

Item No.	Classification: Open	Date: 20 September 2021	Meeting Name: Strategic Director of Housing and Modernisation
Report title:		Gateway 3 - Communal Repairs 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 carrying out of communal repairs in the north of the borough by its own direct labour organisation, Southwark Repairs (previously known as Southwark Building Services (SBS)) in accordance with the tender documentation to extend the term for a period of eight months from 1 October 2021 to 31 May 2022 at an estimated extra over cost of £678k making a total estimated value of £3.73m.
2. That the Strategic Director of Housing and Modernisation approves the variation of Contract B (south of the borough) Communal Repairs Chargeable Contract to BuildTrust 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 £992k making a total estimated contract value of £5.49m.

BACKGROUND INFORMATION

3. A Gateway 2 report was approved on 15 August 2018 to award the communal repair works to: Southwark Building Services and BuildTrust Ltd.
4. Communal repairs chargeable works in the north of the borough is carried out by Southwark Building Services (now known as Southwark Repairs) for an initial 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 works value of £2.1m.
5. Communal repairs chargeable works in the south of the borough under Contract B was awarded to BuildTrust Ltd (BuildTrust) for an initial 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.
6. A Gateway 3 report was approved on 10 December 2020 to vary the internal agreement and contract 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 internal agreement and contract 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 internal agreement and contract 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.
9. The separation of the communal repairs chargeable works across a geographical split of the borough (north and south) (Southwark Repairs – north - Walworth, Borough and Bankside, Bermondsey, Rotherhithe and Contract B with BuildTrust – south - Camberwell, Peckham, Nunhead and Peckham Rye, Dulwich) provide all of the works noted at paragraph 5 above. The internal agreement and contract contain the provision for Southwark Repairs and BuildTrust to provide back up to each other to ensure that works are always delivered using their own tendered rate and ensuring that the council is able to meet its obligations.
10. The prices were fixed until 1 April 2020 and both the internal agreement and contract 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.

North – Southwark Repairs - Spend in Financial Years (as of Jun 21)			
Period		Original Gateway Approval	Actual Expenditure Southwark Repairs
01/10/2018	31/03/2019	£350k	£372k
01/04/2019	31/03/2020	£700k	£1.352m
01/04/2020	31/03/2021	£770k	£824k
01/04/2021	31/03/2022	£478k	£249k
Totals		£2.298m	£2.797m

North – Southwark Repairs - Spend in Contractual Years (as of Jun 21)			
Period		Original Gateway Approval	Actual Expenditure Southwark Repairs
01/10/2018	30/09/2019	£700k	£1.031m
01/10/2019	30/09/2020	£700k	£1.116m
01/10/2020	30/09/2021	£898k	£650k
Totals		£2.298m	£2.797m

Contract B – South – BuildTrust - Spend in Financial Years (as of Jun 21)			
Period		Original Gateway Approval	Actual Expenditure Contract B
01/10/2018	31/03/2019	£300k	£447k
01/04/2019	31/03/2020	£600k	£1.696m
01/04/2020	31/03/2021	£960k	£1.482m
01/04/2021	31/03/2022	£713k	£501k
Totals		£2.573m	£4.126m

Contract B – South – BuildTrust - Spend in Contractual Years (as of Jun 21)			
Period		Original Gateway Approval	Actual Expenditure Contract B
01/10/2018	30/09/2019	£600k	£1.188m
01/10/2019	30/09/2020	£600k	£1.599m
01/10/2020	30/09/2021	£1.373m	£1.338m
Totals		£2.573m	£4.126m

12. The estimated annual expenditure in the original gateway approval was based on the anticipated demand for communal repair works. The actual expenditure with Southwark Repairs and BuildTrust in proceeding months and their level of activity subsequently increased.
13. 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.

14. In the north of the borough there is an average expenditure with Southwark Repairs of around £85k per month. Taking into account previous spend (£2.797m), anticipated spend until October 2021 (£255k) and an eight month extension at current expenditure (£678k) will provide a total revised estimated value of £3.730m.
15. Contract B has an average expenditure of around £124k per month. Taking into account previous spend on this contract (£4.126m), anticipated spend until October 2021 (£372k) and an eight month extension at current expenditure (£992k) will provide a total revised estimated contract value of £5.49m.
16. This report is seeking the Strategic Director to approve the variation to extend the internal agreement with Southwark Repairs and the contract with BuildTrust 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 with Southwark Repairs and BuildTrust for a period of eight months and increase the value to £9.22m. 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 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.
19. Buildtrust 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. Whilst the quality of the work carried out by Southwark Repairs is of a good quality, they have struggled to meet expected performance targets on communal repair works in terms of time to complete work order. This is being addressed as part of the three year Repairs Improvement Plan.

21. Six months' notice to vary was given to Southwark Repairs and BuildTrust in January 2021 in accordance with clause 9.4 of the internal agreement and contract and they provisionally agreed. These extensions will be executed through letter and deed variation documents.

Future Proposals for this Service

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

Alternative Options Considered

23. The asset management team only considered extending the existing agreement and contract as a new procurement exercise is due to commence.

Identified risks for the Variation

24. The table below identifies the specific risks associated with this agreement and contract, 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	BuildTrust ceases trading, goes into administration/liquidation	Low	<p>The contract contains the provision for Southwark Repairs to act as backup to BuildTrust. If BuildTrust ceases trading, then Southwark Repairs and the works approved list will be used whilst re-procuring the contract.</p> <p>A financial credit check was carried out on BuildTrust on 08/07/2021. BuildTrust scored "stable". The financial stability of BuildTrust will be monitored throughout the contract through the contract management process.</p> <p>Southwark Repairs and BuildTrust 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.
R3	BuildTrust or Southwark Repairs are unable to fulfil the requirements of the agreement or contract e.g. poor performance, leading to the need to terminate the agreement or contract.	Low	The council will use backup arrangements within the agreement and contract. If both Southwark Repairs and BuildTrust 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.
R4	Covid-19 pandemic risks	Low	Southwark Repairs and BuildTrust and the council developed an effective working procedure to ensure that Southwark Repairs and BuildTrust are able to operate safely on site, in their operational functions and comply with social distancing measures. BuildTrust 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 Southwark Repairs and BuildTrust regarding their supply chains in respect of tariffs, administration costs and budgetary impacts. Contract managers to liaise with Southwark Repairs and BuildTrust 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 the extension value for the BuildTrust contract there is no requirement to tender in accordance with the PCR 2015, and the Southwark Repairs agreement is not subject to PCR 2105 requirements. Both extensions are to permit a procurement process to be undertaken

Policy framework implications

25. The extension to the internal agreement and contract 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

26. The internal agreement and contract 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 agreement and contract specifications.
27. Monthly progress meetings are held to discuss performance with Southwark Repairs, BuildTrust and asset management.
28. 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.
29. Technical officers in asset management 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 internal agreement and contract conditions. On completion of the works they are post inspected jointly by asset management, Southwark Repairs and BuildTrust, to ensure quality. Where issues are identified monies are withheld until works are corrected.
30. The internal agreement and contract 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	Southwark Repairs
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%
Q1 2020/21	System generated	95%	N/A	N/A
Q2 2020/21	System generated	95%	N/A	N/A
Q3 2020/21	System generated	95%	97.2%	81.9%
Q4 2020/21	System generated	95%	97%	85.4%
Q1 2021/22	System generated	95%	92%	75.7%
	YTD since October 2020		95.4%	81.0%

Average time to complete – Priority 4s, 15 day calendar day target				
Quarter	Source	Target	BuildTrust	Southwark Repairs
Q3 2018/19	System generated	<15	8.5	13.4
Q4 2018/19	System generated	<15	11.9	26.3
Q1 2019/20	System generated	<15	17.1	28.3
Q2 2019/20	System generated	<15	15.7	24.4
Q3 2019/20	System generated	<15	14.7	23.3
Q4 2019/20	System generated	<15	16.2	28.3
Q1 2020/21	System generated	<15	N/A	N/A
Q2 2020/21	System generated	<15	N/A	N/A
Q3 2020/21	System generated	<15	11.9	24.7
Q4 2020/21	System generated	<15	14.6	42.1
Q1 2021/22	System generated	<15	14.6	69.9
YTD since October 2020			13.7	45.6

31. Due to the impact of Covid-19, many communal repairs chargeable 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.
32. 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.

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

Community impact statement

33. Both the internal agreement and contract are of low impact to tenants, homeowners and other stakeholders as these works will be done externally.
34. Southwark Repairs have 1 site based apprentice for their works area and have also provided work experience for local schools for a placement of two weeks, twice per year. 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.

Equalities (including socio-economic) impact statement

35. Asset Management's Equality Impact Assessment (EqIA) deemed the potential impact of communal repair works on people with protected characteristics to be neutral and there has been no change.

36. The works are selected based on the condition of the assets to ensure that they are maintained and provide good homes and external areas to all residents equally.

Health impact statement

37. It is important to maintain communal areas to prevent trips and falls arising. Maintaining communal areas to a good standard also contributes to improving the aesthetics of a locality and encourages healthy activity outdoors.
38. Repairs and maintenance of windows and doors improves residents' safety and perception of safety whilst helping to keep residents warm during colder periods of weather.
39. The maintenance of drainage and water mains positively impacts on residents' health ensuring clean and reliable supplies and reducing likelihood of flooding.

Climate change implications

40. The maintenance of windows and doors ensures reduced heat wastage by these routes and reduced energy expenditure because of this.

Social Value considerations

41. 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

42. The full cost to the council and the life span of the internal agreement and contract are set out in paragraphs 14 and 15 of this report.

Social considerations

43. BuildTrust have confirmed that all relevant staff continue 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.
44. Southwark Repairs 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.

Environmental/Sustainability considerations

45. Both the internal agreement and contract encouraged the use of low emission vehicles and the minimisation of journeys needed. Southwark Repairs 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.
46. 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.

Financial Implications

47. The total value of the agreement and contract including any previous expenditure is £9.22m.
48. The revenue budget for 2021/22 is £2.93m. There is also a £3m allocation for capitalisation of repairs from which around £100,000 of communal repair works are funded. This requested variation would be met by the existing budget.
49. The agreement and contract will be extended using the same prices as originally tendered. Any changes in spend will be dependent upon the quantity of work ordered through the agreement and contract.
50. The level of activity is anticipated to be maintained at previous levels and spend will be distributed geographically.

Legal Implications

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

Consultation

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

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance

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

Head of Procurement

54. This report seeks the approval of the Strategic Director of Housing and Modernisation for the variation to carry out of communal repairs in the north of the borough by its own direct labour organisation, Southwark Repairs (previously known as Southwark Building Services (SBS)). Working in accordance with the tender documentation, the term will be extended for a period of eight months from 1 October 2021 to 31 May 2022 at an estimated cost of £678k. This makes a total estimated total value of the arrangement £3.73m.
55. The report also seeks the approval of the Strategic Director of Housing and Modernisation for a variation to Contract B covering the south of the borough for the Communal Repairs Chargeable Contract to BuildTrust Ltd. This is 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 cost of £992k. This makes a total estimated contract value of £5.49m.
56. The details of the risks associated with the extension are set out in table at paragraph 24. London Living Wage is payable under both these arrangements (paragraph 43).
57. The plans for the management and monitoring of the contract are in paragraphs 26-32 with the details of the performance under paragraph 30.
58. Equalities information for these arrangements is in paragraphs 35-36, Health impact information in paragraphs 37-39 and climate change implications within paragraph 40.

Director of Law and Governance

59. This report seeks the approval of the Strategic Director of Housing and Modernisation to the extension of the agreement for communal repairs with Southwark Repairs (north) and the contract with Buildtrust Limited (south) as further detailed in paragraphs 1 and 2.
60. The contract/agreement 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 with Buildtrust and the agreement with Southwark Repairs beyond that anticipated contract period, and it is therefore necessary to consider any possible risks. The agreement arrangement with Southwark Repairs is an internal arrangement which is not subject to the tendering requirements of the Public Contract Regulations 2015 (PCR15). The contract with Buildtrust was also not subject to the PCR 15 tendering requirements due to its value, and the extension value also falls below the PCR15 threshold. The contract and agreement 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.

61. 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 47-50 confirms the financial implications of this variation.

Director of Exchequer (for housing contracts only)

62. 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.
63. 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.
64. 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).



19 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
<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>
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 – Communal Repairs Chargeable Contracts (North & South)	Housing and Asset Management, Modernisation, Management	Gavin Duncumb Ext 50685
Link: GW2 Communal Repairs		

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	4 October 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		19 October 2021