



Haringey Council

Agenda item:


[No.]

Cabinet Procurement Committee Meeting

On 15th September 2009

Report Title. Novation of Contract with AE Burgess Trading as Cavendish Cars for the provision of Passenger Transport Services

Report of **The Director of the Children and Young People's Service**

Signed : 

Contact Officer : John Belt, Transport Operations Manager

Wards(s) affected: **All**

Report for: **Key Decision**

1. Purpose of the report

1.1. For Cabinet Procurement Committee to grant approval to implement a Novation of contract, which transfers legal obligations from A E. Burgess trading as Cavendish Cars to Lyncade Ltd trading as Cavendish Cars.

2. Introduction by Cabinet Member

2.1. I am happy to support the recommendations in this report. The service is an important one and we have been happy with the suppliers. My understanding is that the staff remain the same and the change is primarily with the name and legal status of the company.

3. State links with Council Plan Priorities and actions and /or other Strategies:

This Novation is pertinent to the C&YPS Business Plan.

Objective: Developing and maintaining major traded services, including catering and transport.

Key Actions: Developing long-term procurement strategy for transport.

Measures and Milestones: Strategy developed

Framework agreement in place until March 2011

4. Recommendation

4.1. For Members to grant approval to implement a novation of contract, which transfers legal obligations from A E. Burgess trading as Cavendish Cars to Lyncade Ltd trading as Cavendish Cars.

5. Reasons for recommendation

5.1. Cavendish Cars have been trading since 1970 as a sole trader, AE Burgess is reorganising itself into a new company to be called Lyncade Ltd though it will still trade as Cavendish Cars. Legal Services advice states that the changeover from one legal entity to another involves a transfer of the contract from one company to another. This requires the Council to undertake a novation of contract which will transfer the legal obligations under the current contract to the new company. The total contract value calculated at award of contract is £400,000.

5.2. A novation of contract will provide continuity of service to a vulnerable Children and young people.

6. Other options considered

6.1. Consideration was given as to whether a novation to the contract with AE Burgess trading as Cavendish Cars would cause unfairness to organisations who bid at the time the tender was awarded and if a new tender process needed to be undertaken. The new company is substantially the same, the Directors of the new company have been employees of Cavendish Cars for the past ten years. Also, the personnel and other resources involved in provision of the Haringey contract remain the same. Therefore, a change in the legal business entity providing the contract raises no risk of unfairness to other parties.

7. Summary

7.1. Cavendish Cars are currently one of the seven contractors on a framework for providing Haringey Council Passenger Transport services. As part of an EU Tender process the Council awarded a contract to Cavendish Cars in March 2007, for a period of 4 years.

7.2. Cavendish Cars are providing a good service, which is monitored regularly. Since the award of this contract to Cavendish Cars (A E Burgess) the Passenger Transport Service has not had cause to issue either a Warning Letter or Default notice to the Contractor for under performance against the Framework Agreement. It is considered therefore that they are a responsible Contractor who works hand in hand with the Council.

7.3. This contract was procured under an EU tender, thus consideration was required whether a new procurement / tender is required. In regards to the objectives of the EU rules, the business entity providing the contract remains the same the personnel and other resources involved in provision of the contract remain substantially the same despite a change in the legal form of the entity providing the contract, thus there is no risk of unfairness to other parties who bid for the contract when it was being awarded.

7.4. There is no change in the scope of the contract and no change in the Council's requirements.

7.5. The total contract value calculated at award of contract is £400,000.

8. Chief Financial Officer Comments

8.1. The Chief Financial Officer has been consulted on this report and has no additional comments to make.

9. Head of Legal Services Comments

9.1. Children's Services Directorate wishes to novate a contract from A E Burgess trading as Cavendish Cars to Lyncade Limited (which will still trade as Cavendish Cars).

9.2. The services are being provided under a Framework Agreement for Passenger Transport Services which was tendered in the EU in accordance with the Public Contracts Regulations 2006,

9.3. Children's Services Directorate has confirmed that the ownership of the company will not change significantly under the proposed transfer of business to the new company (see para 6 of this report).

9.4. Under CSO 14.01 a novation may be approved by the appropriate officer or Procurement Committee, depending upon the value of the contract at the time of award.

9.5. As the value of the Passenger Transport contract at the time of award was over £250,000, it falls to the Procurement Committee to approve the novation under CSO11.03.

9.6. The Head of Legal Services confirms that there are no legal reasons preventing Members from approving the novation of the contract.

10. Head of Procurement Comments

- 10.1. This novation of contract still represents Value for money to the council as it was originally let under a competitive EU procurement process.
- 10.2. Contract management of this company is in place and will continue to ensure contract compliance.
- 10.3. This novation of Contract is in line with the Procurement Code of Practise

11. Equalities & Community Cohesion Comments

- 11.1 Equalities implications were incorporated in the tender process and the monitoring of contract performance.

12. Consultation

- 12.1. Consultation undertaken with relevant internal Council departments

13. Service Financial Comments

- 13.1. The total contract value calculated at award of contract is £400,000.

There are no known financial implications.

14. Use of appendices /Tables and photographs

- 14.1.

15. Local Government (Access to Information) Act 1985

- 15.1.[List background documents]
- 15.2.[Also list reasons for exemption or confidentiality (if applicable)]