

COMMITTEE:	Cabinet
DATE:	13th March 2003
SUBJECT:	Seafront Ground Maintenance Contract - Novation
REPORT OF:	Director of Tourism and Leisure
Ward(s):	All
Purpose:	To provide delegated authority to the Director of Tourism and Leisure to authorise the novation of the Seafront Ground Maintenance Contract and the Parks Grounds Maintenance Contract to another specialist provider.
Contact:	Gareth Williams, Parks and Gardens Manager, Tel: 01323 415281 or internally on extension 5281.
Recommendations:	That delegated authority is granted to the Director of Tourism and Leisure to enter into a legal agreement with Enterprise plc to novate its current ground maintenance contracts with Eastbourne Borough Council to another approved provider at no additional cost to the Council.

1.0	<u>Introduction</u>
1.1	Enterprise plc have contacted the Council and expressed an interest in novating the current ground maintenance contracts that they have with Eastbourne Borough Council.
1.2	If the Council approves the novation of the ground maintenance contracts, they should be novated to the terms of the original contracts and at no additional cost to the Council.

2.0	<u>Background</u>
2.1	The Seafront Ground Maintenance Contract was tendered in 2001 and awarded, after a full evaluation to assess both quality and cost, to Brophy Grounds Maintenance Limited, on the 21 st January 2002 with a 1 st January 2003 contract commencement date.
2.2	Enterprise plc purchased Brophy Ground Maintenance Limited from Thames Water Services Limited on the 7 th November 2001. The tender remained as submitted with assurances that Enterprise plc would provide the service in accordance with the contract.

2.3	In March 2002, Enterprise plc approached the Council with a proposal to introduce Direct Service Providers (D.S.P.'s) to provide the ground maintenance service. The DSP for Eastbourne would be a new company, Southern Land Services Limited, specifically created as a sub-contractor for Enterprise plc.
2.4	The conditions of contract do not allow the contract to be transferred or assigned without the prior written consent of the Council and after evaluation of their proposals, it was considered that the contract as tendered i.e. without the use of DSP's offered the best quality and cost for the service. Enterprise plc were informed that they could not use DSP's for service provision in a letter dated 20 th March 2002 from the Director of Tourism and Leisure.
2.5	Enterprise plc continued to pursue the use of DSP's but failed to demonstrate any tangible benefits to the Council above the existing contract documentation and delivery of service already approved through the tender process. After pursuing the DSP approach to service delivery to November 2002, Enterprise plc finally conceded in December 2002 with a written request to novate the contracts.
3.0	<u>Financial Implications</u>

3.1	The current Seafront Ground Maintenance Contract should be novated at nil cost to the Council with assurances of the same level of service delivery. The contract term is until the 31 st December 2007. Enterprise plc are also responsible for the Parks Ground Maintenance Contract and are likely to request novating this contract also. The Parks Ground Maintenance Contract expires on the 31 st March 2005.
3.2	If a novation cannot be agreed between Enterprise plc and Eastbourne Borough Council, the re-tendering of the contracts is likely to result in an increased cost to provide the service.
3.3	A third option is to negotiate the contracts with an existing ground maintenance provider employed by the Council in the short-term (until March 2005) to limit the risk to the service if a contractual dispute escalates throughout this season and has a detrimental effect upon tourism.
4.0	<u>Human Resource Implications</u>
4.1	If the contract were to be re-tendered there would be a heavy involvement of officer time in preparatory works for the tender documentation and contracts.
4.2	If the contract begins to fail there will be a heavy increase in both contract monitoring and serving omissions and defaults upon the contractor.

5.0	<u>Summary of Options</u>
5.1	To investigate the novation of the contracts to another specialist grounds maintenance provider as proposed by Enterprise plc and at no additional cost to the Council.

5.2	To investigate Enterprise plc mutually withdrawing from providing the service, upon payment of an agreed financial sum, and instructing an existing Council ground maintenance contractor to provide the service until the next re-tender date (Parks Ground Maintenance Contract - 31 st March 2005) at no additional cost to the Council.
5.3	To re-advertise and re-tender both contracts, with a continuation of service by Enterprise plc or others.
6.0	<u>Conclusion</u>
6.1	That the Director of Tourism and Leisure be granted delegated authority to evaluate and identify the most economically advantageous option, at no further cost to the Council, for Enterprise plc to novate their current contracts to another specialist ground maintenance company who are able to both demonstrate and assume the level of quality required and expected within Eastbourne.
Gareth Williams Parks and Gardens Manager	
Background Papers: The Background Papers used in compiling this report are as follows: (1) Correspondence between Enterprise plc and Eastbourne Borough Council To inspect or obtain copies of background papers please refer to the contact officer listed above.	