

<b>Cabinet Meeting</b>	
<b>Meeting Date</b>	16 <sup>th</sup> December 2020
<b>Report Title</b>	Queenborough & Rushenden Project Management Contract Appointment Value Increase
<b>Cabinet Member</b>	Cllr Monique Bonney, Cabinet Member for Economy and Property
<b>SMT Lead</b>	Emma Wiggins, Director of Regeneration
<b>Head of Service</b>	Charlotte Hudson, Head of Housing, Economy & Community Services
<b>Lead Officer</b>	Debbie Townrow, Economic Development Officer
<b>Key Decision</b>	Yes
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	1. That the Cabinet approves the contract variation of Campbell Reith increasing the contract value from £98,000 to £151,644.

## **1 Purpose of Report and Executive Summary**

- 1.1 In September 2019, a Contract Standing Orders Waiver was approved for the appointment of Campbell Reith to produce the tender specification documents and manage the subsequent procurement for the scheme contractor required to deliver phase 4 of the Queenborough & Rushenden regeneration scheme funded by the Homes England Housing Infrastructure Funding (HIF) grant received.

## **2 Background**

- 2.1 In September 2019, a Contract Standing Orders Waiver was approved for the appointment of Campbell Reith to produce the tender specification documents and manage the subsequent procurement for the scheme contractor required to deliver phase 4 of the Queenborough & Rushenden regeneration scheme funded by the Homes England Housing Infrastructure Funding (HIF) grant received.
- 2.2 Swale required an appropriately qualified and experienced organisation to produce the tender specification documents for this specialist work, to manage the procurement process and to then project manage the contractors onsite for the duration of the contracts. Campbell Reith were selected as they had already completed almost identical works for the prior phases of the project effectively. They had also completed previous tender exercises conducted by Homes England to secure the contracts relating to the scheme – on both occasions being the only organisation to submit a bid.

- 2.3 There are two separate contract variations that are totalling the overall contract value increase. The first is the unanticipated extended contract duration for the land raising contractor on the Klondyke site contributing £23,000 and the second is the need to procure a separate contract for the construction of the new surface water pump station within the Twyford site costing an additional £30,644.
- 2.4 At the time of submitting the waiver document, it was assumed that negotiations would have concluded with remaining occupiers and the site vacant to enable immediate possession. This has not proved to be the case and whilst the contractor was appointed at the end of September 2020, they are not practically able to take possession of the site until February 2021. As well as delaying the start of the physical works, the contractor now must undertake several months of reptile translocation before the principle works can begin. This has the effect of extending the overall programme thus requiring an elongated contract management period that was not previously included within the contract provisions.
- 2.5 The fee proposal submitted by Campbell Reith assumed that the construction of the new surface water pump station would be included within the contract for the same contractor completing the land raising works and so based their fees on procuring and managing one contract. As discussions between the project team continued, and following some market testing it became apparent that it made sense to have two separate contracts for these work elements in order to avoid a general contractor adding a management fee of up to 15% onto the specialist works required to complete the pump station works. Whilst this results in additional contract administration and management services from Campbell Reith, the cost of these is significantly less than the management fee would be.
- 2.6 Both elements of this contract variation will be paid for in full by the funds being received via the HIF grant and there is a sufficient contingency allowance within that to enable that to go ahead without requiring any additional approvals.
- 2.7 These contract variations are being made in line with the Local Government National Procurement Strategy which states, *“A modification up to 50% of the original contract value can also be made in circumstances which a ‘diligent contracting authority could not have foreseen’ provided that the changes do not alter the overall nature of the contract.”* and subsequently, *“The 50% limit applies to each change that is made (not cumulatively), provided that the changes are not aimed at avoiding the regulations.”*
- 2.8 Two separate contract variation requests will be submitted to Legal for processing in line with these requirements.

### **3 Proposals**

- 3.1 It is proposed that the existing contract with Campbell Reith be varied in accordance with the legal provisions within the contract to include these additional works; resulting in a revised contract value of £151,644. The contract variation will be fully reviewed and approved by Swale’s legal representatives.

## 4 Alternative Options

- 4.1 An alternative option would be to carry out a full tender exercise for these additional services. This is not considered to be a suitable alternative for several reasons. Campbell Reith have accrued extensive detailed project knowledge and information that other organisations would not have, and this would give them a considerable competitive advantage against other organisations if a competitive tender was to be carried out. This advantage is further exacerbated by the fact they are currently working on the project site completing works for both Homes England and Swale Borough Council. It is therefore not considered that a fair and meaningful competitive competition could be carried out in this instance. The timing of this contract variation is also imperative in order to ensure the scheme can deliver the outcomes contractually required within the Grant Determination Agreement for the HIF grant.
- 4.2 There is an alternative option to not commission these additional works. This is not considered to be a suitable alternative as without these works being completed, we would not commit and spend sufficient funds to meet the contractual obligations as set out in the Grant Determination Agreement for the HIF grant. Any failure to adequately spend the awarded funds and/or fail to meet the contractual obligations could have a negative impact on Swale's future ability to secure grant funding from Homes England.

## 5 Consultation Undertaken or Proposed

- 5.1 Internal consultation has taken place with relevant colleagues in Legal, Procurement and Senior Management Team. There has also been ongoing dialogue with Homes England.
- 5.2 Legal and Procurement colleagues will be required to approve all process and documentation prior to any agreements being signed or contracts issued.

## 6 Implications

Issue	Implications
Corporate Plan	The Queenborough and Rushenden Regeneration scheme is a key element of Delivering Regeneration within the current Corporate Plan and contributes to the delivery of major regeneration projects in the Borough to improve the appearance and facilities of our towns and villages.
Financial, Resource and	Failing to vary this contract and deliver these additional works would elongate the development timescales and delay the delivery

Property	of homes, within phase 4 of the scheme. This would then mean Swale does not meet the contractual obligations contained with the HIF Grant Determination Agreement.
Legal, Statutory and Procurement	Procurement and Legal have reviewed the proposals and have indicated that they are acceptable and in line with contract standing orders and regulatory requirements The standard contract variation clause within the contract will be executed and administered by Legal for each of the contract variations.
Crime and Disorder	None identified at this stage.
Environment and Sustainability	None identified at this stage.
Health and Wellbeing	None identified at this stage.
Risk Management and Health and Safety	Failing to deliver this grant funding would put the future of the Queenborough and Rushenden Regeneration scheme at risk of failure through elongating the development timescales.
Equality and Diversity	None identified at this stage.
Privacy and Data Protection	All regulatory and legislative requirements associated with privacy and data protection are accounted for and met by utilising the council's procurement portal, Pro-Contract.

## 7 Appendices

None.

## 8 Background Papers

None.