

Decision Taker:	Acting Strategic Director, Environment, Neighbourhoods & Growth
Date:	15 May 2024
Report title:	Gateway 3 – Variation Decision Leisure Commercial Cleaning Services Contract extension
Ward(s) or groups affected:	All
Classification:	Open
Reason for lateness (if applicable):	Not applicable
From:	Head of Leisure

RECOMMENDATION(S)

1. That the Acting Strategic Director, Environment Neighbourhoods & Growth approves the extension of the services contract for the Leisure Commercial Cleaning Contract with Constellia Public Limited for the period 22 June 2024 to 21 June 2025 up to a maximum value of £714,654.60

BACKGROUND INFORMATION

2. The council entered into a contract with Constellia Public Limited appointed via the AEC Neutral Vendor Framework Agreement. The Framework Agreement is a compliant procurement route which enabled replication of former arrangements via a sub-contract Agreement between Constellia Public Limited, the sole supplier on the Framework (the Neutral Vendor), and Rapid Commercial Cleaning Services, the incumbent provider to Everyone Active, to enable continuity of service and minimum disruption.
3. The initial contract term was approved by the gateway 2, with option to extend for an additional 12 month period until 21 June 2025.

KEY ISSUES FOR CONSIDERATION

Key Aspects of Proposed Variation

4. The variation is the take up of the extension option that was previously authorised in the Gateway 2 report – Contract award approval.
5. The extension provides for continuity of service for the leisure commercial cleaning operations for the period 22 June 2024 to 21 June 2025.

6. The value of the extension is up to a maximum value of £714,654.60. Conversations have started with Constellia Public Limited about the application of uplifts to the contract for LLW and or RPI for the proposed extended term. The supplier is asking for a 10% increase, this is the maximum price noted in the recommendation. Details as to how this is substantiated and applied have been sought. The contract manager is awaiting a response. For the purpose of this paper, for the recommendation is predicated on the maximum contract value figure, albeit it is anticipated that the agreed value is likely to be lower.

The application of the LLW increase (10%) is only applicable to those on the current LLW, which is the front line cleaners. The other cost elements of the service, management, profit and overhead etc have a contractual uplift of RPI (4.3%).

Reasons for Variation

7. To extend the contract for a further 12-month period to facilitate the cleaning at the leisure centres. To enable a clean environment for staff and users to operate in.

Future Proposals for this Service

8. The 12-month extension of the cleaning contract will allow for consideration as to how to deliver cleaning in the leisure centres in the future. The council has recently insourced its corporate cleaning services and has a strategic disposition to bring services in house where appropriate. The 12-month extension will allow time for consideration as to the potential to insource the service, strategy development, governance, consultation, implementation and TUPE transfer.
9. If the internalisation of the service is not a viable option there will need to be a future competitive procurement to renew the service requirements. This option may also involve a TUPE transfer. To ensure there is enough time to consider this the procurement approach Gateway 1 will be presented to DCRB in late summer of 2024 for consideration.

Alternative Options Considered

10. Insource the service – This was discounted at this time as there is not sufficient time to allow for the review of the service and conduct all aspects of an insourced TUPE transfer. This option will be reviewed prior to any further re procurement of the contract.
11. Run a new procurement – This was discounted as the review of the service concluded that the overall delivery was satisfactory. The contract is monitored on a site basis with a centrally coordinated contract management approach.
12. Do nothing – This was discounted as there is a requirement to have clean leisure centre facilities. Some form of cleaning provision needs to be in place.

Identified risks for the Variation

13. None

Policy framework implications

14. This procurement award has taken into account the council's [Fairer Future Procurement Framework](#), related procurement policies and [Contract Standing Orders](#).
15. The management of the leisure centres and delivery of excellent leisure services is directly linked to the council's commitment to a 'Fairer future for all', in particular: We want to break down barriers that prevent people from thriving in Southwark, so that whatever your background you can live a healthy life.
16. The council delivery plan sets our priorities and commitments to the people of Southwark until 2026:
 - Transforming our borough
 - A thriving and inclusive economy
 - A healthy environment
 - Quality, affordable homes
 - Keeping you safe
 - Investing in communities
 - Supporting families
17. Leisure centre provision contributes to the delivery of these commitments. In particular, the Borough Plan states, 'Bringing more council services in-house, including our leisure centres.' In addition, leisure centre provision is an important part of the Active Southwark strategy which was agreed by the cabinet in April 2019. A key theme being: Active Places – shaping our environment and facilities so that they encourage more people to be more active.

Contract management and monitoring

18. 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 will ensure that all appropriate details of this procurement are added to the contract register via the eProcurement System.

The performance of the supplier is monitored through the Leisure Operations manager and is considered satisfactory. A formal annual performance review will be submitted to DCRB, including any improvement opportunities that can be embedded in the second year of the contract.

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

Community impact statement

19. The service will have limited impact on service users from the community, as

it will deliver the same scope and quality of service.

Equalities (including socio-economic) impact statement

20. The [Public Sector Equality Duty](#) has been considered and no additional is required.
21. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that all contractors and subcontractors engaged by the council to provide works or services within Southwark pay relevant staff at a minimum rate equivalent to the LLW rate. The service provider Rapid Commercial Cleaning Services pays relevant staff the LLW.

Health impact statement

22. Having clean leisure facilities allows customers and staff to safely use the centres without risks associated to unclean facilities. It encourages current and future users to use the centres more therefore increasing the opportunities to have a healthier lifestyle.

Climate change implications

23. Rapid Commercial Cleaning Services will continue to be required to provide acceptable and appropriate environmental policies, deliver on specific performance targets for increasing recycling, reducing waste and energy consumption and expected to implement energy management plans aimed at reducing carbon emissions in line with the council's own targets.

Social Value considerations

24. 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 were tackling economic inequality such as:
 - Create employment and training opportunities;
 - Support education attainment relevant to the contract, including training schemes that address skills gaps and result in recognized qualifications.
25. Rapid Commercial Cleaning Services is an accredited Training Provider for the British Institute of Cleaning Science and provide in house training to their operational teams, wherever possible. Their aim is to ensure that all Contracts and Operational Managers partake in the recognised BICSc training on an ongoing basis. To address skills gaps, all staff undergo one to one training at the point of induction and on an ongoing basis. Rapid also offer colleagues an opportunity to enrol on a Level 2 Certificate in Cleaning Knowledge and Skills course with the Skills Network, through Rapid Clean. The opportunity is open to all staff and widely promoted across the business. At their head office, they have had great success with Apprenticeship Schemes and now have colleagues excelling in their permanent roles in HR, Operations Admin and Accounts.

Economic considerations

26. The council has a preference for in-house services wherever possible and there is a desire to have direct responsibility over the management and operation of its leisure facilities and services. This will enable the leisure service to be fully responsive to council priorities and will provide opportunities to work closely with other key council departments to deliver strategic outcomes in a more innovative and joined up way – linking the provision of leisure services with other council and partner services. The ability to manage facilities and services that are not necessarily commercially attractive, but which may maximize opportunities for residents across the borough, was also a consideration during the review of the leisure contract.
27. The contractor supports the council's approach to not utilizing zero hour contracts and has a commitment to employing full and part time staff. The supplier has also committed to pay a rate equivalent to the LLW rate, where appropriate.

Social considerations

28. The council's leisure offer is already pioneering, providing free swim and gym and adult swimming lessons to everyone who lives in the borough.
29. A clean and well presented leisure centre environment will encourage visitors to be more active, more often.

Environmental/Sustainability considerations

30. Rapid Commercial Cleaning Services will continue to be required to provide acceptable and appropriate environmental policies, deliver on specific performance targets for increasing recycling, reducing waste and energy consumption and expected to implement energy management plans aimed at reducing carbon emissions in line with the council's own targets.

Financial Implications

31. The contract value including and excluding VAT is:

Cleaning Contract	Cost (excl VAT) £	Cost (incl VAT) £
Original total cost (GW2)	£649,686.00	£779,623.20
Total value of any previous variations	N/A	N/A
Value of proposed variation (GW3)	£714,654.60	£857,585.52
Revised total cost	£1,364,340.60	£1,637,208.72

32. The approved 2024/25 leisure revenue budget is £5.706m, which included £649,686 cleaning contract budget. The council is committed to ensuring that all contractors and subcontractors engaged by the council pay their relevant staff at a minimum rate equivalent to the LLW rate. Funding for the additional LLW cost increase (total £64,968.60) will need to be identified.

33. If no alternative funding is identified, the approved 2024/25 leisure revenue budget also included £250k growth bid for additional repair & maintenance and system development, which can be scaled down to release funding to meet the additional cost of cleaning contract £64,968.60.
34. Officers are currently reviewing the various expenditure and income budgets for operating the leisure management service which will need to be contained within the revenue budget. These costs will be monitored and reported as part of the departmental revenue budget monitoring process.

Investment Implications (Housing Contracts only)

35. N/A

Legal Implications

36. Please see paragraph 47.

Consultation

37. The [Public Sector Equality Duty](#) has been considered and no additional consultation is required

Other implications or issues

38. None

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance (ENG24/010)

39. This report is requesting Acting Strategic Director, Environment Neighbourhoods & Growth to approve the extension of the services contract for the Leisure Commercial Cleaning Contract with Constellia Public Limited for the period 22nd June 2024 to 21st June 2025 up to a maximum value of £714,654.60.
40. The strategic director of finance notes that the cost of this variation will be incorporated into the operational revenue budget of the leisure management service, as mentioned in the financial implications.
41. Staffing and any other costs to be contained within existing leisure management service revenue budgets.

Head of Procurement

42. This report seeks approval of extension of the services contract for the Leisure Commercial Cleaning Contract with Constellia Public Limited, enabling access to Rapid Commercial Cleaning Services as a direct provider of the services, for the period 22nd June 2024 to 21st June 2025 up to a maximum value of £714,654. Additional context provided in support of the recommendation, specifically vis a vis negotiations, is contained at

paragraph six. The recommendation as outlined, confirming that potential extension option was contained within the original contract award, is consistent with PCR2015 and the council's Contract Standing Orders (CSO). In accordance with CSO, the decision must be taken by the relevant chief officer, or under their delegated authority, in line with the department's scheme of management.

43. Alignment with the Fairer Future Procurement Framework (FFPF) is referenced generally within paragraphs 14 – 30. The report also confirms that the contractor will be required to pay the London Living Wage (LLW) at paragraph 21.
44. Proposed methodology for performance/contract monitoring is detailed within paragraph 18.
45. The community, equalities and health impact statements are set out in paragraphs 19 - 22.
46. The climate change, social value, economic and environmental / Sustainability statements are set out in paragraph 23 - 30.

**Assistant Chief Executive – Governance and Assurance
(Con/KM/20240425)**

47. This report seeks the approval of the acting Strategic Director of Environment, Neighbourhoods and Growth to the extension of the leisure commercial cleaning contract with Constellia for a period of 12 months from 22 June 2024 as further detailed in paragraph 1.
48. The contract with Constellia 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 be made under the contract is permitted within those procurement regulations. Regulation 72 permits modifications to be made to contracts during their term in certain circumstances, and includes at Regulation 72(1)(a) where the modification (irrespective of its value) has been provided for in the initial procurement documents in clear, precise and unequivocal review clauses. As noted in this report, the contract was procured and awarded with the inclusion of a one year option to extend, and the proposed extension therefore meets the requirements of Regulation 72.
49. 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 31-32 confirms the financial implication of this variation

Director of Exchequer (for housing contracts only)

50. N/A

Director of Children's Services (for Schools contracts only)

51. N/A

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).

Signature: 

Date: 15 May 2024

Designation: Acting Strategic Director of Environment, Neighbourhoods & Growth

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
Insource the service. Conduct a new procurement. Do nothing.

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.

<p>5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST</p> <p><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></p>
<p>N/A</p>

<p>6. DECLARATION ON CONFLICTS OF INTERESTS</p>
<p>I declare that I was informed of no conflicts of interests.</p>

BACKGROUND PAPERS

Background Papers	Held At	Contact
Title of document: Gateway 2 – Contract award approval. Leisure insourcing Commercial Cleaning Services Contract.	Environment, Neighbourhoods & Growth / Leisure Insourcing	Head of leisure 07889393163
Link: (Insert hyperlink here)		

APPENDICES

No	Title
Appendix 1	Gateway 2 Contract approval

AUDIT TRAIL

Lead Officer	Toni Ainge – Acting Strategic Director, Environment, Neighbourhoods and Growth	
Report Author	Ian Gallagher – Head of Leisure	
Version	Final	
Dated	1 May 2024	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance	Yes	Yes
Head of Procurement	Yes	Yes
Assistant Chief Executive – Governance and Assurance	Yes	Yes
Director of Exchequer (for housing contracts only)	No	No
Cabinet Member	Yes	Yes
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	No	No
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		