

Report to Cabinet

Wednesday, 22 May 2024

By the Cabinet Member for Leisure, Culture and Green Spaces

DECISION REQUIRED



**Horsham
District
Council**

Partially Exempt – Exempt Appendix A under Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972

Retender of the Arboricultural Contract

Executive Summary

In April 2021 the Council entered into a contract for the provision of Arboricultural Services to carry out tree works on Council owned land.

This contract was terminated by mutual agreement between the Council and the supplier for the reasons contained in Appendix A.

As such, a new contractor needs to be procured and this report seeks approval for the retender process to commence, and, to enter into the associated contract. This will reduce the delay in the commencement of the new contract.

Recommendations

That the Cabinet is recommended to:

- i) Approve that a procurement exercise be undertaken to identify a supplier to provide Arboricultural services on council owned land.
- ii) Approve the award of the contract to the winning bidder on standard market terms.
- iii) Delegate authority to the Director of Communities in consultation with the Cabinet Member for Leisure, Culture and Greenspaces to finalise the terms of and enter the contract for the provision of arboricultural services.

Reasons for Recommendations

- i) To ensure the provision of arboricultural services on council owned land.

Background Papers

Tender of the Council's contract for arboricultural services. Report to Cabinet 25 November 2021

Wards affected: All.

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Background Information

1 Introduction and Background

1.1 The procurement process for an arboriculture contract was completed and reported to Cabinet in November 2021, with the contract in place from 1 April 2022. The purpose of the contract was to manage the Council's tree stock throughout the District, including trees within the urban landscape, parks, open spaces, hedgerows, and areas of ancient woodland. Its scope included:

- Tree inspections and reporting;
- Routine maintenance – the management of trees identified through inspection as being dead, dying and/or dangerous and presenting a serious risk to the safety of the public and property; or in need of pro-active management to prevent them from becoming so;
- Emergency response – to deal with dangerous or fallen trees caused by storm damage or other unpredictable events;
- Ash-Dieback disease management – providing best value solutions to address the impact of the disease.

1.2 This was a joint procurement process with Crawley Borough Council. A separate procurement process was undertaken for a Grounds Maintenance contract.

1.3 In December 2023 the arboricultural contract was terminated by mutual consent with the supplier for the reasons contained in Appendix A. Therefore, the arboricultural contract now needs to be retendered. This report seeks approval for the retender process to commence, to give more emphasis on quality when evaluating the tender submission and for delegated approval to award the contract once the fully compliant procurement process has been completed. This will reduce the delay in the commencement of the new contract.

2 Relevant Council policy

2.1 The Council Plan 2023-27 has four themes. Two of these are relevant to this report. Inspiring greener futures includes initiatives to reduce carbon emissions and improve biodiversity. Always listening, learning, and improving recognises the need to reduce costs to support our services.

3 Details

3.1 The contract has an annual value of £240k and the procurement process takes several months. An interim solution for tree inspections and works was, therefore, required to ensure that these services were continuous, particularly given the safety implications of not providing this statutory service. Several Sussex based contractors that provide a good standard of work are undertaking the statutory tree work. The work is spread amongst these contractors on a case-by-case basis.

3.2 The arboricultural contract commenced on 1 April 2022 and was due to run for seven years, with the option for the Council to extend the contract by up to a further seven years. This aligned with the grounds maintenance contract which would allow

both contracts to be retendered together in the future if necessary, forming one contract.

- 3.3 Although the termination of the contract means that the grounds maintenance and arboricultural contract will not be running to the same timeframes, experience locally, and across the market, suggests that a single large contract does not necessarily deliver the best outcomes, certainly in the current market.
- 3.4 It is, therefore, recommended that a seven-year contract be procured on the basis that this reflects industry best practice as it allows contractors to depreciate their equipment over this period.
- 3.5 The objectives of the previous contract will still be relevant. These include:
- A collaborative long-term partnership to the mutual benefit of both parties;
 - Continuous improvements in service provision, best practice, quality, and cost control;
 - A focus on sustainability and reduction in carbon emissions across the contract term;
 - Value for money, with an open and transparent approach to operating the contract;
 - An excellent responsive service to the Council and other stakeholders;
 - The use of technology to support effective service delivery;
 - An experienced and effective management team to successfully provide the full range of services listed;
 - A highly skilled flexible workforce
- 3.6 This approach also aligns with the introduction of the new Procurement Act in October 2024, which encourages the use of local and Small and Medium Enterprise suppliers.
- 3.7 The previous contract included tree inspections. As part of the pre-procurement process, consideration will be given to alternative methods of delivering this element of the contract. The options are to: -
- bring this element in-house which would require the recruitment of an additional officer;
 - have one contract covering tree inspections and tree works;
 - have a separate contract for the tree inspections.

4 Next Steps

- 4.1 Work is already under way to review the current contract and specification to ensure it meets the needs of the service and will deliver the best outcomes. Before the tender is formally advertised, a market engagement process will also be undertaken. This will gauge interest from local suppliers and inform a different approach to the contract. For instance, rather than appointing one contractor for all of the work, a framework could be used with pre-selected contractors which could be drawn on for different types of tree work.

4.2 The broad timescales for the project are as follows but these will be subject to change as the process will need to be comply with the new Procurement Act 2023 which is expected to come into force in October 2024:-

- May/June 2024 - complete review of previous contract and specification
- July 2024: Market engagement
- August/September 2024 - formalise contract documentation.
- October 2024- advertise tenders
- December 2024/January 2025 - evaluation of tenders and contract award.

5 Views of the Policy Development Advisory Group and Outcome of Consultations

5.1 The views of the Leisure, Culture and Greenspaces Policy Development Advisory Group are awaited following its meeting on 9 May.

5.2 Consultations have taken place with the Monitoring Officer and the Director of Resources to ensure legal and financial probity, as well as the Procurement Manager. Their comments have been incorporated in this report.

6 Other Courses of Action Considered but Rejected

6.1 An alternative course of action would be for the statutory tree works to be carried out in-house. However, there are benefits to the Council in retaining a contracted service. These include financial efficiencies due to the market's greater buying power, the ability for scaling up and down (which is particularly important with seasonal pressures and Ash Dieback disease), broader knowledge of a specialist market and easy access to technical knowledge and advice. Contractors will have more resilience in order to manage peaks in service and handle issues relating to staff turnover.

7 Resource Consequences

7.1 There will be staff resource implications for the Parks and Countryside team, the Joint Procurement Service, and the Legal team in completing the re-tender process. There is sufficient existing staff resource to complete this work.

7.2 The 2023/24 expenditure for general tree works was £210k. In 2024/25 this was increased to £256k for general tree works and £149k to deal with trees with Ash Die Back. It is not possible to know if this budget will be sufficient until the arboricultural contract has been retendered. However, the previous contract was valued at £3.367m which equates to approximately £240k per annum.

8 Legal Considerations and Implications

8.1 The Council will comply with all necessary Procurement Regulations and the Council's Procurement Code. In-house legal resources will be used to complete the legal documentation.

9 Risk Assessment

- 9.1 Horsham District Council is responsible for around hundreds of trees and woodland across a range of sites, from those in the countryside to those in key parks and open spaces where there is a high use of the space by residents and visitors. It is vital that the Council has robust measures in place to ensure the risk to the public is minimised. This risk is being managed through the use of four local contractors. This contract will ensure that the risk continues to be effectively managed and controlled.
- 9.2 The termination of the previous contract has led to short term increased costs for the service, and it is important that a contract is put in place to reduce additional expenditure and ensure good levels of service delivery.

10 Procurement implications

- 10.1 In order to comply with the Council's Procurement Code and given the value of the previous contract (£3.367m) an above threshold Tender Process will be required. The Procurement Manager is aware of the need for the retender process and a project team, led by a Procurement Officer has been established to commence the work. It is anticipated that the advertisement to tender the contract will take place in the autumn.

11. Equalities and Human Rights implications / Public Sector Equality Duty

- 11.1 The tender documents and contract that will be in place after the procurement process will ensure that the successful contractor complies with all equalities legislation and pays due regard to any possible future impacts on human rights.

12 Environmental Implications

- 12.1 Reductions in carbon emissions, water, chemical use and waste, as well as improvements to sustainable practices were incorporated into the previous contract and these will be carried forward into the retender contract.

13 Other Considerations

- 13.1 The proposed contract will ensure that the council maintains the arboriculture service to a good standard and is compliant with statutory requirements.
- 13.2 The contract requires the new contractor to ensure GDPR and data protection processes are in place and compliant with all relevant legislation.

13.3 Crime and disorder incidents do happen in parks and open spaces. The arboriculture contractor will be required to report to the Council, and other relevant authorities, any concerns regarding evidence of anti-social or criminal behaviour.

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