

Item No. 15.	Classification: Open	Date: 14 September 2021	Meeting Name: Cabinet
Report title:		Gateway 1 - Procurement Strategy Approval for the Borough's Tree Works Programme	
Wards affected:		All	
Cabinet Member:		Councillor Catherine Rose, Transport, Parks and Sport	

FOREWORD – COUNCILLOR CATHERINE ROSE – CABINET MEMBER FOR TRANSPORT, PARKS AND SPORT

This report builds on the previous Gateway 0 Report approved by Cabinet on 9 March 2020.

It outlines the additional work and development done to create a new strong, single in-house tree team in terms of strategic policy, oversight and leadership in regards to tree planting and renewal of our tree stock. This report sets out how we will create a level of resource and skill to meet the challenges ahead. Trees are a key element to tackling the Climate Emergency, greening our streets and improving the health and well-being of our communities.

It also sets out a robust procurement framework that will tender for and create a contracted level of resource and specialist skills to focus on maintaining trees safely and helping us to maximise public safety, ensuring Southwark meets its duty of care obligations as well as managing corporate exposure to risk. We have a responsibility to develop a long term model of tree maintenance and works that allows us to be agile and responsive to the demands and scale of our ambition for our tree service and tree stock across the whole borough. The nature and characteristics of which are unique in scale, variety and complexity in London. We therefore wish to draw upon the wide variety of skills and specialisms that the industry has to offer and develop a model of delivery and management that is good value to our residents, but also delivers an excellent service, at scale and for the long term.

We continue to work closely with all directly affected staff, unions and stakeholders to ensure that the process of realigning the service is done in an orderly process that allows for the retention of key skills and knowledge, either as direct employees or as TUPE personnel working in partnership with us as contractors. We also have an opportunity to secure a skill base and investment in trees skills in partnership with contractors, within the borough to help support the local economy and wider demand for skilled tree personnel.

The care, management and replenishment of trees forms a key part of our broader approach to tackling the climate emergency agenda.

We are directly responsible for 82,500 trees in our borough, we also seek to ensure the retention of another 30,000 trees that are the responsibility of others. We have a stated ambition to plant another 10,000 trees by 2022 and develop essential plans that extend beyond that to meet the priorities and concerns of our residents, businesses and other stakeholders that care passionately about the trees in their local neighbourhood, parks, woodland and wider borough.

RECOMMENDATIONS

That Cabinet are asked to:

1. Approve a competitive tender process to establish tree maintenance and emergency contract(s) with up to three providers for a period of four years with an option to extend for an additional period of up to two years, at an annual estimated total value of £2m, with an estimated total contract cost of £12m for the full term of the contract from July 2022.
2. Approve the establishment of a framework agreement for tree maintenance for a period of four years that will be open for use by all London boroughs from July 2022 as further detailed in paragraphs 59 and 60.
3. Delegate the Gateway 2 (contract award) decisions for both the maintenance lots, emergency lot and framework agreement to the Strategic Director of Environment and Leisure, in consultation with the Strategic Director for Finance and Governance and the Cabinet Member for Transport, Parks and Sport for the reasons outlined in paragraph 76 of this report.
4. Note the proposed remodel of the current in-house tree maintenance team as part of the reshaping of the council tree services.

BACKGROUND INFORMATION

5. Southwark manages approximately 82,500 trees spanning over 400 species in places such as parks and open spaces, housing estates and highways. In addition, there are approximately 30,000 trees in Southwark which are located on private land and not managed by the council directly.
6. In recent years the council has faced challenges around the resources available to manage the tree stock. This, coupled with the council's commitment to planting more trees, led to a review of the overall tree services with the aim of ensuring the council was meeting its statutory duty of care whilst also being responsible custodians of a valued asset in a challenging urban setting.
7. In March 2021 a Gateway 0 report was presented to Cabinet that explored the options available to the council for reshaping the council's tree services in order to meet those aims.

8. The outcome of that report was to outsource the core tree works. It should be noted that 60% of the tree maintenance work is currently being carried out by external providers through a series of smaller procurements.
9. This report sets out the proposed procurement route for the outsourcing of the core tree maintenance works to be carried out by external suppliers to ensure the associated potential risks are managed and the tree stock is sustainably maintained for years to come.

Strategic direction

10. Southwark's Tree Management Policy (TMP) sets the strategic aims for the council and other key stakeholders in relation to the security, preservation and enhancement of the council's treescape now and into the future. The policy includes the Tree Risk Management Strategy (TRMS) which sets out the procedures the council is required to carry out in order to meet its statutory obligations.
11. The trees in and around our urban areas are collectively known as the 'urban forest' and are generally recognised and appreciated for their amenity and presence in the cityscape whilst at the same time improving air quality, protecting watercourses, saving energy, improving economic sustainability as well as having many health and wellbeing benefits.
12. The Council's biodiversity plan - the Southwark Nature Action Plan (SNAP), 2020 – 2025 sets out the plan for conservation and enhancement of the natural environment and drive for improvements in biodiversity.
13. In March 2019 the council declared a climate emergency and vowed to "*do all it can to make the borough carbon neutral by 2030.*" The Cabinet has formally considered Southwark's response to the Climate Emergency in a cabinet report presented in July 2021. The report set out Southwark's approach to the Climate Emergency and outlined approaches to support the Council and communities to achieve carbon neutrality by 2030.
14. Tree management and planting is an important part of Southwark's Climate Strategy owing to the significant contribution the tree stock makes towards climate change mitigation in terms of pollution removal, carbon storage (and sequestration) and flood alleviation. For these reasons it is important now more than ever, to ensure this valuable asset is protected, enhanced and managed effectively and therefore putting in place a sustainable and effective tree service that can deliver against these policies is a top priority.
15. In light of the Council's broader environment and climate change agenda, capital funding of £5m was agreed in April 2020 to increase the number of trees planted annually, to reverse any net loss of trees (more trees removed than planted) and ensure a net increase in trees in the borough for the benefit of future generations of Southwark residents. The current Borough Plan includes an ambitious target of planting a total of 10,000 trees from

2020 - 2021 to 2021 - 2022. In 20/21 8,014 trees were planted, substantially exceeding the 5,000 target for the year.

KEY CONSIDERATIONS

Statutory and legal requirements

16. Public safety is of paramount importance and needs to be balanced with the environmental and amenity benefits trees provide. Soutwark has a "Duty of Care" to manage its trees responsibly.
17. As well as mitigating the most significant risk – that of risk against the person - there are also financial and reputational risks, that manifest themselves when trees cause damage to persons or property. The on-going completion of tree inspections and works within specified timescales/dates is considered the absolute corner stone in mitigating risk to the person and thereby maintaining a "defendable risk management system", which is also used as evidence to mitigate third party claims.
18. There are a number of areas of law that impact the tree service:
 - Wildlife and Countryside Act 1981 - Protection of birds during nesting season
 - Tree Preservation Order & Conservation Areas – Planning protection for trees
 - Highways Act 1980 Section 154 – trees adjacent to the highway
 - Common Law Entitlement – Trees overhanging boundaries
 - Statute Law – Case law and precedents set in court.

Current service arrangements

19. The current tree service is split between two in-house teams and external contractors:
 - The Tree Client Team (Parks and Leisure) six posts including the service manager responsible for;
 - Strategic, policy and risk management
 - Tree governance
 - Tree inspections and specification of works
 - Contracting out tree planting to external contractors
 - Dealing with insurance claims
 - Procurement of external contractor support for additional tree works.
 - The Tree Works Maintenance Team (Waste and Cleansing) 16 posts including the team manager responsible for;
 - Tree surgery
 - Pollarding
 - Felling
 - Waste storage/disposal

- Stump grinding
 - Emergency response service.
20. The coordination of tree planting is undertaken by the client team and is currently capital funded and uses external specialised contractors via annually let contract arrangements including three year maintenance and aftercare. Planting has differing skill set requirements to that of tree surgery. The work is also seasonal by nature; tree planting being undertaken in the winter months with watering and establishment maintenance programmed for the spring and summer period.
21. Planting works can be delivered internally or externally in conjunction with other landscaping or tree service activities.
22. Officers in the council's development management team within planning also deal with tree related planning matters such as planning applications (including consultation), planning appeals, court evidence, government guidance and legislation on natural heritage, biodiversity, Tree Preservation Orders (TPO's) and Conservation Areas. This element of the council's services is not within the scope of this procurement.
23. The council continues to require significant levels of support from external suppliers to deliver the historic and ongoing backlog of tree works due to the limited capacity of the current in house team and the large volume of trees the council is required to maintain. Whilst this work is procured in line with Contract Standing Orders, the nature and length of the contracts means that this approach is not the most cost effective for the council.

Anticipated future service works requirements

24. The following table outlines estimated future works volumes. Core programme and re-pollard figures have been calculated based on works orders relating to the last condition survey. Insurance programmed mitigation works (insurance cycle) figures are calculated from new programme to be introduced October 2021. Officers have modelled the estimated works required to be completed on an annual basis in order to determine the required resource to service the works generated.

Table 1. Future estimated work requirements

Tree maintenance element	Work type	Required jobs per annum	Required jobs per month
1	Core programme (incl. emergency call outs)	6,720	560
2	Insurance cycle	1,279	107
3	Re-pollards	1,325	110
Totals		9,324	777

Options for procurement route including procurement approach

25. The Gateway 0 report to cabinet in March 2021, set out the assessment for various options for the delivery of the future of the tree service which included variations of the following:
- No change: Retain the current split management function and in house tree work delivery service, supplemented by external contract support, let on a lotted procurement basis.
 - Merge the client and works teams and expand the current in house provision to undertake all of the tree work.
 - Adopt a mixed economy model merging the client and works teams and providing tree works delivery through a range of four options with varying degrees of internal and external provision
 - Externalisation of the entire service
 - Consider how best to deliver the £5m capital funded tree planting programme through either internal or external suppliers.
26. Providing 'no service' or doing nothing was not considered an option owing to the statutory requirements protecting public safety and the council's climate change mitigation commitments, as outlined in the GW0.

Recommended Option

27. The cabinet report recommended the approval of the option to externalise the tree maintenance works whilst retaining a small number of staff within a new tree planting team (known as Option 4).
28. Cabinet approved the externalisation of the tree maintenance works but requested that officers explore any opportunities to retain any of the in house works team (16 staff) in addition to any opportunities offered through the new proposed planting team (nine staff).
29. Following this request, officers have reviewed opportunities to retain a greater number of staff in the in-house team. This has included early engagement with the tree team (three staff meetings), where a clear preference was expressed by staff to remain in-house. However, it has not been possible to find a model which fits delivery by an in-house team of this size either by geography or type of work and which effectively manages the operational risk.
30. It should be noted that at the time of writing this report that of the team of 16, there are 5 vacancies of which one is being covered by an agency staff member. For the remaining 11 staff there are opportunities to consider joining the new tree planting team (nine posts). All staff within the team will be given the training and support required to apply for other roles within the council or to take up new roles within the externalised service.

Maintenance works contract

31. The procurement approach will include a commitment to focus on creating a high quality outsourced works service, so that Southwark has locally-based, high quality tree provision which will support and enhance the local economy.
32. The proposed contract term is for four years with an extension option of up to a further two years. In line with public contract regulations an open tender process is recommended.
33. On the basis of externalised tree works, this report sets out the plan to procure a formal contract of up to three lots, spread across three geographic areas, providing cover across the whole borough. In addition, arrangements will be put in place to service 24 hour emergency call outs.
34. The external contractors will carry out the following work areas;
 - Emergency call outs
 - Fells (tree removal)
 - Ad hoc works
 - Insurance cyclical programme maintenance
 - Works generated by inspections (condition surveys)
 - Pollarding
 - Stump grinding

Framework agreement

35. In line with the recommendation in paragraph 2 a framework agreement will be established for tree works that is available to use by all London Boroughs as part of this procurement. As well as providing the opportunity to introduce an additional contractor, in exceptional circumstances to assist with backlog (e.g. storm damage), this framework approach will also have the potential to generate income for the council with a cost charged if utilised by other contracting authorities. The establishment of the framework incurs little additional work for the council.

Tree planting

36. The new internal tree planting team will be responsible for planting up to 5,000 trees (mature trees through to saplings) per season in association with servicing a formal tree planting strategy. They will also service a large maintenance program in the summer months to ensure successful establishment of the newly planted trees. The team will be supported by a manager, who will provide day to day management oversight, linkage between the planting team and the client team and supplement the existing operational experience in the client team.
37. The establishment of a new Tree Planting Team strongly demonstrates the council's commitment to tackling the Climate Emergency. Creating a service that is solely focused on greening the borough to improve the quality of the

lives of residents is just one of the many measures being taken to address the Climate Emergency.

38. In addition to undertaking the tree planting function (a council plan objective) the in house planting team will also:
- Enable some of those who wish to stay with the council the option to do so – supporting the Council’s commitment to provide a direct service wherever possible.
 - Show a strong commitment to the Climate Emergency by re-focusing the team.
 - Provide potential career path opportunities in terms of apprentices, succession planning, and other return to work programmes.
 - Enhance working between the council and the voluntary sector through providing the opportunity to train the planting team to lead community group planting sessions.
39. It is proposed that the new Tree Planting Team will sit within and be managed alongside the Client Team in the Parks and Leisure Division from the point the new external works contracts begin.
40. The proposed changes and transition of any in house tree team going forward will be subject to the council’s approved HR processes and will include formal consultation with both staff and trade unions. Any required approvals will be sought via the councils delegated approvals process.

Client Team

41. The Client Team provision and structure will remain largely the same, i.e. one manager and five arboricultural officers. As well as having client monitoring skills, a number of the team also have practical tree works experience, thereby ensuring that these skill sets are maintained within the council to ensure robust monitoring of any external contractors. It may be necessary for some amendments to roles and responsibilities within the client team, to reflect the new service arrangements and reporting structure.

Market considerations

42. Current industry considerations and pressures include:
- ‘Brexit’ employment impacts
 - Rising London living costs restricting staff availability
 - Post COVID impacts on recruitment
 - Industry struggling to recruit and retain appropriately trained and skilled staff
 - Relatively low industry rates of pay, impacting recruitment and retention
43. All industry suppliers, whether local authority or external, are impacted by the same pressures therefore competing for an increasingly smaller pool of specialised staff.

44. Due to industry conditions there are only a small number of suppliers servicing local authority contracts. This has the potential to impact not only market capacity, but also a competitive market place.
45. The proposed model seeks to address these challenges by seeking multiple suppliers through contract lots, therefore reducing resourcing concerns and associated risk. This approach may also prove attractive to smaller local suppliers, an approach that also, therefore, seeks to support Southwark's local economy.

Proposed procurement route

Contract period and coverage

46. The contract term will be four years with extension options of up to a further two years. This term is considered optimal, as it is long enough to make it viable for contractors to bid for but avoids the pitfalls often inherent in long contracts, it is designed to be flexible to allow for an extension in the circumstances that the contract/s is/are performing well and meeting the desired outcomes.
47. It is proposed that the contract will be made up of three tree maintenance lots reflective of the three geographical areas; North, Central and South.
48. As set out in recommendation 2, an additional lot will establish an emergency tree works call out service contract with one provider. This will be awarded to one of the successful external suppliers bidding for lots.
49. Suppliers will be able to bid for one, two or all three maintenance works lots and evaluated against the evaluation criteria set out. This approach will provide choice for the market, and will demonstrate whether best value for money can be achieved by suppliers having more than one lot. This needs to be considered alongside the benefits derived from having three separate providers – i.e. the avoidance of having to rely on a sole contractor – with the ability for more than one supplier to assist with minimizing the risk of a backlog of works.
50. This approach seeks to provide maximum flexibility for the market, as it should attract smaller, local providers, as well as larger arboricultural firms. The ability to bid for the all of the geographical areas as a single lot, should also maximise financial options.
51. The framework agreement will be set up for four years and will provide additional risk mitigation should a service failure occur.

Contract form

Maintenance works contract

52. The procurement will be for services contracts and let in line with the Public Contract Regulations.
53. The new contracts will include requirements for excellent governance, monitoring and KPI's, ensuring quality outputs. A programme of work to include, risk management, customer service, environmental considerations and a pro-active approach to social values and innovation.
54. The contracts will be targeted at appropriately sized, specialised tree work suppliers to maximise market interest.
55. Mechanisms will be put in place in the contract terms and conditions whereby contractors can support each other should the situation arise such as post-storm support. These mechanisms will also allow the council to act quickly in instances where a contractor fails to perform. The council will be able to either call on one of the other contractors or from the framework. The purpose of this would be to ensure backlogs do not build up and works are completed in accordance with the timeframes set out in the TMP.
56. Suppliers invited to tender as part of the capacity assessment, will need to meet an annual turnover threshold set against for the estimated lot values, and must demonstrate their financial stability if they are to be included in the tender process. This is part of the usual management of risk within the procurement process.

Contract documentation

57. The contract documents will cover the following key elements;
 - Conditions of contract
 - Arboricultural specification
 - Price, quality and social value evaluations
 - Health and safety risk and method statements
 - Contract governance
 - Financial assessment
58. A robust performance management system will be put in place.
59. The contract will include the establishment of a framework agreement for the same term. The purpose of the framework is for the council to be able to respond quickly to any capacity issues by having an established agreement to call off. This will encourage bidders and provide additional risk mitigation enabling swift access to service contingencies and a facility for other borough's to use. This aspect will be evaluated broadly in line with the

criteria set out for the main contract, with appropriate adjustments for external borough use.

60. The number of providers on the framework is yet to be determined but is being developed ahead of the procurement. Officers are currently exploring the optimum number which will be detail in the invitation to tender and reported in the gateway 2 report.

Advertising the contract

61. The contracts will be advertised on the Find a Tender Service in line with the Public Contract Regulations (2015).

Evaluation

62. As this will be an open procedure, tenderers will be asked to submit a Selection Questionnaire (SQ) alongside their tender proposals. The SQ will be assessed prior to the tenderer's proposals being evaluated and the evaluation panel will assess the capacity, capability and experience of the supplier to provide these services.
63. Evaluation of bids will be conducted at 55% price, 35% quality and 10% social value considerations. The framework agreement will be evaluated in line with these percentages but allowing for social value to be assessed by boroughs at call off stage.
64. Each tenderer's price will be calculated in accordance with the price evaluation methodology detailed in the tender pack with suppliers completing a schedule in the tender. The lowest sustainable tender price will be awarded the maximum scores for the price evaluation, the other tenderers' scores will be based on a percentage of that score.
65. The quality element of the tender evaluation will be by weighted score against the following criteria for tender evaluation:
 - Proposed management structure
 - Contractor's proposed method statements for carrying out the service, managing work volumes and ensuring professionally qualified staffing capacity, to ensure maximum productivity
 - Quality management and quality control
 - Social value and benefits to local community
 - Compliance with management
 - Equality and Diversity
66. The questions will require bidders to explain how they intend to deliver the services. The responses submitted by the winning tenderer will become contractually binding.
67. The quality evaluation will be carried out independently by an evaluation panel. Each question will be scored independently by each member of the

evaluation panel from 0 to 5. Once each question is scored the appropriate weighting will be applied to each score.

68. A quality moderation meeting will be held. This will be chaired by an officer who has not independently scored the quality submissions and attended by all officers who have independently scored the quality submissions. At this meeting a consensus score will be agreed to ensure consistency in the scoring methods. The consensus scores will then be weighted as defined in the tender documents and will be added together to produce the final quality score for that tender.
69. The price score and the quality score will then be added together to produce an overall score for each tender. The tenderer providing the most economically advantageous offer evaluated across the quality and pricing to deliver the contract.
70. Quality and social value scoring (by lot) will remain constant, but any referential discounts for winning of multiple lots will be combined to show which combination of lots will achieve best value for the council against the evaluation and will be that to be recommended to be awarded the contract(s) with the lowest prices for the council to deliver all three lots awarded the highest price score. The evaluation criteria for the framework agreement will be the same as set out above.

Development of the tender documentation

71. The project team consists of appropriate officers from finance, legal and procurement departments to assist the Parks and Leisure Teams by providing suitable technical expertise and governance. The project team are responsible for ensuring all documentation has been produced and approved for the final tender packs. The project team meet, as a minimum, on a monthly basis. The documents are reviewed at these meetings. The specification and ITT documents are being developed by the existing tree client team in conjunction with the project team.

Identified risks for the procurement

Table 2 – Identified risks for the procurement

No.	Risk	Risk rating	Description and mitigation
1	Abnormally low bids - There would be a risk of suppliers providing an unsustainably priced bid	Low	Robust evaluation of the pricing proposals will be conducted to ensure that the successful supplier can deliver sustainable services to the required volumes and desired quality.
2	Exceptionally high bids - There is a risk that bidders will submit unacceptably	Medium	Robust evaluation and reviews of the pricing tender submissions

No.	Risk	Risk rating	Description and mitigation
	high bids.		Challenge bidders understanding of contract pricing.
3	Insufficient resource - Not having the appropriate resource to deliver this project could result in delays or even stop this project. Not providing this service would leave the council vulnerable	Low	Appropriate resources have been identified to ensure this procurement is resourced correctly.
4	Poor supplier response - A poor response resulting in few suppliers presenting submissions undermines the procurement and limits the council's choice of suppliers.	Low	Workshop sessions for bidders will be held to inform potential suppliers and promote the procurement to the market. These workshops will include messaging about interest in receiving bids from smaller organisations. Lotting strategy set up to be inclusive of both small and large businesses. Establishment of the framework provides the dual benefit of a mechanism to deal with work volume contingency/poor performance to avoid future backlog.
5	Failure of Suppliers (financial security) - Tree maintenance suppliers working within low margins are at financial risk when systemic problems arise.	Low	Tender evaluation methodology will provide reassurance of bidders' financial security, reducing risk to the council
6	Insufficiently robust specification - Poor specification results in contracted services not being fit for purpose to meet the council's requirements.	Low	Development of a clear specification, alongside, effective specialist workshops to identify requirements of the service and mitigate risks in terms of public safety and escalated costs.
7	Delays to procurement programme Procurement programme is delayed	Low	Resources are identified, tender and contractual documentation is in advanced format - this has been built into the timetable.

Key / Non Key decisions

72. This report is a key decision.

Policy Implications

73. The Borough Plan 2020-22 sets out a series of commitments across six themes:

- A place to call home
- Climate Emergency
- A green and fair economic renewal
- Tackling health inequalities
- A great start in life
- Southwark Together

74. An effective tree service provision is linked to a number of the themes in the Borough Plan through specific commitments set out below.

75. The council will:

- Make Southwark carbon neutral by 2030
- Plant 10,000 new trees
- Make nature accessible to all
- Halve emissions by 2022
- Make council homes greener
- Improve air quality

Procurement Project Plan (Key Decisions)

Activity	Complete by:
Gateway 1 decision on the Forward Plan	July 2021
DCRB Review Gateway 1	4 Aug 2021
Brief relevant cabinet member (over £100k)	18 Aug 2021
CCRB Review Gateway 1	19 Aug 2021
Deadline for reports to Agenda Planning	23 Aug 2021
Agenda Planning	31 Aug 2021
Deadline for reports submission for Cabinet	2 Sep 2021
Approval of Gateway 1: Procurement strategy report	14 Sept 2021
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	29 Sep 2021
Completion of tender documentation	30 Sep 2021

Activity	Complete by:
Invitation to tender	1 Oct 2021
Closing date for return of tenders	15 Nov 2021
Completion of any clarification meetings/presentations/evaluation interviews	15 Dec 2021
Forward Plan (if Strategic Procurement Gateway 2)	31 Dec 2021
Completion of evaluation of tenders	15 Jan 2022
DCRB Review Gateway 2:	2 Feb 2022
CCRB Review Gateway 2	10 Feb 2022
Notification of forthcoming decision	21 Feb 2022
Approval of Gateway 2: Contract Award Report	1 March 2022
End of scrutiny Call-in period and notification of implementation of Gateway 2 decision	15 March 2022
Debrief Notice and Standstill Period (if applicable)	31 March 2022
Contract award	1 April 2022
Add to Contract Register	1 April 2022
Place and aware notice on Find an tender service	1 April 2022
Place award notice on Contracts Finder	1 April 2022
Mobilisation period	1 Apr – 4 Jul 2022
Contract start	4 July 2022
Contract Completion Date- framework and contracts agreement	3 July 2026
Contract End Date - (if extension(s) exercised only for recommendation 1)	3 July 2028

76. As noted in recommendation three, approval is being sought to delegate the Gateway 2 (award) decision to the Strategic Director of Environment and Leisure in consultation with the Strategic Director for Finance and Governance and the Cabinet Member for Transport, Parks and Sport. As shown in the procurement project plan, award of the contract is expected in April 2022, at a time which coincides with the local government elections. Delegating approval to the strategic director will ensure that the contract timelines can be awarded and mobilised for the start date of July 2022 without being interrupted by pre-election or the election.

TUPE/Pensions implications

77. The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) are likely to apply to this proposed procurement exercise. The appointment of potential suppliers for the existing tree maintenance service could potentially amount to a service Provision Change under TUPE.

78. The extent of the application of TUPE and its implications will depend on a number of factors and will be considered during the proposed procurement exercise. These will be reported in the Gateway 2.
79. TUPE may also apply to any incumbent and new supplier, if that is the outcome of the tender, and in which case may result in the transfer of staff from one supplier to the other and/or their sub-contractors.
80. The procurement project timetable will need to include sufficient timelines to ensure that the council and any affected supplier(s) are able to comply with legal obligations that could potentially arise in respect of TUPE.

Plans for the monitoring and management of the procurement process

81. The project to put the new arrangements in place will be managed by the Parks and Leisure Team with significant input by colleagues from the Waste and Cleansing Team.
82. The project will be monitored by the Tree Project Board consisting of key stakeholders from across the council such as
 - HR
 - Legal
 - Procurement
 - Finance
 - Marketing and Communications
 - Insurance
83. The project board will be reporting progress against key milestones and updating on key risks and issues with recommendation for mitigation to the Tree Sponsorship Group which is chaired by the Strategic Director for Environment and Leisure.
84. The contracts will be let and managed by the Parks and Leisure division.
85. Key performance indicators (KPI's) will be set and challenged to ensure the successful contractor's performance is to the required standard and remains consistently so throughout the life of the contract.
86. Poor performance will be identified early and reported to the Tree Project Board. Strict and swift measures will be included within the contract documentation and specification to make clear the council's expectations on service quality and the implications of not delivering to those standards.
87. The client team will review all applications for payment and monitor and administer defaults and recovery of costs for poor performance.
88. Monthly progress meetings, to be attended by officers will be arranged and recorded to review performance and compliance.

89. Annual performance reviews will be submitted to departmental contract review board (DCRB) and corporate contract review board (CCRB) in line with Contract Standing Orders.

Community, equalities (including socio-economic) and health impacts

Community impact statement

90. As set out under the Equality Act 2010 and the Public Sector Equality duty (PSED) an equalities impact assessment was considered during the development of the service options and is attached as appendix 1. There is no clear, detrimental impact to any group or protected characteristic as outlined in the Equality Act or the PSED.
91. Trees benefit our communities and the environment in a number of ways: improving air quality, reducing urban temperatures through shading and evapotranspiration, mitigating climate change, reducing noise and calming traffic, managing flood risks, supporting biodiversity and improving health and wellbeing. The service options present a framework of delivery to achieve the benefits above, minimising risks to Southwark.
92. A clear determination regarding the service's future direction is likely to have a positive impact on communities. By maintaining a healthy, protected and sustainably managed tree stock the service outcomes will contribute significantly to the health, safety and wellbeing of Southwark residents and visitors.
93. It is recognised that trees must be well maintained to ensure they do not have a detrimental impact on the community. Risks and concerns include: falling trees, obstructed pavements and examples of unreasonable tree related nuisance.

Equalities (including socio-economic) impact statement

94. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider socio economic benefits that may improve the wellbeing of the local area can be secured. The details of how social value will be incorporated within the tender are set out in the following paragraphs.
95. The council expects suppliers to consider the additional benefits of social value to be delivered, this must support the social, economic or environmental well-being of Southwark and its residents and specifically support the delivery of the council's Fairer Future commitments and policies. Key areas of social value commitments include:
- Apprenticeships
 - Job creation
 - Work placement opportunities

- Payment of London Living Wage where appropriate
 - Environmental and sustainability considerations including the council's climate change strategy
 - Health and wellbeing considerations.
96. Requirement for suppliers to comply with the council's Safer Lorries, Safer Cycling Pledge including the Fleet Operator's Recognition Scheme in line with the council's standards, where appropriate.

Social considerations

97. The successful supplier will be required to demonstrate that they offer their staff and contractors guaranteed hours (and do not employ them on harmful zero hours contracts), they operate an Equal Opportunities Policy, comply with the provisions of the Equalities Legislation and the Employment Relations Act 1999 (Blacklists) Regulations 2010, and make guidance or policy documents concerning how the organisation embeds equality and diversity available to employees / subcontractors, recognised trade unions or other representative groups of employees.
98. An equalities impact assessment has been undertaken (appendix 1). Social considerations are to be built into the process for delivering the recommended option and will be reported in the Gateway 2 reports.
99. However, any supplier appointed would need to:
- guarantee the London Living wage for both its own staff and any subcontractors used
 - follow all relevant standard provisions on blacklisting
 - follow the standards for financial transactions and payment windows for their entire supply chain
 - make every effort to reflect the council's fairer future principle by 'looking after every penny as if it was our own'
100. Apprenticeships/internships
- Suppliers would need to engage with Southwark Council's apprenticeship model.
 - There are potential opportunities to introduce apprenticeship schemes in to the in house planting team as part of remodelled provision.
 - Apprenticeships can be encouraged with external contractors through the quality assessment criteria of the procurement process.
 - New apprenticeships will soon be available at levels 4 and 6 (ABC) for roles in the client team which should be explored in future recruitment processes.
101. Community engagement - Opportunities for community engagement are enhanced through in house delivery of the tree planting programme in terms of consultation, participation, volunteering and education. This approach is

complimentary to broader Southwark employment and climate change initiatives, such as the Green New Deal.

102. Officers will also be working with local tree conservation groups and community tree stakeholders to establish how they might want to be engaged with in relation to the new services and contractors and to develop a mechanism by which they are able to hold the council and contractor accountable in relation to performance. Officers would then look to formalise the outcome of those discussions so that the council can share progress with delivering the Tree Management Policy, progress in terms of tree planting targets and give groups the opportunity to work collaboratively with the council on caring for and protecting the borough's tree stock for the future.

103. Internal staff impacts

- Impacts on the existing workforce will be fully considered at each stage of the Gateway process. This will include a transparent consultation process with both staff and the unions.
- Staff will be supported through the general process to enable individuals to make objective decisions around their future.
- Where applicable, staff will be prepared for a potential TUPE transfer
- Staff will have the opportunity to feed into the design of service arrangements through the transition period.

Economic considerations

104. Fairer Future Procurement Framework and the economic and social benefits to Southwark will be considered and weighted as part of the procurement process and the criteria for award in line with this policy.

105. The council is an officially accredited London Living Wage (LLW) Employer and is committed, to ensuring, where appropriate, contractors and subcontractors engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. It is expected that payment of the LLW by the successful contractor for these contracts will result in quality improvements for the council. These should include a higher calibre of staff that will contribute to the delivery of services on site and it is therefore considered that best value will be achieved by including this requirement. It is therefore considered appropriate for the payment of LLW to be required.

106. The successful contractors will be expected to meet LLW requirements and contract conditions requiring the payment of LLW will be included in the tender documents. As part of the tender process, bidders will also be required to confirm how productivity will be improved by payment of LLW. Following award, these quality improvements and any cost implications will be monitored as part of the contract review process.

Health impact statement

107. Southwark's trees are maintained to reduce incidences of predictable failure ensuring a safe environment for its residents, workers and visitors.
108. Trees intercept and remove polluting particulates from the air and sequester and store carbon.
109. Trees are known to contribute positively to people's mental wellbeing and quality of life.
110. Research demonstrates that trees and other green assets can have a positive influence in recovery rates following ill health.

Climate change implications

111. The new contracts will as far as is reasonable work towards delivering on the aims and objectives of the council's Climate Emergency Strategy.
112. The new contracts and service provision will adhere to industry best practice on sustainability and green waste arising from tree maintenance works will be recycled and re-used in the borough whenever possible.
113. The contracts specifications will demand the latest Euro standard engines on new fleet in this contract, and encourage more sustainable forms of transport where this is feasible.
114. Throughout the tender process the appointed suppliers will be required to agree to adhere to the following:
 - not to use single use plastic and to use recycled paper where practical
 - encourage the use of low emission vehicles and the minimisation of journeys
 - report on the suppliers energy use, water consumption and CO2 emissions to ensure the industry standards are adhered to
 - all new equipment will be low energy rated to meet current regulations
 - ensure that all recyclable packaging will be set aside and disposed of via a recycling centre
 - ensure that no hazardous materials will be used
 - Proactively assisting the council achieve its carbon neutral target.

Staffing/procurement implications

115. Resource to deliver this procurement is being contained within existing resources of the Parks and Leisure Team with assistance from the Waste and Cleansing team, legal, finance and procurement teams.
116. In relation to staff members affected by the proposed service changes, Officers leading the transition would seek to maximise support for staff through the process. Examples of support and opportunity include:

- Potential opportunity (for some) to move into the new tree planting team.
- Potential for management enhancement to the existing client team - bringing lived experience of operational work / contract monitoring etc.
- Support to find other opportunities in the Council, if staff do not wish to transfer to transfer (subject to TUPE law etc.).
- For staff that do transfer, ensuring full support through the TUPE transfer process.

Financial implications

117. The future tree service will be funded by both revenue and capital, with the tree works contract and client team funded through revenue budgets, and the tree planting programme funded via capital budgets.

Revenue

118. It is likely that there will continue to be a shortfall in the current revenue budget available currently £1,430,202 per year which will need to be addressed as part of the council's annual budget setting process this winter for the financial year 2022/23 when the external contracts are due to commence.

119. The future additional revenue requirements (estimated to be c. £820k) are based on the anticipated market price for the outsourced provision being in line with estimates, so revenue costs will not become definite until tenders are returned.

120. Although the project may proceed to tendering stage, award of the contract/s will only be done once all the required funding is fully secured. This will be addressed in the council's budget setting process for 2022/23.

121. Staffing and any other costs connected with this contract will need to be contained within existing departmental revenue budgets

Capital

122. Projected annual capital costs to deliver the tree planting programme are £1.12m. This cost includes the staffing costs of the planting team (8 staff and 1 Team Manager) which are capitalised posts at the cost of £430k.

123. The latest approved council's capital programme has a total provision of £4.6m as at April 2021 in "Additional Replacement Tree Planting" project out of which £4.1m is available, this provides for a four year planting programme.

124. The overall expenditure incurred against the capital allocation for the scheme will be monitored and reported as part of the capital programme management.

Investment implications

125. Investment in tree planting equipment and training will be required for the new tree planting team however that will be covered from the capital tree planting budget, see paragraph 123.

Legal implications

126. Please see concurrent from the Director of Law and Governance outlined in paragraphs 139-145.

Consultation

127. Pre engagement has taken place with both tree works team staff members and Unions leading up to the GW0 and leading up to the GW1.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (FC21/034)

128. This report seeks cabinet to approve the recommendations and the procurement strategy outlined in this report for the borough's tree works programme.

129. The strategic director of finance and governance notes that the capital costs associated with this contract will be contained within the approved departmental capital budgets as detailed in the financial implications.

130. The strategic director of finance and governance notes that based on the current anticipated market price for the proposed outsourced provision of the service, there is an estimated shortfall in revenue budgets of approximately £820k associated with this contract which will need to be addressed as part of the council's annual budget setting process for 2022/23.

131. It is also noted that all required funding will need to be confirmed before the contract is awarded.

132. Staffing and any other costs connected with this contract will need to be contained within existing departmental revenue budgets.

Head of Procurement

133. This report seeks the approval of Cabinet for the procurement strategy of undertaking a competitive tender process to establish a tree maintenance and emergency contract with up to three providers for Southwark's tree stock. The contract period is four years, with an option to extend for an additional period of up to two years. The estimated annual value is £2m, with an estimated total contract cost of £12m for the full term of the contract, estimated to start from July 2022.

134. Cabinet are also asked to approve the establishment of a framework agreement for tree maintenance for a period of four years. The framework will be open for use by all London boroughs from July 2022 as further detailed in paragraphs 59 and 60.
135. Cabinet are asked to note the proposed remodel of the current in-house tree maintenance team as part of the re-shaping of the council tree services.
136. The report sets out in paragraphs 27-30 the recommended options, with external procurement detailed in paragraphs 31-35. The procurement is subject to the Public Contract Regulations 2015 and will be let as a single stage, open procedure. The details of the proposed in-house team are set out in paragraphs 36-40.
137. The plans for the management and monitoring of the contracts once let are set out in paragraphs 81 to 89. London Living Wage would be payable under the contracts as confirmed in paragraphs 105 -106. Social value considerations are to be evaluated for the main Southwark contracts with 10% of the evaluation criteria allocated to this.
138. The Community Impact and Equality Impact Statements are in paragraphs 90-96 with an EQIA report attached to the report as Appendix 1. The Health Impact Statement and Climate Change Implications are in paragraphs 107-114.

Director of Law and Governance

139. This report seeks approval of the procurement strategy for the borough's tree works programme, as detailed within the recommendations in paragraphs 1 and 2. It also seeks approval of a refreshment of the Council's internal tree planting service as detailed at paragraphs 36-40 of the report.
140. Due to the nature, scope and estimated value of the services that the council requires their procurement is subject to the full application of the Public Contracts Regulations (PCR) 2015. As noted in the recommendations it is proposed to conduct a publicly advertised competitive tendering process, both for the purposes of procuring a contract for the delivery of tree maintenance and to establish a framework which can be used by the council (and other London boroughs on payment of an access fee) as necessary, and in particular for mitigating the risk of any service failure and clearing any backlog which may arise from time to time.
141. The proposed procurement process is described from paragraph 46 and meets the requirements of the PCR 2015 and the council's Contract Standing Orders (CSOs).
142. The procurement strategy described is in relation to a strategic procurement as defined in CSOs, which means that the decision to approve the report recommendations is one which is expressly reserved to the Cabinet, after consideration of the report by the corporate contract review board.

143. This report notes the high likelihood that TUPE will apply to the new arrangements for the reasons discussed at paragraphs 77-80. While the full extent of the application of TUPE is unknown at this stage, further detail will be made available for the Cabinet's consideration in the Gateway 2 report.
144. The report notes that sufficient time will be required to ensure the Council and any affected supplier(s) are able to comply with legal obligations that could potentially arise in respect of TUPE.
145. In making procurement decisions Cabinet should be mindful of the Public Sector Equality Duty under section 149 of the Equality Act 2010, and to have regard to the need to (a) eliminate discrimination, harassment, victimisation or other prohibited conduct, (b) advance equality of opportunity and (c) foster good relations between persons who share a relevant protected characteristic and those who do not share it. The relevant characteristics are age, disability, gender reassignment, pregnancy and maternity, race, relation, religion or belief, sex and sexual orientation. The duty also applies to marriage and civil partnership but only in relation to (a). The community impact statement set out from paragraph 90 notes the consideration that has been given to equalities issues and advises that an equality analysis has been undertaken in order to measure the likely and actual effect and impact of the procured services on individuals and groups within the community, in particular those having a protected characteristic under the Act. Cabinet is also referred to paragraph 127 which confirms that affected staff and unions have been consulted about the proposed procurement strategy.

BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
Gateway 0 - Strategic options assessment for the future direction of the tree service	160 Tooley Street, London SE1 2QH.	Julian Fowgies Phone number 0207 525 0225
Arboricultural Services Options Appraisal – Options around future service provision.		
Links (please copy and paste into browser):		
https://moderngov.southwark.gov.uk/documents/s94282/Report%20Gateway%20-%20Strategic%20Options%20Assessment%20for%20the%20Future%20Direction%20of%20the%20Tree%20Service.pdf		
https://moderngov.southwark.gov.uk/documents/s94283/Appendix%20-%20Options%20Appraisal%20-%20March%20Cabinet.pdf		

APPENDICES

No	Title
Appendix 1	Future Direction of Tree Service – Equality Impact Assessment

AUDIT TRAIL

Cabinet Member	Councillor Catherine Rose, Transport, Parks and Sport	
Lead Officer	Toni Ainge, Director of Leisure	
Report Author	Tara Quinn, Head of Parks and Leisure	
Version	Final	
Dated	2 September 2021	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Human Resources	Yes	Yes
Director of Law and Governance	Yes	Yes
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		2 September 2021