

COMMUNITY EQUIPMENT SERVICE EXTENSION TO CONTRACT



(Contract No: PEO14011-1) Community Equipment Service

Company Name: Millbrook Healthcare Ltd.

Original Contract dates: 1/4/2015 – 31/3/18 plus 3 x 1 year options to extend to 31/03/21 Extended dates: 1/4/21 to 31/3/22

I have considered all the circumstances surrounding this extension for approximately **£2.2m** per annum.

The relevant procurement rules, including the Council's Contract Standing Orders and EU legislation have been considered. It is recommended that this contract is extended for the following reasons :-

Justification for extension

In May 2021 a joint tender on behalf of Plymouth City Council and Torbay Council for a community equipment service provider was issued, with an expectation that a new contract would commence on 01 April 2022. However, during the evaluation phase concerns were raised as to whether the published evaluation criteria would clearly establish the most economically advantageous tender (MEAT). The procurement was paused to enable a full review of the evaluation criteria and as a result of that review the decision was taken to abandon the tender process.

An amended tender has now been issued but the delay means that a new contract cannot commence on 01 April 2022. The timescale are further impacted by local elections which will delay the contract approval process but also a reasonable implementation period is required.

A 10 month + 1mth option + 1mth option (up to 12 months total) extension to the existing CES contract is required to ensure continuity of provision whilst the tender exercise is re-run and to allow for any further unforeseen delays to the award of the new contract . The 1mth + 1mth options to extend in addition to the 10 months will provide flexibility in case there are any further unforeseen delays in relation to the procurement and contract award process.

We will be awarding the contract without prior publication under paragraphs 1(c) Article 72 of Directive 2014/24/EU.

72.—(1) Contracts and framework agreements may be modified without a new procurement procedure in accordance with this Part in any of the following cases:—

(c) where all of the following conditions are fulfilled:— (i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen; (ii) the modification does not alter the overall nature of the contract; (iii) any increase in price does not exceed 50% of the value of the original contract or framework agreement.

The need for an extension to the current contract has been brought about as a result of the relaunched procurement which could not have been reasonably foreseen by the Council and the need to ensure provision is maintained until a new contract can be put in place.

Furthermore:

There would be significant cost and inconvenience to the Authority and economic operators associated with tendering a short term contract for Plymouth, for the following reasons:

- Under TUPE legislation the current economic operator's staff are entitled to transfer to the new economic operator
- The service requires significant sized premises within Plymouth to operate from, which has sufficient capacity to allow for storage, cleaning and maintenance of the equipment. The supplier will need to extend the lease agreement for these premises.
- Any equipment already in the community at contract handover will need to be replaced and this will occur again at the end of the contract period, causing inconvenience to service users and additional cost for the Council and economic operators
- The current economic operator holds personal and sensitive data on service users which will need to be transferred to the interim economic operator and transferred again at the end of the contract, increasing the risk of loss or breach of data
- Equipment orders are placed through an on-line portal, the new economic operator will be required to provide a similar system and prescribing staff will require training on the new system, which will take time to complete and bed-in.

The contract extension will be a continuation of existing services to those being delivered by the economic operator under their current contract, which was procured in accordance with Article 26 of Directive 2014/24/EU.

The extension to the existing CES contract is required to ensure continuity of provision whilst the tender exercise is re-run. The 1mth + 1mth options to extend in addition to the 10 months are also requested in case there are any further unforeseen delays in relation to the procurement and contract award process.

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