

COMMITTEE:	Cabinet
DATE:	2nd October 2002
SUBJECT:	Parks Maintenance Contract 2000
REPORT OF:	Director of Tourism and Leisure
Ward(s):	All
Purpose:	To seek Cabinet approval for the transfer of the Grounds Maintenance Contract from Thames Water Services Limited to Brophy Grounds Maintenance Limited
Contact:	Gareth Williams, Parks and Gardens Manager, Tel: 01323 415281 or internally an extension 5281.
Recommendations:	That Cabinet approves the novation of the Parks Ground Maintenance Contract from Thames Water Services Limited to Brophy Grounds Maintenance Limited
1.0	<u>Background</u>
1.1	The Parks Ground Maintenance Contract was tendered in 1999 with a start date of 1 st April 2000 until 31 st March 2005. The successful contractor was Brophy, who provided the most economically advantageous tender based on quality and price.
1.2	Brophy, at this time, was a division of Thames Water Services Limited and the contract is in this name.

1.3	Recently, on the 8 November 2001, the Brophy business was purchased by Enterprise plc. The structure of the sale was complex and as a consequence the Parks Ground Maintenance Contract remains between Eastbourne Borough Council and Thames Water Services Limited, a subsidiary of Thames Water plc. However, the work is being carried out by Brophy Grounds Maintenance Limited, a subsidiary of Enterprise plc.
2.0	<u>Novation of Parks Ground Maintenance Contract</u>
2.1	Novation is a three way legal agreement with the organisations involved being Eastbourne Borough Council, Thames Water Services Limited and Brophy Grounds Maintenance Limited.
2.2	A draft deed of novation has been prepared and agreed between all three parties in principle but requires formal Cabinet authority to proceed.
2.3	If approved, the novation agreement would result in allow Brophy Grounds Maintenance Limited assuming the rights and obligations previously enjoyed and incurred by Thames Water Services Limited. Thames Water Services Limited would be released from its obligations to the Council under the contract. The Council would be able to enforce the contract against Brophy Grounds Maintenance Limited.
2.4	As Brophy Grounds Maintenance Limited has been sold to Enterprise plc, the bond previously supplied by Thames Water would be withdrawn and replaced by a bond for the Parks Ground Maintenance Contract provided by a guarantor for Enterprise plc.
2.5	Brophy, now a part of Enterprise plc, are also carrying out the ground maintenance service on the seafront gardens and have been successful in their tender for the next Seafront Grounds Maintenance Contract (1 January 2003 until 31 st December 2008).

2.6	The Seafront Grounds Maintenance contract does not require novation as the contract has stayed with the same company although the parent company is now Enterprise plc. The bond associated with this contract will remain in place until the contract expires i.e. 31 st December 2002.
3.0	<u>Consultations</u>
3.1	There have been previous discussions and correspondence in relation to the novation of the contract from Thames Water Services Limited to Brophy Grounds Maintenance Limited who have Enterprise plc as their parent company.
4.0	<u>Financial Implications</u>
4.1	The Finance Section are unable to provide a financial check on Brophy Grounds Maintenance Limited as it was incorporated on the 23 rd March 2001 and has therefore not yet filed accounts. However, Brophy Ground Maintenance Limited has been sold to Enterprise plc and this company has passed the financial checks for a contract of this value. In addition, Brophy Grounds Maintenance Limited propose to provide a bond as mentioned in paragraph 2.4 above.
4.2	Contractual rates and revisions would, technically, have to be agreed with Thames Water Services for the Parks Contract.
5.0	<u>Summary</u>
5.1	The novation of the contract will standardise the contractual procedures for both Eastbourne Borough Council and the contractor, Brophy (now a part of Enterprise plc) as both our grounds maintenance contracts are currently being maintained by the same company. Future complications may occur if Eastbourne Borough Council still has a contract with Thames Water Services Limited for the Parks Contract and Enterprise plc for the Seafront Grounds Maintenance Contracts.

Gareth Williams	
Parks and Gardens Manager	
Background Papers:	
None	
(document reference)	