.
60. This is a situation that has been previously addressed in the extension of the major works partnering contract. On that occasion the council sought counsel's advice on compliance with section 20. The advice received indicated that where an extension of the term of a contract is legally made, it creates a new contract for the purposes of section 20, and further notice is required to leaseholders in order to protect the council's recovery of costs arising from that contract.
61. Notice will be served on all leaseholders in the borough for the extended period under schedule 2 of the regulations with observations invited concurrently with the extension.

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 (and as otherwise recorded in Part B below).



11 October 2021

Signature Date.....
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 that are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available (see 'FOR DELEGATED DECISIONS' section of the guidance).

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

None

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

None

* Contract standing order 6.6.1 states that for contract Variations with an Estimated Contract Value of £100,000 or more, the lead contract officer (LCO) must consult with the relevant cabinet member before the decision is implemented.

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.

none

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
Gateway 2 - Responsive Repair and Maintenance - Roofing and Rainwater Chargeable Contracts (North & South)	Housing and Modernisation, Asset Management	Gavin Duncumb Ext 50685
Link: GW2 Roofing and Rainwater		

APPENDICES

No	Title
None	None

AUDIT TRAIL

Lead Officer	Dave Hodgson, Director of Asset Management	
Report Author	Steven Johnston, Senior Quantity Surveyor	
Version	Final	
Dated	29 September 2021	
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 Governance	Yes	Yes
Director of Exchequer (for housing contracts only)	Yes	Yes
Cabinet Member	n/a	n/a
Date final report sent to Constitutional Team		11 October 2021