

<b>Item No.: 18</b>	<b>Classification:</b> OPEN	<b>Date</b> 22 November 2005
<b>To</b>	<i>Executive</i>	
<b>Report title</b>	<b><i>Variation Decision</i></b> <i>Short Term Consultancy Support – Controlled Parking Zones</i>	
<b>Ward(s) or groups affected</b>	All	
<b>From</b>	<i>Director of Environment and Leisure</i>	

## RECOMMENDATIONS

1. That the Executive approve the variation of the Short Term Consultancy Contract for planning and related services in relation to Controlled Parking Zones that was awarded to Project Centre Ltd in December 2004 (the "Contract") so that the Council can continue to utilise the services provided under the Contract until such time as the Transport Planning and Street Scene Consultancy Services Term Contract is awarded and commences (see below). It is anticipated that the additional amount to be spent by the Council pursuant to the Contract will be approximately £97,000.

## BACKGROUND INFORMATION

2. When the Contract was awarded, it was anticipated that the amount that would be spent pursuant to the Contract would be £140,000. The reason for letting the Contract was to provide staffing to cover vacancies in the departmental structure until the on-going departmental restructuring was completed. The Contract commenced on 20 December 2004 and was for a period of 10 months.
3. The Contract does not include specific provisions that allow its extension beyond the period specified above as, at the time the Contract was awarded, it was anticipated that the Contract would be replaced by a combination of recruitment of internal staff to the newly created Controlled Parking Team and the introduction of the Transport Planning and Street Scene Consultancy Services Term Contract which was due to be in place by 1 October 2005. However, unforeseen delays have occurred in the restructuring process and it is now proposed to use the Council's Term consultant to provide the staffing in the interim period. A decision on the award of that Consultancy Services Term Contract is scheduled for the December 13 Executive. Start up of the new contract will be phased and the replacement of these existing contract arrangements will be in place by the end of January 2006.
4. There are no previous variations to this contract.

## Key Aspects Of Proposed Variation

5. The nature of the proposed variation is an extension in time and consequently it cost.
6. The value of the variation is estimated to be £97,000 making the total value of all variations (including this one) approximately £97,000
7. The value of the recommended variation to this contract as a % of contract value is 69%.

## **Background Of Contract**

8. As part of the reorganisation of the Department of Transportation Services, responsibility for Controlled Parking was transferred from the Department of Regeneration to the Department of Environment and Leisure earlier this year. However, at the time of the transfer no staff were in post in Regeneration to transfer with the function. Consequently, until the details of the new structure within Parking Services could be finalised and staff recruited to the new posts, this short term contract was let to provide the necessary staff resource to maintain the service.
9. In parallel with the restructuring, work has been progressing to let the Consultancy Services Term Contract which will provide part of the staffing requirements for the Transport Planning and Street Scene Service.
10. It had originally been anticipated that the Council's own recruitment programme and the Consultancy Term Contract would have provided the necessary staffing, by the beginning of October 2005, to replace this Contract. However unforeseen delays in letting the Consultancy Term Contract were incurred due to the relative complexity of this contract including the need to establish detailed specifications for the reorganised services located within two separate Departments and the need to finalise detailed new organisational proposals in advance of letting the new Consultancy Term Contract. It is now intended that the new Consultancy Term Contract will be in place by the beginning of February 2006.
11. The most effective way to continue to provide the service up to February 2006 will be to extend the current contract with Project Centre Limited and thus provide continuity of staffing and service until the new Consultancy Term Contract is let. The alternative of re-tendering the service for another two months would not be practical or cost effective and would risk losing the continuity of understanding of the Council's requirements. Project Centre's performance under the Contract has been satisfactory.

## **KEY ISSUES FOR CONSIDERATION**

### **Policy implications**

12. None

### **Resource implications**

13. Financial Implications – Funding is available to meet the cost of extending the contract from a combination of existing revenue budgets.
14. Investment Implications – None.

### **Legal Implications**

15. See legal concurrent at paragraphs 19 to 24 below

### **Consultation**

16. Both Procurement and Legal Services have been consulted upon the proposed variation to this contract.

## **Community Impact Statement**

17. There are no significant CIS issues.

## **Other implications or issues**

18. There are no other significant issues.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Borough Solicitor**

19. This Report seeks Executive approval for the extension of the existing Short Term Consultancy Contract for the provision of planning and related services in relation to Controlled Parking Zones between (1) The Council and (2) Project Centre Limited, so that the term of this Contract expires on 31<sup>st</sup> January 2006.
20. Contract Standing Order 8 F1 provides that where the amount of a variation is more than 15% of the Tender Value this must be authorised by the Executive (unless the original Tender Value was under £25,000).
21. This report confirms at paragraph 7 above that the extension of the term of the Contract will cause the overall value of the Contract to increase by more than 15%. The Borough Solicitor and Secretary therefore confirms that Executive approval of this variation is required.
22. Contract Standing Order 2.8 states that no additional sums may be paid under a variation unless the expenditure involved has been included in approved estimates or on capital or revenue accounts, or has been otherwise approved by, or on behalf of the Council. Paragraph 13 of this Report confirms how the proposed additional expenditure will be funded.
23. As the services that are being purchased under the Contract are Part A services for the purpose of the EU procurement regulations, the additional expenditure of approximately £97,000 to be incurred by the Council (should the extension of the Contract be approved by the Executive) will result in the total value of the contract being approximately £237,000. Had the total value of the Contract been known at the outset, the Contract should have been publicly tendered after it had been advertised in the Official Journal of the European Union ("OJEU") (the threshold above which contract for Part A services need to be publicly advertised in the OJEU is £153,376). However, the need for additional expenditure under the Contract was unforeseen at the outset and the variation is required in order to provide the Council with the necessary services until such time as the tender of the Consultancy Services Term Contract is finalised. In light of this, there is a reasonable basis for recommending approval of the proposed variation, particularly as it offers the Best Value solution in all of the circumstances.
24. Members should be advised that, whilst the Council would be exposed to the risk of a potential challenge from interested third parties on the grounds that the expenditure incurred under the Contract exceeds the relevant EU threshold of £153,376 (which would have required (if the value of the Contract had been known at the outset) the Contract to have been publicly advertised in the OJEU), the Borough Solicitor is of the view that this risk is minimal.

### Departmental Finance Manager

25. The contract costs are being funded within the revenue budgets of Environment & Leisure who confirms that the additional cost of £97,000 resulting from this variation can be contained within their current budget allocation.

### Head of Procurement

26. This report seeks a recommendation to extend an existing contract by variation so as to allow for continuity of service. However, whilst the existing contract has no extension option, negotiations may be undertaken without the prior publication of a contract notice where additional services are required from the service provider which because of unforeseen circumstances have not been included in the original contract and/or where new services are required which are a repetition of services carried out under the original contract
27. Having reviewed the background information contained herein, it is clear that the delays leading to this extension request were not foreseen and so given the circumstances, and minimal risk as referred to by Legal, this would appear to be the most appropriate and cost effective course of action. If the Executive are confident that the revised timetable of 1<sup>st</sup> February 2006 for the new replacement service is achievable, then they should agree the recommendation.

### KEY POINT SUMMARY

1. The Executive is asked to approve an extension of the Short Term Consultancy Contract for planning and related services in relation to Controlled Parking Zones that was awarded to Project Centre Ltd in December 2004 so that the Council can continue to utilise the services provided under this contract until such time as the Transport Planning and Street Scene Consultancy Services Term Contract is awarded and commences.
2. This course of action is considered to be the most practical and cost-effective means of providing the planning and related services in relation to Controlled Parking Zones that the Council needs on an interim basis.

### BACKGROUND PAPERS

Background Papers	Held At	Contact
<i>Gateway 2 – Contract Award Approval Short Term Consultancy Support – Controlled Parking Zones</i>	<i>Parking and Street Metalwork Services</i>	<i>Nick Costin</i>

### AUDIT TRAIL

<b>Lead Officer</b>	<i>Nicky Costin – Business Manager – Parking, CCTV and Street Metalwork Services</i>
<b>Report Author</b>	<i>Andrew Nisbet</i>
<b>Version</b>	<i>Final</i>

<b>Dated</b>	<i>November 05</i>		
<b>Key Decision?</b>	<i>No</i>	<b>If yes, date appeared on forward plan</b>	<i>N/A</i>
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER</b>			
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>	
Legal: Borough Solicitor & Secretary	Yes	Yes	
Chief Finance Officer	Yes	Yes	
Head of Procurement	Yes	Yes	
Executive Member	Yes	No	
<b>Date final report sent to Constitutional Support Services</b>			