

# **CENTRAL SERVICES CABINET MEMBER MEETING**

## **Agenda Item 29**

Brighton & Hove City Council

<b>Subject:</b>	<b>Commercial Portfolio Estate Management Consultancy (1st April 2005- 31st March 2012)</b>
<b>Date of Meeting:</b>	<b>12 October 2009</b>
<b>Report of:</b>	<b>Director of Finance &amp; Resources</b>
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<b>Key Decision:</b>	<b>Yes Forward Plan No: CS12784</b>
<b>Wards Affected:</b>	<b>All</b>

### **FOR GENERAL RELEASE**

#### **1. SUMMARY AND POLICY CONTEXT:**

- 1.1 In 2004, the Policy & Resources Committee approved the award of two five-year contracts for commercial portfolio estate management consultancy, in each case with an option for a two-year extension. Policy & Resources Committee approval made no provision as to which decision-making body or person within the council would have authority to exercise the option. As Policy & Resources approval was an executive decision the same is true as regards the contract extension and it falls to the Central Services Cabinet Member to give the necessary authorisation to delegate authority to the appropriate officer, the Director of Finance & Resources.

#### **2. RECOMMENDATIONS:**

- 2.1 That the Central Services Cabinet Member grants the Director of Finance & Resources delegated authority to extend the council's existing contracts for commercial portfolio estate management consultancy by two years.

#### **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 On 8 December 2004, the Policy & Resources Committee resolved to award, subject to contract, the council's estate management consultancy service to two separate firms for a five-year period with an option of a two-year extension. Cluttons won the contract for the commercial investment property portfolio and Smiths Gore for the agricultural investment portfolio.

- 3.2 Prior to tendering these portfolios in 2004 and based on previous experience it was clear that there are advantages to be gained in giving the council greater flexibility under the management contract particularly regarding timing of the renewal. A key consideration being that renewal might come due at a time, or in circumstances, when a rigid timescale could be to the council's disadvantage. This concept was approved by Policy & Resources Committee in the initial procurement report in June 2004 and incorporated in the procurement documents. Similar flexibility has been built into other council contracts.
- 3.3 The terms of the contract specify that the Council serve notice by 1<sup>st</sup> July 2009 regarding its intentions to invoke the extension of the contract. To ensure continuity of service and following consultation with the Legal team and the interim Director of Finance & Resources, Cluttons and Smiths Gore were advised on 30<sup>th</sup> June 2009 of the Council's intention to extend the contracts, subject to approval of this Cabinet Member Meeting.
- 3.4 Where the council's executive resolves to authorise a five-year contract with an option for a 2-year extension, the resolution should include a provision specifying who has authority to grant the extension. In the case of the estate management consultancy contract, however, Policy & Resources Committee resolution made no reference to authority levels and it therefore becomes necessary to seek Cabinet Member approval to grant authority to the appropriate person.
- 3.5 Having implemented Policy & Resources Committee contract decision in 2005, and having worked closely with the contract holders (Cluttons and Smiths Gore) since then, the Assistant Director of Property & Design is best qualified to make a decision about whether to extend the contracts.
- 3.6 It is therefore recommended that Cabinet Member Meeting grant delegated authority to the Director Finance & Resources to make that decision.

#### **4. CONSULTATION**

- 4.1 A proper tendering process for this work was undertaken at the time, and the contract entered into allowed for the extensions referred to here. At the time that the extension was considered during June 2009 consultation took place with the Council's contracts lawyers and the interim Director of Finance & Resources.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

- 5.1 As set out in Section 6 of this report, an extension of the current contract is felt to be the best option in terms of value for money.

The annual costs of both contracts are principally based on a percentage of income received and number of lease renewals/reviews carried out within the two portfolios. It is therefore difficult to estimate with any certainty the exact annual cost of the contracts as they are largely dependant on the current market conditions of the two investments portfolios. The contract costs and rental receipts are managed within the appropriate service budget as part of the general fund. The annual costs for the 2008/09 financial year were approximately £410,000 for

the commercial investment portfolio and £60,000 for the agricultural investment portfolio.

Legal Implications:

- 5.2 The extension to this contract was provided for in the original contract which was procured in accordance with the relevant EU law and accompanying UK Regulations. The Council must take the Human Rights Act into account in respect of its actions but it is not considered that any individual's Human Rights Act rights would be adversely affected by the recommendations in this report.

Equalities Implications:

- 5.3 None identified.

Sustainability Implications:

- 5.4 None identified.

Crime & Disorder Implications:

- 5.5 None identified.

Risk & Opportunity Management Implications:

- 5.6 None identified.

Corporate / Citywide Implications:

- 5.7 None identified.

**6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 One possible option would have been to re-tender the contract but this is a long, expensive and resource intensive process which takes in excess of 12 months. This was not considered realistic in the time available.
- 6.2 The only other alternative could have been to terminate the contract with effect from 31<sup>st</sup> March 2010 and bring the services in house. This was discounted for the agricultural portfolio because appropriate staff (2 FTE) would not transfer and we do not have the expertise in house the agricultural portfolio having been managed externally for at least the last 75 years. To bring the urban management back in house would have incurred greater costs than the running of the contract, not all of the staff currently managing the portfolio contract ( at least 8-10 full time equivalent staff work on the contract) would have transferred, we would be faced with appointing extra staff and finding additional accommodation and we would lose the ready access to the range of services and expertise (much of it freely available because of the existing contact) available from Cluttons.

**7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 Both companies provide value for money in managing their respective portfolios, a fact demonstrated by the results of the bidding process in 2004. At that time a detailed weighted scoring matrix was used to evaluate the bids; Cluttons had an overall score of 85% compared with the second place company at 35% and on the agricultural portfolio Smiths Gore scored 66% compared with the second company at 59%. In addition, the basic management fee and the different fees charged for types of work under the portfolio remain competitive with fees currently being

charged by other companies. This has been well demonstrated by instances outside the contract where Cluttons have bid successfully for instructions such as the Amex sale and rent review. Cluttons is one of the leading property management companies in the country and Smiths Gore is the biggest agricultural specialist with an excellent track record. It is therefore advised that both contracts represent value for money and should be extended.

- 7.2 The original report to the Policy & Resources Committee dated 8 December 2004 omitted to include a provision for delegating to the Authorised Officer (Director of Finance & Resources) authority to extend these contracts on behalf of the council. This report seeks to rectify that omission and enable the Director of Finance & Resources to extend these contracts for the two year extensions allowed under each contract. Having implemented Policy & Resources Committee's contract decision in 2005, and having worked closely with the contract holders (Cluttons and Smiths Gore) since then, the Assistant Director of Property & Design is best qualified to make a decision about whether to extend the contracts.
- 7.3 It is therefore recommended that the Central Services Cabinet Member grants delegated authority to the Director of Finance & Resources to make that decision.

### **SUPPORTING DOCUMENTATION**

#### **Appendices:**

1. None

#### **Documents In Members' Rooms**

1. None

#### **Background Documents**

1. Report of the Director of Finance & Property to the Policy and Resources Committee dated 8 December 2004 (Agenda Item No. 144).