

	Officer Key Decision
	Report to the Corporate Director, Resident Services
Authority to Novate the contract for Integrated Asset Management, Planned & Cyclical Maintenance Works & Responsive Repairs Maintenance Works contract with Wates Construction Ltd	

Wards Affected:	All
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	None
Background Papers¹:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Ryan Collymore Head of Service Housing Management Property Tel: 020 8937 1204 Email: ryan.collymore@brent.gov.uk

1.0 Purpose of the Report

1.1 This report seeks approval for the Council to novate a contract for Integrated Asset Management, Planned Cyclical Maintenance Works and Responsive Repairs Maintenance Works Contract in accordance with Contract Standing Order 114.

2.0 Recommendation(s)

That the Corporate Director, Resident Services:

2.1 Approves the novation of the Integrated Asset Management, Planned and Cyclical Maintenance Works and Responsive Repairs

Maintenance Works from Wates Construction Limited to Wates Property Services Limited.

3.0 Detail

3.1 The current contract with Wates Construction Limited for the provision of Integrated Asset Management, Planned and Cyclical Maintenance Works and Responsive Repairs Maintenance Works (the “IAM Contract”) commenced on the 1 October 2014 for a period of five years with the option to extend the contract by a further five years. The IAM Contract has been extended until 30 September 2024.

3.2 The IAM Contract was based on partnership working. The services covered by the IAM Contract include:

- Responsive repairs
 - This relates to general repairs both in tenants’ homes and in communal areas
- Planned maintenance to include
 - Internal refurbishments including kitchens and bathrooms
 - External refurbishment of properties
 - Low rise fire safety and communal redecoration works
 - Estate improvement works
- Major works to include:
 - Significant block refurbishment works
 - High-rise fire safety and block refurbishment.

3.3 The Council has received a request from Wates Construction Limited to novate the IAM Contract to its sister company, Wates Property Services Limited. The proposed novation is purely to simplify/streamline the work of the various Wates group companies. The Wates group of companies have acquired new businesses and are expanding. In order to amalgamate their businesses and offer a better streamline service, it is proposed that the IAM Contract held by Wates Construction Limited is novated to Wates Property Services Ltd (“WPS Ltd”). Wates Construction Limited has confirmed that the novation will not adversely impact on the delivery of the service. The IAM Contract will continue without any disruptions.

3.4 It is proposed that the three parties will sign a Novation Agreement, which will ensure that the WPS Ltd will assume and undertake and perform all the obligations and liabilities of Wates.

The Benefits of the Novation

- 3.4 The Wates group's success over last decade has allowed the group to grow organically and enter new markets. In addition to this, they have also acquired new businesses.
- 3.5 By expanding the Wates group of companies, this has allowed them to continue to develop talent, which includes transfers and promotions across the Wates group companies.
- 3.6 Due to the expansion of the Wates group, they have an overly complicated way of operating, for example:
1. One Wates company subcontracting works to another Wates company (e.g. Wates Property Services delivering the Brent responsive repair works for Wates Construction Ltd);
 2. Staff paid by one company and costed to another;
 3. IT systems in one company being used to deliver works in another;
 4. Cross group arrangements, whilst operated in a legally compliant way are complicated, time-consuming, costly and more prone to error.
- 3.7 To provide confidence that this novation will not adversely affect the service to the Council, it is worth pointing out that:
- The same colleagues & supply chain will remain
 - The service will operate with same directors, shareholders and shareholding.
 - The novated service will provide the same delivery solution i.e. 100% business as usual.
- 3.8 Under section 3(b) of the table at paragraph 9.5 of Part 3 of the Constitution, Chief Officers are able to novate contracts and agreements without the need for Cabinet approval, provided that:
- (a) the novation would not be in breach of the Procurement Legislation.
 - (b) the novation does not substantially alter the terms and conditions of the contract.
 - (c) there is sufficient existing budgetary provision.
 - (d) the relevant Director is satisfied that the contractor to which the contract, agreement, deed or other transaction is to be novated or assigned meets the Council's requirements for financial standing, health and safety standards and technical expertise.

(e) the relevant cabinet member shall be consulted prior to a decision within (d) above and may request that the decision instead be referred to them.

3.9 Subject to consultation with the Cabinet Member for Housing, Homelessness and Renters Security and the Cabinet Member not requesting that the decision instead be referred to them, it is considered that you have delegated authority to agree the novation as:

- (a) It is not considered that the novation will not be in breach of the Procurement Legislation as the contractor it is proposed to novate the IAM Contract to is replacing the old contractor as a consequence of corporate restructure, takeover, acquisition or merger of the old contractor. Novation in such circumstances is permitted in accordance with Regulation 72(1)(d)(ii) of the Public Contracts Regulations 2015,
- (b) The novation does not contain proposed amendments and therefore, the novation does not substantially alter the terms and conditions of the contract.
- (c) There is no additional budgetary provision required for the IAM Contract as a result of the the novation.
- (d) Officers have liaised with the Finance department and can confirm that Wates Property Services Ltd meets the Council's requirements for financial standing, health and safety standards and technical expertise.

4.0 Financial Implications

4.1 The Integrated Asset Management of Council dwellings is funded from Housing Revenue Account (HRA). Overall budget set for repairs in 2023/24 is £15m for cyclical and responsive, with a further £19.1m budget allocated for planned works. As this is a novation of existing contract for repairs service, it does not change any agreed contractual commitments and costing structure between the Council and Wates, therefore the novation will not result in additional budget requirement to fund housing repairs programme.

4.2 Financial due diligence assessment and independent credit rating have been obtained for Wates Property Services Limited, based on past financial performance.

5.0 Legal Implications

5.1 The recommendation is that the IAM Contract with Wates Construction Services Limited is novated to Wates Property Services Ltd because of

a corporate restructure. The table at paragraph 9.5, 3(b) of Part 3 of the Constitution sets out the requirements for novation. These requirements are set out in paragraph 3.8 above and paragraph 3.9 details how the requirements are addressed. Subject to consultation with the relevant Cabinet Member and the Cabinet Member not requesting that the decision instead be referred to them, the Corporate Director, Resident Services has delegated authority to approve the novation of this contract.

- 5.2 Any novation will need to be formalised by way of a novation agreement to be entered into with both by Wates Construction Services Limited and Wates Property Services Ltd. Legal Services will review any novation agreement to ensure it protects the Council's position.

6.0 Equality Implications

- 6.1 The Council must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment and victimisation
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it,

pursuant to s149 Equality Act 2010. This is known as the Public Sector Equality Duty.

- 6.2 Under the Public Sector Equality Duty, having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.

- 6.3 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 6.4 The proposals in this report have been subject to screening and Officers believe that there are no adverse equality implications."

7.0 Consultation with Ward Members and Stakeholders

7.1 The Cabinet Member for Housing, Homelessness and Renters Security will be consulted.

8.0 Human Resources/Property Implications (if appropriate)

8.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from the novation of the IAM Contract.

Report sign off:

Peter Gadsdon
Corporate Director, Resident
Services