

LONDON BOROUGH OF CROYDON

To: all Members of the Council (via e-mail)
Access Croydon, Town Hall Reception

PUBLIC NOTICE OF KEY DECISIONS MADE BY THE CABINET MEMBER FOR HOMES REGENERATION AND PLANNING ON 3 MAY 2017

In accordance with the Scrutiny and Overview Procedure Rules, the following decisions may be implemented from **1300 hours on 11 May 2017** unless referred to the Scrutiny and Overview Committee:

The following apply to each decision listed below

Reasons for these decisions: are contained in the **attached** Part A report

Other options considered and rejected: are contained in the **attached** Part A report

Details of conflicts of Interest declared by the decision maker: none

KEY DECISION REFERENCE NO.: 0917HRP

Decision Title: Contract Extension Award: Cyclical Decorating and Repair Contract

The Leader of the Council has delegated to the Deputy Leader (Statutory) and Cabinet Member for Homes Regeneration and Planning (Reference 0917LR) the power to make the decisions set out below.

Having carefully read and considered the Part A and B reports, with the part B attachments, including the requirements of the Council's public sector equality duty in relation to the issues detailed in the body of the reports, the Deputy Leader (Statutory) and Cabinet Member for Homes Regeneration and Planning in consultation with the Cabinet Member for Finance and Treasury has

RESOLVED:

In accordance with the original contract award, to agree retrospective approval to invoke the extension of contract with Mulalley for the second term of five (5) years as permitted under the contract from August 2016 to August 2021, at an anticipated contract extension value of £5m, taking the total maximum projected contract value to £25m.

Scrutiny Referral/Call-in Procedure

1. The decisions may be implemented **1300 hours on 11 May 2017** (5 working days after the decisions were made) unless referred to the Scrutiny and Overview Committee.
2. The Director of Law and Monitoring Officer shall refer the matter to the Scrutiny and Overview Committee if so requested by:-
 - i) the Chair or Deputy Chair of the Scrutiny and Overview Committee and 4 members of that Committee; or
 - ii) 20% of Council Members (14)
3. The referral shall be made on the approved pro-forma (*attached*) which should be submitted electronically or on paper to Jim Simpson by the deadline stated in this notice. Verification of signatures may be by individual e-mail, fax or by post. A decision may only be subject to the referral process once.
4. The Call-In referral shall be completed giving:
 - i) The grounds for the referral
 - ii) The outcome desired
 - iii) Information required to assist the Scrutiny and Overview Committee to consider the referral
 - iv) The date and the signatures of the Councillors requesting the Call-In
5. The decision taker and the relevant Chief Officer(s) shall be notified of the referral who shall suspend implementation of the decision.
6. The referral shall be considered at the next scheduled meeting of the Scrutiny & Overview Committee unless, in view of the Director of Law and Monitoring Officer, this would cause undue delay. In such cases the Director of Law and Monitoring Officer will consult with the decision taker and the Chair of Scrutiny and Overview to agree a date for an additional meeting. The Scrutiny & Overview Committee may only decide to consider a maximum of 3 referrals at any one meeting.
7. At the Scrutiny & Overview Committee meeting the referral will be considered by the Committee which shall determine how much time the Committee will give to the call in and how the item will be dealt with including whether or not it wishes to review the decision. If having considered the decision there are still concerns about the decision then the Committee may refer it back to the decision taker for reconsideration, setting out in writing the nature of the concerns.
8. The Scrutiny and Overview Committee may refer the decision to Full Council if it considers that the decision is outside of the budget and policy framework of the Council.
9. If the Scrutiny and Overview Committee decides that no further action is necessary then the decision may be implemented.

10. The Full Council may decide to take no further action in which case the decision may be implemented.
11. If the Council objects to the decision it can nullify the decision if it is outside of the policy framework and/or inconsistent with the budget.
12. If the decision is within the policy framework and consistent with the budget, the Council will refer any decision to which it objects together with its views on the decision. The decision taker shall choose whether to either amend / withdraw or implement the original decision within 10 working days or at the next meeting of the Cabinet of the referral from the Council.
13. The response shall be notified to all Members of the Scrutiny and Overview Committee
14. If either the Council or the Scrutiny and Overview Committee fails to meet in accordance with the Council calendar or in accordance with paragraph 6 above, then the decision may be implemented on the next working day after the meeting was scheduled or arranged to take place.
15. **URGENCY:** The referral procedure shall not apply in respect of urgent decisions. A decision will be urgent if any delay likely to be caused by the referral process would seriously prejudice the Council's or the public's interests. The record of the decision and the notice by which it is made public shall state if the decision is urgent and therefore not subject to the referral process.

Signed: Director of Law and Monitoring Officer

Date: 3 May 2017

Contact Officers: jim.simpson@croydon.gov.uk;
james.haywood@croydon.gov.uk

PROFORMA

REFERRAL OF A KEY DECISION TO THE SCRUTINY AND OVERVIEW COMMITTEE

For the attention of: Jim Simpson, Democratic Services & Scrutiny
e-mail to jim.simpson@croydon.gov.uk
and james.haywood@croydon.gov.uk

Meeting:
Meeting Date:
Agenda Item No:

Reasons for referral:

- i) The decision is outside of the Policy Framework
- ii) The decision is inconsistent with the budget
- iii) The decision is inconsistent with another Council Policy
- iv) Other: Please specify:

The outcome desired:

Information required to assist the Scrutiny and Overview Committee to consider the referral:

Signed:

Date:

Member of _____ Committee

General Release

REPORT TO:	Councillor Alison Butler Deputy Leader (Statutory) and Cabinet Member for Homes Regeneration and Planning
AGENDA ITEM:	n/a
SUBJECT:	Contract Extension Award : Cyclical Decorating and Repair Contract
LEAD OFFICER:	Shifa Mustafa – Executive Director-Place Stephen Tate - Director of District Centres and Regeneration
CABINET MEMBER:	Councillor Alison Butler Deputy Leader and Cabinet Member for Homes, Regeneration & Planning Councillor Simon Hall Cabinet Member for Finance and Treasury
WARDS:	All

CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON

These works meet the Council's Corporate priorities to:

- Provide Value for Money to its residents through the delivery of the Planned Maintenance and Improvements Programme to the Council's housing stock
- Improve our Assets through investment in our housing stock
- Improving health and well-being through decent homes and neighbourhoods
- Contribute to the local economy and environment
- Improve Corporate Social Responsibility opportunities
- Include the Council's commitment to the London Living Wage

The decision also supports Croydon's vision to be an enterprising; caring; sustainable and learning city.

Through the award of extending the existing contract for the second term will enable the Council to continue to maintain and improve its housing and, as a responsible landlord fulfil its health and safety regulatory responsibilities.

The Council together with the existing Provider will continue to jointly deliver a contract providing a range of benefits including value for money; a commitment to the London Living Wage and a clear social value offer aiming to benefit both local businesses and local people including apprenticeships and training.

Finally, ICT enhancements including digital enablement; a comprehensive key performance indicator (KPI) regime, robust governance and contract management lie at the heart of delivery to ensure that there are long term benefits for Croydon.

FINANCIAL IMPACT

The services will continue to be delivered within the existing Housing Revenue Account budget. It is recommended that the Council proceed with the second term of five years by way of a contract extension whereby the overall contract value will increase from £17.325m as stated in the OJEU notice reference 11924-2009 to £25m. There is however no guarantee of any value of orders over the course of the contract term.

FORWARD PLAN KEY DECISION REFERENCE NO: This delegation is not a key decision

The Leader of the Council has delegated to the Deputy Leader (Statutory) and Cabinet Member for Homes Regeneration and Planning, in consultation with the Cabinet Member for Finance & Treasury the power to make the decisions set out in the recommendations below:

1. RECOMMENDATIONS

- 1.1 In accordance with the original contract award, to agree the retrospective approval to invoke the extension of contract with Mulalley for the second term of five (5) years as permitted under the contract from August 2016 to August 2021, at an anticipated contract extension value of £5m, taking the total maximum projected contract value to £25m.

2. EXECUTIVE SUMMARY

- 2.1 At its meeting on 4th May 2011, Cabinet approved the award of a contract for Cyclical decoration and repairs to Mulalley following the outcome of the invitation to tender process (Ref CSC20110504ARB2).
- 2.2 As landlord the Council is responsible for the maintenance and repair of the exterior elements and main structure of its housing stock comprising both tenanted and leasehold properties.
- 2.3 The work to be carried out under the contract comprises external decorations and associated repairs across the Council's housing stock including communal areas and external facilities such as garages and bin stores. The contract also incorporates internal decorations arising from the supported decorations schemes and sheltered and special sheltered communal areas.
- 2.4 All the participating bidders were informed during the invitation to tender stage that the Council would be looking to invest additional funding, to help address the previous backlog. Also the existing contract form and commercial arrangements included the requirement for the Council's stock to receive two cycles of external maintenance works during the 15 year contract term. The current contract allow

the Council significant flexibility in amending the value of works and services instructed on an annual basis should that be necessary.

2.5 This report makes a recommendation in respect for the existing contract to be extended for the second term of five (5) years as provided for in the contract from 3rd August 2016 to 2nd August 2021. This will enable the Council to approve the new priority of works for 2017/18 financial year and onwards.

CCB Approval Date	CCB ref. number
26 th April 2017	CCB1223/17-18

3. DETAIL

- 3.1 The Cyclical Decorating and Repair works procurement was carried out during 2010/11, with the recommendation of award report being approved by Corporate Services Committee on 4th May 2011 (Reference: CSC20110504ARB2).
- 3.2 As landlord, the Council is responsible for the maintenance and repair of the exterior elements and main structure of its housing stock comprising both tenanted and leasehold properties.
- 3.3 The maximum contract value originally anticipated in the OJEU notice was estimated at £17.4m. Procurement was carried out prior to the introduction of HRA self- finance and at a time when the annual investment in external decoration was low. When the self-finance was introduced, the Council took the opportunity to increase its external decorating programme and this, together with the need for external repairs that was required to the Council's property, has meant that the contract expenditure to date is approximately £20m.
- 3.4 The current contract (Term Partnering Contract 2008 (As Amended) with Mulalley and Company Ltd ('Mulalley') comprises an initial term of 5 years with options to extend for two further periods of 5 years each bringing the full contract term to a possible maximum of 15 years.
- 3.6 During the initial term of the contract, the introduction of the HRA self-finance enabled the Council to accelerate the external cyclical decoration and repair works programme. Good performance has been achieved to date and the review of current prices confirm that the Council is achieving value for money and that pricing is extremely competitive, furthermore it is considered that going back to the market at this time would not be beneficial. Approximately £650k cost savings have been realised including Mulalley waiving the annual price indexation and reinvested into the programme of works.
- 3.7 The following captures the good performance achieved over the past five years;
- 70% of the Council's housing stock has received external cyclical decoration and repairs to date, see attachment for further details (Appendix A: Year 1 – 5 cumulative completions report)

- All KPIs have been met year on year:
 - 96% resident satisfaction compared to target of 90% (supported by many thank you cards/letters from residents)
 - Over 50% local labour compared to target of 40%
 - From Year 2, Mulalley increased and maintained apprenticeship training from two to four apprentices per annum.
 - Six apprentices to date have successfully completed their training and have gone into full time employment.
 - 75% of the supply chain is from Croydon and a further 8% is from the surrounding boroughs
 - 99% recycled waste
 - Consistency in achieving defect free product at handover
 - Supporting the local community in e.g. community investment initiatives such as a Christmas party at one of the sheltered housing schemes and the refurbishment of a Croydon food bank centre
 - Sponsorship of Fairfield Halls for the 50th anniversary celebrations
 - Sponsorship of Croydon Council Awards
 - Mulalley achieved a Silver Considerate Constructors Award in 2014

3.8 Further specific commercial details including Mulalley's confirmed proposal to include the added value commitments, should the Council proceed with the recommendation are contained in Part B.

3.9 For the purpose of this report, we are seeking retrospective authority for the contract to be extended from August 2016 to August 2021, whereby the programme of works is delivered from April 2016 to 31st March 2017. The contract extension will allow the issue of new priority of works to be agreed for 2017/18 financial year and onwards.

3.10 It is recommended that the Council retrospectively invokes the extension of contract with Mulalley for the second term of five (5) years from August 2016-August 2021, as permitted under the contract at an anticipated contract extension value of £5m, taking the total projected contract value to £25m. The Council has considered the risks (as set out below) and, has concluded that the proposed approach, combined with the mitigation arrangements, are deemed to be acceptable.

4. CONSULTATION

4.1 Statutory Stage one Leaseholder Section 20 consultation (Notice of Intention) was completed during the original award of contract.

4.2 Consultation has been carried out with the relevant stakeholders namely:

- Robert Richardson, Head of Homes and Schools Improvement Service
- Kirsteen Roe, Head of Partnerships and Engagement

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

The effect of the decision

- 5.1 There is existing provision within the HRA budget for Cyclical Decorating and Repair. The extension of this contract will not change the budget requirement.

Risks

- 5.2 The services and works referred to represent essential landlord responsibilities, therefore the Council is best served by having contractual provision available until re-procurement has been completed with a new contract in place. If the contract extension is not awarded the services will not be able to be provided and will therefore be an impact on the condition of housing stock and living conditions.

- 5.3 The following risks have been identified and are being actively managed:

Risk	Impacts	Controls
Risk of ineffective continuity of service/works provision.	Inability for Council to perform its landlord obligations particularly as Council has duty of care to their residents and to protect and maintain its residential housing stock	Implementation of contract extension to be awarded in order to maintain continuity of service/works.
Financial standing of the Contractor is inadequate to meet the needs of the programme of works.	The Contractor has inadequate financial standing and is unable to 'finance' the supply chain resulting in poor provision of materials and replacement parts-risk of the Contractors failing and entering 'administration' or similar.	Financial standing has been checked and deemed acceptable.
Risk of procurement challenge relating to the proposed award of contract extension.	Legal challenge raised by potential contractor/supplier which may subject the Council to some sanctions e.g. Invalidity of Contract/Financial penalties	Contract extension is in accordance with the original award of contract and, as originally advertised with the procurement opportunity.

Options

- 5.4 The Council is required to undertake maintenance to its stock in order to fulfil its landlord responsibilities. The contract extension is required to ensure continuity of service.

Future savings/efficiencies

- 5.5 The contract has led to the delivery of efficiencies whereby Mulalley has waived the application of the BMI LA Maintenance Cost Indices up to the end of 2017/18 which has incurred an estimated £650k savings. During the original award of contract, the value for money comparison indicated that the appointment of Mulalley would generate savings in order of 10-20% compared with the rates and prices estimated by our advisor echelon consultancy ltd. This has enabled more properties to be completed on an annual basis.
- 5.6 In addition the Contract form contains an open book provision whereby the rates and prices submitted from a target cost. If Mulalley are able to reduce the actual costs below the target then any savings will be shared and re-invested in further works. The contract allows the Council to review and agree reduced site based overheads (e.g. staffing levels and the extent of site based facilities) year on year as part of the value for money process.

(Approved by: Luke Chiverton, Head of Finance; Finance, Investment & Risk)

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 6.1 The Solicitor to the Council advises that the procurement process as detailed in this report seeks to meet the Council's duty to secure best value as provided under the Local Government Act 1999.

Approved for and on behalf of Jacqueline Harris-Baker, Director of Law and Monitoring Officer.

7. HUMAN RESOURCES IMPACT

- 7.1 This paper makes recommendation which will not involve a service provision change therefore will not invoke the effects of the Transfer of Undertakings (Protection of Employment) 2006 Legislation (TUPE). No Council staff or LGPS members are in scope for TUPE transfer.

Approved by: Approved by: Jason Singh, Head of HR Employee Relations on behalf of HR).

8. EQUALITIES IMPACT

- 8.1 The Equality Policy 2016 - 20 sets out the Council's commitment to equality and its ambition to create a stronger, fairer borough where no community is held back. The policy reflects the council's statutory duties under the Equality Act 2010 and is supported by the equality objectives set out in the Opportunity and Fairness Plan 2016-2020.

8.2 The equality objectives for 2016-20 are aligned to and will support the delivery of the Council's business outcomes set out in its Corporate Plan particularly in relation to:

- **Growth** - creating growth in the local economy and ensuring that all residents in the borough are able to share the benefits
- **Independence** - taking on an enabling role to help residents to be as independent as possible
- **Liveability** - creating a welcoming, inclusive and pleasant place in which local people want to live and work and feel safe.

8.3 Equality considerations were taken into account as part of the requirements defined within the Tender documentation (including the Term Partnering Contract) whereby there is a need for the contractor to be compliant with the Equality Act 2010. Engagement has been undertaken with residents via surveys, briefings and participation in the process as members of the tender evaluation panel. A full Equality Analysis has been undertaken which will be kept under review and we will ensure that where necessary action is taken to mitigate potential negative equality impacts e.g. access issues for people with restricted mobility.

8.4 Mulalley pay their staff and operatives on this contract more than the London Living Wage. The Council and Mulalley are also supporting increased opportunities for local people by ensuring the service provider delivers Social Value benefits e.g. training, apprenticeships and supply chain opportunities for Croydon residents and businesses.

(Approved by Norman Vacciania, Senior Strategy Officer, SCC)

9. ENVIRONMENTAL IMPACT

9.1 In accordance with the contract terms and where required, the preferred bidder is required to produce site waste management plans for any works and the Council is satisfied that Mulalley contributes to reducing Croydon's CO2 emissions; which has resulted 99% of the waste being recycled and achieving consistency in achieving defect free product at handover. Also support the move to more sustainable components and products and support energy efficiency in Croydon's homes.

10. CRIME AND DISORDER REDUCTION IMPACT

10.1 There are no adverse Crime and Disorder impacts arising from this report.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

Mulalley has provided consistently good performance and based on the evidence given to show good value for money, it is recommended to proceed by way of contract extension, to proceed with the second term of five years.

12. OPTIONS CONSIDERED AND REJECTED

- 12.1 The Council is required to undertake maintenance to its stock in order to fulfil its landlord responsibilities. The contract extension is required to ensure the Council's stock receive approximately 1-2 cycles of external maintenance works.

CONTACT OFFICER: Name: Bob Richardson

Telephone number: 020 8726 6000

Background Papers: none