

Item No.	Classification: Open	Date: 18 June 2019	Decision Taker: Strategic Director of Finance and Governance
Report title:		Gateway 3 – Variation Decision: Willow Walk – Variation to the contract with Balfour Beatty Regional Construction Ltd for preconstruction services, enabling works and main works contract, respectively, relating to the new temporary hostel accommodation and general needs housing project at Willow Walk, SE1	
Ward(s) or groups affected:		Grange Ward	
From:		Head of Regeneration – Capital Works & Development, Place & Wellbeing Department	

RECOMMENDATION(S)

1. That the strategic director of finance and governance approves:
2. The variation to Balfour Beatty Construction Ltd ('Balfour Beatty') for pre-construction services, early works and main works contracts in respect of the Willow Walk new temporary hostel accommodation and general needs housing project for a total variation of £1,156,761. This applies to each contract as follows:
3. A variation to the contract with Balfour Beatty for pre-construction services (PCSA) relating to the Willow Walk new temporary hostel accommodation and general needs housing project. .
4. A variation to the contract with Balfour Beatty for enabling works related to the Willow Walk new temporary hostel accommodation and general needs housing project.
5. A variation to the contract with Balfour Beatty for main works related to the Willow Walk new temporary hostel accommodation and general needs housing project.

BACKGROUND INFORMATION

6. This report seeks approval of variations to Balfour Beatty's preconstruction services, enabling works and main works contracts (for which financial provision has already been made), in respect of their fee claims for additional professional services and variations in the scope of works..
7. The Willow Walk project is located on the corner of Setchell Road and Alscot Way, SE1.
8. The new development at Willow Walk comprises:

- 54 temporary accommodation units and 21 general needs housing units along with demolition of existing buildings on site and associated external works including the construction of a new road to an adoptable standard and children's play area.
 - The new temporary accommodation consists of 25 two bed and 29 three bed units complete with a private bathroom and shared kitchen facility to the ratio of 2 units to 1 kitchen. There are also 4 wheelchair accessible units, two lifts, a shared laundry, a bin store and covered amenity area on the ground floor.
 - The general needs housing comprise a mixture of 1, 2 and 3 bedroom flats for social rent.
 - Re-provision of the existing playground including soft and hard landscaping.
9. The appointment of the contractor, Mansell Construction Services Ltd to provide pre-construction services for the project was the subject of a gateway 2 report, approved by the Chief Executive on 17 December 2012, for the sum of £224,054.
 10. A separate gateway 2 report was approved by the Chief Executive on 25 November 2013 to appoint Mansell Construction Services Ltd as main contractor for the enabling works for the project in the sum of £423,056. A sum was included for emergency works to be undertaken due to the extensive buried asbestos discovered during excavation works under the enabling works contract was reported and approved under CSO emergency provisions the details of this sum are contained in the closed report.
 11. Mansell Construction Services Ltd was subsequently appointed as main contractor for the construction works for the project in the sum £11,696,129. The separate gateway 2 report was approved by the Chief Executive on 13 January 2014.
 12. In October 2014, Mansell Construction Services Ltd was re-branded as Balfour Beatty Construction Regional Construction Ltd, with no change to the company registration number or contractual arrangements with the Council.
 13. The temporary accommodation block achieved practical completion on 14 August 2015 with families moving into the flats from 24 August 2015. The practical completion for the general needs housing block took place on 30 November 2015.
 14. Approved finance for Balfour Beatty's PCSA fees and works currently exists for the total sum of £12,793,239, with a breakdown as follows:

	Contract	Approved finance (£)

1	Pre-construction services fees	224,054
2	Enabling works contract	873,056
3	Main works contract	11,696,129
	Total	12,793,239

15. The closed report paragraphs 15 to 17 detail the claims and costs for these contracts.

KEY ISSUES FOR CONSIDERATION

Key Aspects of Proposed Variation

Pre-construction services contract

16. The pre-construction services to be provided by the contractor are summarised, as follows:

- Project planning and management, including project programme development and control
- Completion of the consultant's design up to RIBA Work Stage E
- Cost management, including value engineering as necessary to remain within budget
- Procurement, including open book competitive tendering of works packages as necessary to obtain a final contract sum for council Gateway 2 acceptance
- Risk management
- Meetings attendance
- Quality assurance (QA) processes and reviews at RIBA Work Stages D, H and L

17. During the design development stage of the project, Balfour Beatty in conjunction with their professional services consultants expended additional resources and time in responding to the following:

- additional statutory requirements, namely, changes to planning and highways;
- exploration of alternative materials for the building frame;
- additional design services relating to late instruction to add sprinkler system to the hostel to comply with the housing department's new policy initiative;
- change in the layout of the general needs housing block; and
- scope change and extent of the building services requirements, including the addition of photovoltaic (PV) systems and changes to the ventilation systems, type of boilers and mechanical and electrical services routes.

18. It has been confirmed by the consultant employers agent and our legal advisers that the fees incurred are as a result of change in scope/brief for the additional design work undertaken and the council is contractually required to settle these. A full breakdown of the lump sum fees and explanation for each variation is provided in the closed report.

Enabling works contract

19. The enabling works contract awarded to the contractor covered the following:
 - Secure the site by installing the hoarding
 - Isolate and disconnect all existing utility services and meters on the site
 - Carry out asbestos and archaeological investigations.
 - Remove all deleterious materials (including asbestos) from the existing buildings
 - Demolish the existing buildings
20. These works were carried out to de-risk the main works contract and improve the programme time for the construction of the new building and to meet the housing programmes timescales for the new development.
21. During the works Balfour Beatty were instructed to carry out the additional work as follows:
 - Significant asbestos in the ground, which also incurred additional design costs for the ground works package.
 - Advance works for foundations due to presence of asbestos in the ground and agreed remediation process.
 - Additional soil testing to gauge the extent of the asbestos contamination in the ground.
 - Removal of two underground tanks and hazardous fluids.
 - Additional security costs to prevent squatters and fly tipping due to the delay in erecting the site hoardings due to asbestos in the ground.
 - Additional watching brief to cover the removal of existing foundations due to extent of asbestos contamination.
 - Additional hoarding costs due to asbestos contamination in the ground
22. The consultant quantity surveyors have advised that these are valid instructions and that this is additional work under the contract and agreed the costs for these with Balfour Beatty. A full breakdown of the variations is provided in the closed report.

Main works contract

23. The main works contract covered the construction of the new temporary hostel accommodation and general needs housing as follows:
 - 54 temporary accommodation units and 21 general needs housing units, including site preparation works comprising the demolition of existing buildings on site and the construction of a new road to an adoptable standard.
 - New temporary accommodation units each comprising a single room with either two or three bed spaces, a private bathroom and shared kitchen facility to the ratio of 2 units to 1 kitchen. There are also a number of wheelchair accessible units, two lifts, a laundry and a bin store.
 - General needs housing comprises a mixture of 1, 2 and 3 bedroom apartments arranged to the north-east of the site.
 - Re-modelling of the existing playground including soft and hard landscaping

24. The consultant quantity surveyor has advised that the contractor has valid claims for prolongation due to the granting of extensions of time to the contract period. The significant variations on the main works contract are mainly as follows:
- Increased scope for the s.278 works (Highways), this includes for the highways works to meet adoptable standards and for the extension of the area originally envisaged for these works
 - Additional costs for the provision of Local Authority Building Control (LABC) Warranties
 - Additional costs for the provision of sprinklers to the buildings
 - Additional costs for the lift packages
 - Scope change for additional access control and CCTV
25. A full breakdown of the variations is provided in the closed report.
26. Details of the costs for each contract and the final agreed sums are contained in the closed report. It is recommended therefore that approval be given for the variation in cost of £1,156,761.
27. The proposed variation at £1,156,761 is just over 9% of the total contract value at £12,793,239.

Reasons for Variation

28. The reasons for the variations included in this report is as stated above and given in paragraphs 15 to 25.

Future Proposals for this Service

29. Not applicable.

Alternative Options Considered

30. Not applicable.

Identified risks for the variation

31. Not applicable.

Policy implications

32. The development helped with the council's temporary accommodation strategy and the Bed & Breakfast Reduction Action Plan which seeks to significantly reduce and eventually eliminate the use of bed and breakfast for homeless households with children.
33. The new temporary accommodation has made a significant contribution to the rationalisation and review of current hostel accommodation across the borough and provides a facility that is more suited for homeless families and more cost effective for the council. The general needs housing at Willow Walk forms part of the Affordable Housing Fund (AHF) programme. Homes delivered as part of the

AFH programme assist in increasing the supply of good quality affordable housing and will contribute the following targets;

- Policy 5 of the Core Strategy sets a housing target for the borough of 24,450 net new homes between 2011 and 2026 (1,630 per year).
 - The London Plan sets the borough a housing target of 20,050 net new homes between 2011 and 2021 (2,005 per year)
 - Core Strategy policy 6 sets an affordable housing target of 8,558 net affordable housing units between 2011 and 2026.
34. Sharing the benefits of economic growth and regeneration is an underpinning principle in implementation of the Southwark Economic Development strategy 2010 - 2016. The AHF supports this strategy by engaging with housing partners and council contractors to identify and develop entry points for priority groups to access local employment and training opportunities, promote and develop apprenticeships and work placements and embed local economic benefits into procurement.

Contract management and monitoring

35. The management and administration of Balfour Beatty's appointments, and the close-out of the project, will continue to be run and resourced through the Regeneration Capital Works & Development team and Housing Major Works team.

Community Impact Statement

36. This project falls within the Grange Ward. The redevelopment of this site has benefited homeless families in temporary accommodation throughout the borough by providing better quality accommodation and increase the supply of affordable, good quality homes and benefit households in need from all Southwark's communities.

Social Value considerations

37. The Public Services (Social Value) Act 2012 requires the council to consider a number of issues including how what is proposed to be procured may improve the economic, social and environmental well-being of the local area. These issues are considered in the following paragraphs which set out economic, social and environmental considerations.

Economic considerations

38. The provision of local employment and training by Balfour Beatty Regional Construction Ltd are a condition of planning consent for the development. Balfour Beatty has discharged this planning condition satisfactorily.
39. Now the buildings are occupied, residents and occupants are likely to bring economic benefit to local traders through increased trade to local shops and services.

Social considerations

40. The project has delivered new high quality general needs affordable housing for residents in need of suitable accommodation from the council's housing register.

Environmental/Sustainability considerations

41. Both the temporary accommodation hostel and the general needs housing have been designed, within the bounds of affordability, to maximum energy efficiency and to comply with the latest council environmental sustainability policies. The specification for the project includes measures aimed at achieving a 20% renewable energy target. A number of passive and active energy friendly features are incorporated in the design. These include a standard of thermal insulation that exceeds regulatory requirements, photovoltaic panels producing electricity and rainwater recycling.
42. The hostel design and construction has been rated under the Building Research Establishment Assessment Method (BREEAM) and has achieved a 'very good' standard.
43. The design and construction of the general needs housing has achieved 'Code for Sustainable Homes Level 4' as a condition of the planning consent.

Financial Implications

44. The variation sum of £1,156,761 if approved, will serve as the full and final settlement of all fees to Balfour Beatty in respect of services and works on the Willow Walk project. This covers three contracts with Balfour Beatty (PCSA, Enabling Works and Main Works Contract).

Investment Implications (Housing Contracts only)

45. Not applicable.

Legal Implications

46. The legal implications are addressed below in the concurrent comments of the Director of Legal Services.

Consultation

47. Not applicable.

Other implications or issues

48. None.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (< Finance Concurrent Reference Number H&M19/015 >)

49. This report requests approval from the Strategic Director of Finance & Governance to vary the three contracts with Balfour Beatty Regional Construction Limited relating to the construction of the temporary hostel accommodation and general needs housing at Willow Walk. The contracts cover the preconstruction services, enabling works, and main works and the variations increase the overall cost of the project by £1,156,761. Approval of the variations, which have been reviewed and certified by the project's cost consultant, will enable the council to reach a full and final settlement with the contractor. The remaining sum to be paid to the contractor will be met from resources supporting the Housing Investment Programme.

Head of Procurement

50. This report recommends that the Strategic Director of Finance and Governance approves full and final settlement of sums due to Balfour Beatty Construction Ltd in respect of Willow Walk temporary hostel accommodation as detailed in paragraphs 1-5, for the total sum £1,156,761.

51. This variation to the contract total from the original advertised sum is within the criteria for contract modifications as per Regulation 72 and accounts for a 9% increase, with costs reviewed and certified by consultant Mott Macdonald.

Director of Law and Democracy


52. This report seeks the approval of the Strategic Director of Finance and Governance to the variation of the 3 contracts in relation to the Willow Walk project with Balfour Beatty as further detailed in paragraphs 1-5.

53. The original appointments in relation to these contracts were subject to, and awarded in accordance with the EU procurement Regulations, and it is therefore necessary to ensure that any variation of those contracts is permitted within those procurement regulations. Regulation 72 permits modifications to be made to contracts during their term in certain circumstances. This includes at Regulations 72(1)(a), where the modification has been provided for in the initial procurement documents in clear, precise and unequivocal review clauses. As noted in paragraphs 18, 22 and 24, the contracts include for additional instructions to be given to the contractor, and these additional costs are as a result of variations being instructed under the contracts. The requirements of Regulations 72 are therefore met.

54. Contract Standing Order 2.3 requires that no steps should be taken to vary a contract unless the expenditure has been approved. Paragraph 44 confirms the financial implications of these variations.

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 18-6-19

Designation Strategic Director of Finance and Governance.....

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.

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
As set out in the report.

4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION
None

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>

N.A.

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
Title of document(s) Gateway 2: Procurement of Contractor (main works): Proposed new temporary hostel accommodation and general needs housing at Willow Walk, SE1	Place & Wellbeing Department, Regeneration-Capital Works & Development 160 Tooley St, SE1 2QH	Andrew Brown, 0207 525 5538
Link: http://moderngov.southwark.gov.uk/ieDecisionDetails.aspx?ID=4321		
Title of document(s)	Title of department / unit Address	Name Phone number
Link: (Insert hyperlink here)		

APPENDICES

No	Title

AUDIT TRAIL

Lead Officer	Andy Brown, Principal Programme Manager, Regeneration-Capital Works
Report Author	John Ryan, Acting Programme Manager, Regeneration Capital Works
Version	Final - OPEN
Dated	10/05/2019
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 Democracy	Yes	Yes
Director of Exchequer (for housing contracts only)	No	No
Cabinet Member	No	No
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
Cabinet Member	No	No
Date final report sent to Constitutional/Community Councils/Scrutiny Team		N/A

