

LONDON BOROUGH OF CROYDON

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STATEMENT OF EXECUTIVE DECISIONS MADE BY THE CORPORATE DIRECTOR OF RESOURCES (SECTION 151) ON 16 MARCH 2023

The Corporate Director of Resources (Section 151) in consultation with Monitoring Officer and Cabinet Member for Finance has taken the decision below under Special Urgency, following the notice published on 16 March 2023.

The Council needs to make a timely decision to allow PFI contractors and their lenders to agree entering into a new refinancing agreement for the Croydon and Lewisham Streetlighting Contract. The nature of the process means as soon as legal documents are completed the Council needs to seek internal approval as the date of the Financial Close is set almost as soon as material legal matters are finalised. It would be unadvisable to delay the Council's decision as the longer it goes it could impact on the final gain benefit. The gain to the Council is determined by the national interest rates market and with the current macro economic climate indicating high levels of inflation that could mean an increase in interest rates which feeds into the refinancing exercise resulting in lower gains. The gains are generated because the overall cost of replacing existing lenders with new lenders is less than when the contract was initially entered into. This is largely driven by lower rates currently.

The following apply to the decision below:

Reasons for these decisions: As set out in Part A of report

Other options considered and rejected: As set out in Part A of report

Details of conflicts of interest declared by any Cabinet Member: None

Note of dispensation granted by the Head of Paid Service in relation to a declared conflict of interest by that decision maker: None

The Executive Mayor has delegated to Corporate Director of Resources and Section 151 Officer in consultation with Monitoring Officer and Cabinet Member for Finance the decision set out in the recommendation below:

Key Decision No.: 0323RES

Details of Decision: REFINANCING OF STREETLIGHTING PFI

Details of decision:

Having carefully read and considered the Part A report, and associated confidential Part B report, and the requirements of the Council's public sector equality duty in relation to the issues detailed in the body of the reports, the Corporate Director of

Resources (Section 151) in consultation with the Monitoring Officer and Cabinet Member for Finance

RESOLVED:

- 1.1. To note the due diligence undertaken since the December 2022 Cabinet report and approve the upfront refinancing gain, with the final figure being identified on the day of Financial Close as detailed within draft Protocol attached in Appendix D.
- 1.2. To approve the Local Government Contracts Act Certificate (provided in Appendix F) and to approve entering into the Direct Agreement (Appendix G).
- 1.3. To note the Senior Lender's Direct Agreement (provided in Appendix G) and note within Appendix B under paragraph 2.5 and section 10 that this agreement is a standard practice for replacing old lenders with new and does not materially impact on the Council.
- 1.4. To approve the Council taking an upfront gain through a cash receipt as opposed to a reduced Unitary Charge payment.
- 1.5. To delegate to Head of Finance – SCRER to enter into any agreements to give effect to the decisions in this report, including the Deed of Variation to the Project Agreement, at the Financial Close call or after so long as they are not materially different to the position provided within this report.
- 1.6. To approve that Head of Strategic Finance, Planning and Commercial at London Borough of Lewisham to speak on behalf of Croydon at Financial Close.
- 1.7. To approve that the Council retains the gain allocated to DfT in return for reduced PFI Credits from 2026/27.
- 1.8. Note the legal report, Appendix B, on variations made to the Project Agreement to reflect the outcome of the refinancing on the PFI.

Signed: Monitoring Officer

Notice date: 16 March 2023