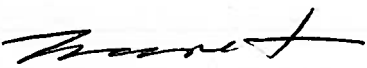




Report for:	Cabinet Member Signing 30th March 2015	Item Number:	
Title:	Extension and Novation of the Managing Agent Contract for Building Repairs and Maintenance.		
Report Authorised by:	Tracie Evans, Interim Chief Operating Officer 		
Lead Officer:	Malcolm Greaves, Head of Asset Management E-mail: malcolm.greaves@haringey.gov.uk		
Ward(s) affected: None	Report for Key Decisions: Key Decision		

1. Describe the issue under consideration

- 1.1 This report seeks Cabinet Member approval to novate (transfer) the Council's Integrated Maintenance Managing Agent contract for building repairs and maintenance to its Operational, Commercial and Community buildings from Europa Facility Services Limited to Bilfinger Europa Facility Management Limited.
- 1.2 The current hard Facilities Management (FM) contract, awarded to Europa Facility Services Limited as Managing Agent in November 2008, has been extended until 9th May 2015. The report also seeks award of a further extension until 9th November 2015 whilst the Council further explores the options for future delivery and determines a preferred delivery solution.
- 1.3 The anticipated total value of spend through this contract from commencement to the end of all extensions, to November 2015, is approximately £9m. This includes all payments made to the supply chain on the Council's behalf.
- 1.4 Europa Facility Services Limited merged with the Bilfinger Group in December 2013 and the Bilfinger Group has now requested novation of the Managing Agent Contract to enable re-organisation of its trading activities



within the group now being delivered through Bilfinger Europa Facility Management Limited.

- 1.5 The requirement to re-procure the hard facilities management building repairs and maintenance contracts has afforded the opportunity to consider a range of alternative strategies and delivery models, driving better value and efficiency now and into the future.
- 1.6 Alternative delivery models are currently at an advanced stage of being considered and following a period of consultation a more detailed assessment of the options is to be undertaken. Therefore an extension of the existing arrangements is required until a new contract is awarded.

2. Cabinet Member introduction

- 2.1 I support the extension and novation of this Managing Agent contract whilst the Council completes the final assessment of its future Facilities Management delivery model

3. Recommendations

- 3.1 That the Cabinet Member agrees:
 - a) by virtue of CSO 9.06.1(d) and 10.03, to the novation of the Integrated Maintenance Managing Agent Contract from Europa Facility Services Limited to Bilfinger Europa Facility Management Limited.
 - b) by virtue of CSO 10.02.2, the extension of the existing contract with Europa for a further 6 months to 9 November 2015 at an approx cost of £750k, to align with the commencement of new delivery arrangements, with an option to terminate the contract earlier on 1 month's notice.

4. Alternative options considered

- 4.1 The Council can decide not to agree the novation. This option was considered however this would not support the contractor in re-organising its trading activities within the group and would offer no benefit to the Council.
- 4.2 An option to do nothing has been considered however this would expose the Council to the risk of building non-compliance and associated impact on the services operating from those buildings.
- 4.3 An option to re-procure the building repairs and maintenance (hard FM) only has been considered, either for short or medium term. However, this would



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be a significant contract to procure and mobilise for a short term and would not provide value for money. For the limited extra time pending award of the new contract this would cause significant inconvenience and substantial duplication of costs for the Council as the contracting authority.

- 4.4 An option of procuring the building repairs and maintenance (hard FM) element only through the Tri-borough Total Facilities Management (TFM) framework for a medium, minimum 5 year, term has been considered. This is an option open to the Council and would have the benefit of the ability to phase in other soft FM services (such as Building Support/site management, Post room, Room bookings, ID management and cleaning) as desired. However this option would precede the consultation and assessment process of other delivery options and would not be viable for a short term contract.

5. Background information

- 5.1 The Council has operated a Managing Agent hard facilities management model since 9th November 2008 contracted with Europa Facility Services Limited. The Managing Agent delivers an integrated repairs and maintenance service to the Council's Operational, Commercial and Community buildings.
- 5.2 The Council is in the process of determining the most appropriate contracting and delivery arrangements for FM services, in particular a Total Facilities Management option that would bring together all FM functions under one delivery arrangement.
- 5.3 In December 2013 Europa Facility Services Limited became a wholly owned subsidiary of the Bilfinger Group and now wishes to be released from its obligations under the contract on the basis that Bilfinger Europa Facility Management Limited will undertake to perform the contract and be bound by its terms.
- 5.4 Bilfinger are a German public company, headquartered in Mannheim, and operate through four business segments – Industrial, Power, Building and Facilities and Construction. In facilities management, they are the market leader in Germany and are number 3 in Europe. They currently employ approximately 16,000 people worldwide in facilities management.
- 5.5 Europa Facility Services Limited employees have transferred within the group to Bilfinger Europa Facility Management Limited and novation is therefore more efficient for their business operations.
- 5.6 Bilfinger Europa Facility Management meets the Council's financial and capability criteria for carrying out the contract.



- 5.7 It was intended to take a report to Cabinet in March for award, however, following a period of consultation and in light of comments received a further more detailed evaluation of alternative options is to be undertaken. This will ensure all options have been robustly appraised and the recommended model meets the Council's future needs and service criteria.

6. Comments of the Chief Finance Officer and financial implications

- 6.1 The cost of extending this contract pending the review of future arrangements will be contained within existing budget provision for repairs and maintenance work.
- 6.2 However it should be noted that the delay in implementing revised arrangements for overall facilities management is likely to put pressure on current year budgets. This is because the savings expected from revised arrangements have already been applied to the budgets as part of the Medium Term Financial Plan.

7. Comments of Assistant Director of Corporate Governance and legal implications

- 7.1 This report is recommending the approval of a 6-month extension of the Council's existing integrated maintenance managing agent contract and of its novation (ie. transfer) from the existing provider, Europa Facility Services Ltd, to an affiliated company, Bilfinger Europa Facility Management Ltd, pursuant to a group reorganisation. The contract is subject to the EU public procurement regime.
- 7.2 Under the Council's Contract Standing Orders (CSO), Cabinet must approve the novation of a contract which was valued over £500K at the time of award, as in this case (see CSOs 9.06.1(d) & 10.03). Novation of a contract tendered under the EU regime is also expressly permitted by reg. 72(1)(d)(ii) of the new Public Contracts Regulations 2015 (in force since 26 Feb.) where this is done as part of a corporate restructuring exercise in the current circumstances.
- 7.3 Cabinet also has power under CSO 10.02.2 to approve the extension of a contract valued £500K or more, providing that to do so is consistent with the Public Contracts Regulations and the Council's Financial Regulations.
- 7.4 Further considerations on the exercise of the discretion whether to novate this contract are set out in the Exempt Information.
- 7.5 Subject to the further considerations referred to in para. 7.4, there are no significant legal reasons preventing the approval of the recommendations in paragraph 3.1 of this report.



8. Equalities and Community Cohesion Comments

- 8.1 The Council has a general equality duty to ensure that in all its functions it has due regard to the need to among other things, advance equality for persons and groups who share the characteristics protected by the Equality Act 2010
- 8.2 The facilities management services will continue to be available to the Council and its employees whatever their protected characteristics during this period of extended contract. The proposal has no equality relevance from a service provision perspective as there is no risk of adverse impact on any section of the Council who use this service.
- 8.3 In regard to both service provision and employment the proposals have no adverse implications for the Council's public sector equality duty.

9. Head of Procurement Comments

- 9.1 Procurement supports the recommendations contained within the report.
- 9.2 The novation of contract is being recommended in line with Contract Standing Orders.
- 9.3 The original contract was let through a competitive process and all terms and conditions will novate to ensure continued contract compliance and service quality.

1. Policy Implication

- 1.1 Approval of this report has no direct impact on Council policy.

2. Reasons for Decision

- 2.1 The Council needs to have in place managed building maintenance and repairs (hard FM) contracts to ensure assets remain fit for purpose and compliant.

3. Use of Appendices

None

4. Local Government (Access to Information) Act 1985

- 4.1 This report contains exempt and non-exempt information. Exempt information is contained in the Exempt Information Part of this report and is



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not for publication. The information is exempt under the following category (identified in the amended Schedule 12 A of the Local Government Act 1972):

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

5. Background Papers

5.1 None