

# Croydon Council

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| <b>REPORT TO:</b>  | <b>GENERAL PURPOSES &amp; AUDIT COMMITTEE</b><br><b>23 March 2016</b>          |
| <b>AGENDA ITEM:</b>  | <b>7</b>   |
| <b>SUBJECT:</b>  | <b>Exceptions to the Tenders and Contracts Regulations</b>                     |
| <b>LEAD OFFICER:</b>   | <b>Sarah Ireland, Director of Strategy Communities and Commissioning</b>       |
| <b>CABINET MEMBER:</b>   | <b>Councillor Simon Hall</b><br><b>Cabinet Member for Finance and Treasury</b> |
| <b>WARDS:</b>  | <b>All</b>   |
| <b>CORPORATE PRIORITY/POLICY CONTEXT:</b> Effective outcome based commissioning and procurement contributes to all corporate priorities.   |  |
| <b>AMBITIOUS FOR CROYDON &amp; WHY ARE WE DOING THIS:</b> The Council's commissioning strategy sets out the approach to commissioning and procurement and puts delivery of outcomes at the heart of the decision making process. As the Council develops more diverse service delivery models, it is important to ensure that our processes can be aligned to our corporate priorities and represent value for money for citizens and taxpayers and, contribute to the growth agenda for Croydon. The decisions included in this report all contribute to achieving our strategic aims and meeting the needs of the people of Croydon. |  |
| <b>FINANCIAL SUMMARY:</b> There are no direct costs arising from this report.  |  |

## 1. RECOMMENDATION

- 1.1 The Committee is asked to note exceptions to the Tenders and Contracts Regulations granted by the Director of Strategy, Communities and Commissioning since last reported to this Committee.

## 2. EXECUTIVE SUMMARY

- 2.1 This is a standard report presented to General Purposes & Audit Committee (GPAC) notifying them of exceptions granted by the Tenders and Contracts Regulations by the Director of Strategy, Communities and Commissioning.

### **3. DETAIL**

#### **Central Parade New Addington Phase 2**

- 3.1 In October 2012 the Greater London Authority awarded £800,000 of capital funding to enable the Council to carry out Phase 2 of public realm improvements to Central Parade East, New Addington by way of a Stage 2 Investment Decision from the Mayor's Regeneration Fund. This funding has a condition that all expenditure must be made by 31 March 2016.
- 3.2 To help ensure the Council meets its obligations under the funding agreement and based upon benchmarking of rates for similar works recently competitively tendered compared to the rates available via the Council's own Highways contract, the decision to allow officers to discuss and determine a value for money solution based upon the terms of the Council's current Highways framework contract directly with EM Highways Limited was taken by the Director of SCC on the recommendation of the Contracts and Commissioning Board on the 10 September 2015 ref CCB1044/15-16.
- 3.3 The decision relating to the award of contract was taken by the Cabinet Member for Economy and Jobs in consultation with the Cabinet Member for Finance and Treasury following Cabinet on 14 December 2015. Prior to the decision being made the intention to award was reported to Cabinet.
- 3.4 The award report is available as part of the Cabinet meeting background papers: [London Borough of Croydon - Central Parade New Addington](#)

#### **Connected Croydon – London Road Public Realm Improvements (Phase C)**

- 3.5 The £4m London Road public realm improvement scheme forms part of the £7.9m High Streets project, which is itself part of the approved Connected Croydon programme. To meet the funding deadline that had been agreed with the scheme's majority funder (the GLA), construction at London Road was broken down in to three phases, with each being procured as soon as its design was complete. Phase A (south of Lidl) was awarded to EM Highways in July 2014 following a call-off from the Council's Term Highways Management Contract (THMC); Phase B (Lidl to Sumner Road) was awarded to TG Ram Ltd in September 2015 following a competitive tender exercise; Phase C (from Sumner Road to Bensham Lane) is now ready to be procured.
- 3.6 To enable the Council to meet its obligations under the funding agreement from the GLA and to reduce delays in construction and the

risk of additional unnecessary disruption to both the Connected Croydon programme and the public, an exception to the Council's Tenders and Contracts Regulations was approved by the Director of SCC on the recommendation of the Contracts and Commissioning Board on 28 October 2015 ref CCB1060/15-16 to allow officers to discuss and determine a value for money solution directly with TG Ram Ltd against the Council's specification and terms for the works comprising Phase C. It is expected that rates offered will align with the rates obtained via recent competition in respect to Phase B.

- 3.7 The decision relating to the award of contract was taken by the Cabinet Member for Economy and Jobs in consultation with the Cabinet Member for Finance and Treasury following Cabinet on 14 December 2015.. Prior to the decision being made the intention to award was reported to Cabinet.
- 3.8 The award report is available as part of the Cabinet meeting background papers: [London Borough of Croydon - London Road improvement works](#)

### **One Oracle Hosting**

- 3.9 During 2012, the boroughs of Croydon, Brent, Barking and Dagenham, Havering, Lambeth and Lewisham collaborated in the procurement of a contractor to provide an Enterprise Resource Planning (ERP) solution based on Oracle technology. An award of contract was made to Cap Gemini PLC. The implementation of One Oracle did not go live for any borough until August 2014. The call off contract for delivery of hosting and support services is due to expire in July 2016 and a 2 year extension is required to enable the on-going provision of the solution and allow time to review service provision pending any decision to re-procure.
- 3.10 An exception to the Council's Tenders and Contracts Regulations was approved by the Director of SCC on the recommendation of the Contracts and Commissioning Board on 14 January 2016 ref CCB1077/15-16. The decision to approve the use of Regulation 3 (and allow negotiation which could if successful lead to a direct award) aligns with the Councils need to be able to review the performance of the current solution over time and to inform the longer term procurement strategy.
- 3.11 The decision relating to the award of contract was taken by the Cabinet Member for Finance and Treasury in consultation with the Leader of the Council following Cabinet on the 22 February 2016. Prior to the decision being made the intention to award was reported to Cabinet.
- 3.12 The award report is available as part of the Cabinet meeting background papers: [London Borough of Croydon - One Oracle](#)

#### 4. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

##### 4.1 Proposed Revenue and Capital consequences of exceptions to the tenders and Contract Regulations

| <b>Contract Title</b>   | <b>Contract Revenue Budget</b> | <b>Contract Capital Budget</b>         | <b>Dept</b> |
|---|--------------------------------|--|-------------|
| Central Parade New Addington Phase 2                                |                                | Estimated total contract cost £541,000 | Place       |
| Connected Croydon – London Road Public Realm Improvements (Phase C) |                                | Estimated total contract cost £983,000 | Place       |
| One Oracle Hosting  | Estimated total value £924,000 |  | Resources   |

To be Approved by Dianne Ellender, Head of Finance and Deputy Section 151 Officer

#### 5. COMMENTS OF THE BOROUGH SOLICITOR AND MONITORING OFFICER

5.1 The Council Solicitor comments that an exception to the Tenders and Contracts Regulations may be sought under Regulation 3 where a new approach to procuring supplies, services or works will achieve value for money. Approval of the exception must be sought from the Director of Strategy, Communities and Commissioning on the recommendation of the Contracts and Commissioning Board before that approach is taken.

5.2 The next available meeting of GPAC must then be notified of any exceptions granted under Regulation 3.

To be Approved by: Gabriel Macgregor, Head of Corporate Law, on behalf of the Borough Solicitor and Monitoring Officer

#### 6. HUMAN RESOURCES IMPACT

6.1 There are no HR issues arising from this report, which is a standard scheduled report for information.

#### 7. EQUALITY IMPACT

7.1 The Equality Analysis process has been used to assess the actual or likely impact of the decisions related to contracts mentioned in this report and mitigating actions have been defined where appropriate.

7.2 Any issues identified through the equality analysis will be given full consideration and agreed mitigating actions will be delivered through the standard contract delivery and reporting mechanisms.

7.3 The equality analysis for the contracts mentioned in this report will enable the Council to ensure that it meets the statutory obligation in the exercise of its functions to address the Public Sector equality duty (PSED). This requires public bodies to ensure due regard to the need to advance equality of opportunity; foster good relations between people who share a “protected characteristic” and those who do not and take action to eliminate the potential of discrimination in the provision of services.

## **8. ENVIRONMENTAL IMPACT**

8.1 Any issues emerging in reports to the relevant Cabinet member will require these considerations to be included as part of the standard reporting requirements, and will not proceed without full consideration of any issues identified.

## **9. CRIME AND DISORDER REDUCTION IMPACT**

9.1 Any issues emerging in reports to the relevant Cabinet Member will require these considerations to be included as part of the standard reporting requirements, and will not proceed without full consideration of any issues identified.

## **10. FREEDOM OF INFORMATION (FoI) / DATA PROTECTION CONSIDERATIONS**

10.1 The Council’s Procurement Strategy and Tenders & Contracts Regulations are accessible under the Freedom of Information Act 2000 as part of the Council’s Publication Scheme. Information requested under that Act about a specific procurement exercise or contract held internally or supplied by external organisations, will be accessible subject to legal advice as to its commercial confidentiality, or other applicable exemption, and whether or not it is in the public interest to do so.

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### **CONTACT OFFICER:**

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### **BACKGROUND DOCUMENTS:**

None

