

<b>Item No.</b> 12.	<b>Classification:</b> Open	<b>Date:</b> 17 December 2019	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Gateway 3 Major Works Framework Extension	
<b>Ward(s) or groups affected:</b>		All	
<b>Cabinet Member:</b>		Councillor Kieron Williams, Housing Management and Modernisation	

## **FOREWORD - COUNCILLOR KIERON WILLIAMS, CABINET MEMBER FOR HOUSING MANAGEMENT AND MODERNISATION**

For the people who live in the council's 53,000 homes our work ensuring their homes are maintained to a decent standard is perhaps the most important thing the council does. Since 2010 we have made major progress, with the proportion of our homes that meet the Decent Home Standard up from 54% to 98%.

Central to this progress is our major works programme that provides regular investment in all of our homes. Our current major works contractors are performing well against their key performance indicators and feedback from our residents about the quality of their work is increasingly positive.

However having made this progress it is also right that we now look again at how we can continue to improve the way we maintain our homes, so we can ensure our tenants' rents and homeowners service charges that fund this work are spent in ways that deliver the best possible value for their money. For this reason over the next six months we will be working with our residents to update our Housing Asset Management Strategy and to identifying the best way to procure our future major works contractors; including looking at how these new arrangement can give tenants and homeowners a stronger say.

To allow time for this review of our future arrangements, this report proposes a short extension to some of our key existing Major Works Frameworks, so we can use that time to put in place the best possible arrangement for the future.

## **RECOMMENDATIONS**

1. That cabinet approves the variation of Lot 1 Major Works Framework to the six providers (as detailed in paragraph 4) to extend the term of the framework agreements for a period of 12 months from 16 February 2020, at an estimated cost of £50m, with no overall change to a total maximum contract value of £200m.
2. That cabinet approves the variation of Lot 2 Major Works Framework to the five providers (as detailed in paragraphs 4 and 5) to extend the term of the framework agreements for a period of 12 months from 16 February 2020, at an estimated cost of £75m, with no overall change to a total maximum contract value of £280m.
3. That cabinet approves the variation of Lot 3 Major Works Framework to the five providers (as detailed in paragraph 4) to extend the term of the framework agreements for a period of 12 months from 16 February 2020, at an estimated

cost of £10m, with no overall change to a total maximum contract value of £40m.

## BACKGROUND INFORMATION

4. On 20 October 2015, Cabinet approved the establishment of the Major Works Framework (Framework) for a period of 4 years under 4 Lots. The table below lists the providers appointed under each Lot together with the works that each Lot provides:

<b>Lot 1:</b>	Main building works (low value schemes up to £3.5m) to six providers (A&E Elkins Ltd, Architectural Decorators Ltd, Niblock (Builders) Ltd, Saltash Enterprises Ltd, Standage & Co. Ltd and Thomas Sinden Ltd).
<b>Lot 2:</b>	Main building works (high value schemes over £3.5m) to six providers (Axis Europe Plc, Durkan Ltd, Engie Regeneration Ltd (formerly Keepmoat Regeneration Ltd), Lakehouse Contracts Ltd (now in liquidation), Mears Ltd and Mulalley & Co. Ltd).
<b>Lot 3:</b>	District mains, boilers and internal works to five providers (BSW Heating Ltd, K&T Heating Services Ltd, Mitie Property Services (UK) Ltd, Staple-Tech Ltd and Vital Energi Utilities Ltd).
<b>Lot 4:</b>	Communal and electrical works to five providers (Allied Protection Ltd, BCS (Electrical and Building) Ltd, Lockesleys Ltd, Swann Engineering Group Ltd and W.G.Wigginton Ltd).

5. It should be noted that as Lakehouse Contracts Ltd in Lot 2 are in liquidation, the council is currently considering seeking approval to terminate their Framework agreement. The council considers that there will be no impact on the ability to deliver works under individual schemes as Lot 2 has a sufficient number of other providers (five) to continue the delivery of work and ensure value for money.
6. The Framework has ensured that the council has achieved best possible value for money on major works programmes for council homes, for both the council and its leaseholders. In addition, the Framework has provided flexibility to ensure that the council can continue to deliver the housing programme on schedule.
7. As of 8 November 2019, £27.4m has been let for Lot 1, £7.2m for Lot 2 and £14.3m for Lot 3. The annual values that were approved by cabinet initially for these lots have not been exceeded. This is in part due to the overall capital programme being reduced, as well as the decision to extend the Partnering contracts. As a result, work which could have been under the Framework came under Partnering contracts instead, which has resulted in lower Framework expenditure, and required no change to overall contract value.
8. The Framework commenced on 16 February 2016, slightly after the proposed date of 4 January 2016 which was approved in the Gateway 2 report, as this was the first time the contract was required to be used.
9. This report is seeking approval for a 12 month extension to Lots 1, 2 and 3 only, as Lot 4 has never been used. The very limited electrical works have been absorbed within the main works contracts under Lots 1 and 2, and there is no need for a separate framework. Lots 1, 2 and 3 have sufficient resources to cover these works.

## **KEY ISSUES FOR CONSIDERATION**

### **Key aspects of proposed variation**

10. The nature of the proposed variation is to extend Lots 1, 2 and 3 Frameworks for a period of 12 months giving a revised completion date of 15 February 2021. The reason for the extension is to allow for the new contracts to be procured.
11. The estimated value of the proposed variation to Lot 1 is £50m, combined with the actual value of the approved contract term is £27.4m, brings the total to £77.4m. The value of this extension as a percentage of the total contract is estimated to be 25%. The estimated value of the proposed variation to Lot 2 is £75m, combined with the actual value of the approved contract term which is £7.2m, brings the total to £82.2m. The value of this extension as a percentage of the total contract is estimated to be 26.7%. The estimated value of the proposed variation to Lot 3 is £10m, combined with the actual value of the approved contract term is £14.3m, brings the total to £18.6m. The value of this extension as a percentage is estimated to be 25%.

### **Reasons for variation**

12. There are currently three partnering contracts in place covering areas 3, 4 and 5 (the south of the borough, and street properties borough wide), running parallel to the Framework, and are the first choice for works. Both the Partnering contracts and the Framework allow council officers to use different procurement routes to deliver the council's major work programme. These schemes enable the council to meet ever changing QHIP and new homes delivery timescales. Having different lots under a framework with bespoke documents makes it quicker and easier to mini-compete and get works started on site and completed in a quicker timeframe than if individual contracts had to be procured. Key Performance Indicators (KPI) scores show how effective the contractors are in their performance. Currently, the Partnering contracts end in June 2020, at which stage the Framework will be the only source to have work procured efficiently.
13. An extension of twelve months is recommended because the new contracts will not be in place by February 2020, and major works are required to be delivered. Partnering contracts do not cover the whole of the borough, and therefore cannot be used as a complete alternative. With the completion of the partnering contracts in June 2020, there is also the option to use alternative external frameworks, although using the council's own framework where possible is the best option as the council has selected the contractors on their own framework.
14. The services delivered through the current Framework have enabled the council to deliver its housing asset management strategy and in particular the Quality Homes Investment Programme (QHIP).
15. The contractors' level of performance is covered in paragraphs 24 – 27.
16. If the extension is not approved, the council may face delays on delivering Major Works projects, including the housing programme, and meeting its Fairer Future commitments.

### **Future proposals for this service**

17. New Major Works contracts to be procured for future works from 2020.

18. The key dates for the procurement of the new contractor contracts are as follows:

- Brief Councillor Kieron Williams on procurement options November 2019
- Cabinet GW1 January 2020
- NOI complete March 2020
- Completion of tender documents May 2020.
- PQQ return July 2020
- Evaluation of PQQs (team dependent but will have to allow 5 months) December 2020
- ITT return Feb 2021
- Evaluation of tenders (team dependent but will have to allow 4 months) August 2021
- NOPs September 2021
- Cabinet December 2021.

### Alternative options considered

19. The following alternative options to this extension were considered by Asset Management:

- Do nothing; not chosen as this would have severe implications on the council's ability to deliver major works projects, including the main housing programme.
- Tendering; not chosen as it does not guarantee a consistent quality of service, as long term relationships cannot be built up with well performing contractors, and it is a major procurement exercise on each individual scheme. Furthermore, the process was deemed to take too long, particularly for contracts over the OJEU limit.
- Maximising the use of the partnering contracts until they expire; this will be done.
- Using other frameworks, such as South East Consortium (SEC); using the council's own frameworks is preferable, as the council has directly selected the contractors on the Framework.
- Bring the work in-house; there is no team in-house who could undertake this level of refurbishment work.

20. There is a solution in place of long term procurement, as highlighted in paragraph 18.

### Identified risks for the Variation

21. The table below identifies the risks associated with this extension, the likelihood of occurrence and the control in place to mitigate the risks:

Risk No.	Risk Identified	Risk level likelihood	Mitigation
R1	Contractors are not able to deal with the new workload.	Low	Contractors have sufficient staff to continue the contracts.
R2	Contractors cease trading, go into administration or liquidation.	Medium	A financial check of all Lot 1 providers was undertaken on 08 November 2019. All providers are very low risk, with credit ratings ranging from 92% - 99%.

Risk No.	Risk Identified	Risk level likelihood	Mitigation
			<p>A financial check of all Lot 2 providers was undertaken on 8 November 2019. The Lot 2 providers are low risk with satisfactory credit ratings, with the exception of one provider, who has a high risk credit rating of 26%.</p> <p>This risk will be mitigated by doing a financial check if they are to win a mini competition, as well as one done prior to tender if the scheme is above £3.5m.</p> <p>A financial check of all Lot 3 providers was undertaken on 8 November 2019. The Lot 3 providers are low risk with satisfactory credit ratings, with the exception of one provider, who has a high risk credit rating of 32%.</p> <p>This risk will be mitigated by doing a financial check if they are to win a mini competition, as well as one done prior to tender if the scheme is above £3.5m.</p> <p>The financial impact would be alleviated as the council always pays contractors in arrears.</p>
R3	Possible risk of challenge for not undertaking a full procurement exercise.	Low	Regulation 72(1)(e) of the Public Contracts Regulations 2015 (EU regs) will be relied upon for this variation.
R4	Performance slipping in final 12 months of Framework.	Low	Regular contract monitoring is robust, as set out in paragraphs 24-27.

### Policy implications

22. The extension of the Framework will help the council continue to deliver on one of its Fairer Future commitments, that of providing good quality, affordable homes for all residents. It will continue to help deliver the QHIP. The delivery of this programme and the housing investment programme as a whole is subject to the availability of resources to fund it.
23. Contractors are required to comply with the council's Fairer Futures procurement framework, which requires companies to report on the gender and BAME pay gap.

## **Contract management and monitoring**

24. The performance of the contractors and any commitments made in their bids is monitored by the Investment team. As previously mentioned, all Framework contractors are performing well. There are specific KPIs in each call-off contract in the areas of time, cost and quality. KPIs are produced for asset management staff concerning their performance on a quarterly basis and these show that the Framework contractors are performing well in terms of quality, value for money, health and safety, and timeliness in particular. All of the contractors have confirmed they will be taking their inflation allowance allowed for in the contract.
25. The spend and performance on the call-off contracts is monitored by the Director of Asset Management and reported regularly to the repairs and major works core group led by the Lead Cabinet Member for Housing Management and Modernisation. Although the Framework can cover a range of projects within the council, in practice it has been mainly designed and used for the works run by the Investment team and priority will therefore be given to those programmes, although other departments within the council are able to use the Framework if capacity is available. The Framework contractors' performance will be monitored more closely as the Framework nears completion to ensure they maintain a high level of performance. Performance review reports will go to Departmental Contract Review Board (DCRB) every six months and Corporate Contracts Review Board (CCRB) annually.
26. Overall, the Framework contractors performed very well in Quarters 1 and 2 of 2019/20. There has been an issue with Lot 3 with all five contractors consistently not taking every mini-competition opportunity. All of them have been contacted, and all have confirmed that in the future they will be pricing at every opportunity. This will be monitored throughout the remaining period of the contracts to ensure in future that these promises are kept to.
27. In the first and second quarters of this financial year, all Framework contractors performed well with regards to time requirements for completing internal and external works. All have excelled as considerate contractors. None of the Framework contractors have defaulted on their call-off contracts. The contractors have confirmed they will maintain their original tender rates, or lower, with the addition of building inflation as allowed for in the contracts.

## **Community impact statement**

28. Having a consistent set of contractors working in the borough has improved the quality of service and has also ensured that they work comprehensively with the community.
29. The Framework contractors have shown a commitment to making a positive impact in the communities in which they work. For example, A&E Elkins Ltd under Lot 1 made a donation of £1500 towards the Create and Play Zone at Bermondsey Carnival held in July 2019, and Saltash Enterprises Ltd under Lot 1 attended and contributed to D-Day Celebrations at Elmington Tenants and Residents Association (TRA) Hall in June 2019.

## **Social value considerations**

30. 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**

31. By separating the framework into different Lots, this has meant that there is a balance between small, medium and large sized firms being given the opportunity to tender for some of the work available in the Lots. The Framework contractors have brought local job opportunities for the community as well as tendering opportunities for local suppliers and sub-contractors. For example, HSS (supplier) and London Fire Solutions (sub contractor) have been contracted by A&E Elkins Ltd. Saltash Enterprises Ltd have contracted E.Smith Metal and Fabrication, and Caelum Plumbing and Heating (subcontractors), as well as Topps Tiles and The Old Southern Forge (suppliers).
32. There are parent company guarantees in place; however these have not been required to be used.

### **Social considerations**

33. The Framework contractors are paid in accordance with the London Living Wage and have equality policies that conform to the council's standards. The application of these policies is reviewed for compliance as part of the Framework annual review. Each of them is required to employ apprentices and provide training and employment opportunities for Southwark residents. They must comply with the requirements of the Employment Relations Act 1999 (Blacklists) Regulations 2010 ("the Blacklists Regulations) and shall ensure that they will not during the Term/Contract Period/provision of the Works be a party to or concur in any discriminatory employment practice which could be construed as blacklisting or boycotting any person who has sought employment with the contractors in breach of the Blacklists Regulations.
34. All Framework contractors have achieved or exceeded the Local Employment Quota and Apprenticeship Quota, offering an apprenticeship or equivalent for every million pounds of work awarded, and will continue to do so throughout the duration of the contracts.

### **Environmental/sustainability considerations**

35. There are no specific environmental/sustainability considerations at this stage, however, environmental and sustainability considerations are included within the design of each specific scheme as appropriate.

### **Financial implications**

36. This report recommends the extension of the Major Works Framework until 15 February 2021. The estimated value of these contracts is £520m, which was approved in 2015. The QHIP budgets will be approximately £100m per year, and approximately £40m - £60m of this could be allocated through the Framework contracts. All of these resources are contained within currently approved housing budgets.

## **Legal implications**

37. Please see supplementary advice from the Director of Law and Democracy.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Head of Procurement**

38. This report is seeking approval to extend three of four lots of the housing major works framework (which is used to deliver the housing asset management strategy) for a period of 12 months respectively from 16 June 2020. The report confirms that the framework is capable of this extension and is required to allow officers sufficient time to procure and put in place new alternative arrangements.
39. Paragraph 18 of the report confirms that the procurement for new contracts will commence in October 2019. By extending these lots it shall allow for continuity of service whilst new contracts are procured.
40. The report confirms that performance to date across the three lots on a project by project basis has generally been good. The management and monitoring arrangements currently in place should go some way to ensuring that the required level of contract performance is maintained. It would appear that there is no reason why the council should not continue with these arrangements for the recommended extension period.
41. All of the contractors on the framework will be required to comply with the council's fairer futures procurement framework which requires companies to report on the gender and BAME pay gap. In addition as part of the extension contractors will be required to sign up to Unison's "End Violence at Work Charter" and the Mayor's Good Work Standard. Social Value and apprenticeships need to be considered when bidding in mini competitions.

### **Director of Law and Democracy**

42. This report seeks cabinet approval to extensions to 3 major works framework Lots which are being performed by 6 providers (Lot 1), 5 providers (Lot 2) and 5 providers (Lot 3) as listed in paragraph 4 of the report. This report sets out the extent of the extensions and the reason why an extension of 12 months is necessary. As the value of the proposed variations are £15m or more for works, the decision to approve these variations are reserved to cabinet or cabinet committee after consideration by the CCRB of this report.
43. The nature of this variation is such that it is subject to the tendering requirements of the Public Contracts Regulations 2015 (PCR15). Regulation 72(1)(e) of PCR15 permits contracts to be modified, irrespective of their value, if the modification is not substantial. The justifications for relying on regulation 72 are noted in paragraphs 12 and 13. Paragraph 18 of this report confirms that a new procurement exercise will commence in May 2020 with the aim for new contract(s) to be in place from Feb 2021.
44. Cabinet is advised that when relying on any ground for exemption from the requirements of PCR15, there is a potential risk of challenge on the basis that the council does not have sufficient grounds to justify negotiations in these circumstances. However, given that a new procurement exercise will commence and the fact that the modification is not substantial coupled with the need for



continuity of service, it is considered that the risk is low.

45. CSO 2.3 requires that a variation decision may only be made if the expenditure involved has been approved. Paragraph 36 of this report confirms the financial implications of these variations.

#### **Strategic Director of Finance and Governance**

46. This report seeks approval to vary the Major Works Framework for Lots 1 to 3 by extending the terms of the contracts by a further 12 months at an overall estimated cost of £135m with no overall change to the respective maximum contract values. The Strategic Director of Finance and Governance notes the reason for the extension is to allow time for the new contracts to be procured and the need to ensure service continuity in the interim. Work undertaken during the extension period will be on existing contractual terms and the costs will be met from resources funding the Housing Investment Programme.

#### **BACKGROUND DOCUMENTS**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
Gateway 2 'open' Major Works Framework Contract (item 27)	Southwark Council, 160 Tooley Street, London SE1 2QH	Everton Roberts 020 7525 7221
<b>Link:</b> <a href="http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=5140&amp;Ver=4">http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=5140&amp;Ver=4</a>		
Gateway 1 'open' report Major works Contractor Framework approved by cabinet on 22 October 2013 (item 14)	Southwark Council, 160 Tooley Street, London SE1 2QH	Everton Roberts 020 7525 7221
<b>Link:</b> <a href="http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=4551&amp;Ver=4">http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=4551&amp;Ver=4</a>		

#### **APPENDICES**

<b>No</b>	<b>Title</b>
None	

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Kieron Williams, Housing Management and Modernisation	
<b>Lead Officer</b>	David Hodgson, Director of Asset Management	
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<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
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
<b>Contract Review Boards</b>		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
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