

Item No. 19.	Classification: Open	Date: 18 July 2022	Meeting Name: Cabinet
Report title:		Gateway 2 - Contract Award Approval for the Borough's tree works programme	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Catherine Rose, Parks, Streets and Clean Air	

FOREWORD – COUNCILLOR CATHERINE ROSE – CABINET MEMBER FOR PARKS, STREETS AND CLEAN AIR

The management of trees forms a key part of our broader approach to tackling the climate emergency agenda. They form a significant part of Southwark's landscape and in addition to their environmental benefit they also impact on the quality of life of local residents. Maintaining trees safely is a key priority for the council and deemed essential in maximizing public safety, ensuring Southwark meets its duty of care obligations and managing corporate exposure to risk.

We manage 82,000 trees and are proud of Southwark's commitment to the "green agenda" and aspire to delivering an innovative and a fit for purpose service in this area which is both resilient, value for money and sustainable over the long term.

The proposed service combines a new strong, single in-house tree team leading on strategic policy, oversight and delivering tree works directly and through external suppliers, ensuring both upkeep and renewal of our tree stock remain at the forefront of what we do. We have a responsibility to develop a long-term service model that allows us to be flexible and responsive mitigating the risk of future works backlog.

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. Opportunities exist to secure a skill base and investment in partnership with contractors, within the borough to help support the local economy and wider demand for skilled tree personnel.

We have a stated ambition to plant more trees to meet the priorities and concerns of our residents, businesses and other stakeholders that care passionately about the environment in their local neighbourhood, parks, woodland and wider borough. The recommended approach secures our ability to work with volunteers and local area groups to identify, develop and deliver more tree planting across our borough and work to improve the levels of tree canopy cover

in our streets and roads, whilst also strengthening and enriching the bio-diversity and density of trees in our parks and green spaces.

RECOMMENDATIONS

1. That the Cabinet approves the award of the Southwark Arboricultural Maintenance Contract in three lots commencing on 03 October 2022 for an initial duration of four years at an estimated cost of £6,953,403 with an option for the council to extend for up to two further years at a cost of £3,476,702 making the total contract value of £10,430,105 if the two years extension is exercised to;
 - Lot 1 (North) – CSG Ushers Ltd (Tenderer A)
 - Lot 2 (Central) – Glendale Countryside Ltd (Tenderer B)
 - Lot 3 (South) – Glendale Countryside Ltd (Tenderer B)

BACKGROUND INFORMATION

2. This Gateway 2 Contract Award Approval Report relates to the Gateway 1 Procurement Strategy Approval Report for the Borough's Tree Works Programme that was approved by Cabinet on 7 December 2021 (see background documents).
3. The Gateway 1 report and the corresponding Gateway 0 report (see background documents) approved the retention of the in-house tree maintenance team and proposals to combine it with the in-house client team, to form a single, cohesive and comprehensive in-house team to manage the Borough's significant tree stock.

Statutory and legal requirements

4. Public safety is of paramount importance and needs to be balanced with the environmental and amenity benefits trees provide. Southwark has a "Duty of Care" to manage its trees responsibly.
5. 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.
6. 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.

Summary of the business case/justification for the procurement

7. As detailed above in paragraph three, in July 2022 the tree client team and works team (formally Environment) were merged under the Leisure directorate following the requisite period of consultation with staff and unions.
8. As set out in the corresponding GW1 paper, since 2018 the borough has externally procured the majority of tree maintenance work in support of work programmes issued internally to Southwark's in-house team. Previously this was undertaken through the gateway process and is currently processed through a framework arrangement managed by public sector procurement specialists Exceeding/Constellia via separate gateways in November 2021.
9. The framework has been a successful mechanism for delivering the completion of backlog works in the interim period, however it was not available at the time the corresponding GW1 paper was drafted therefore it has not been considered for use in a business as usual climate.
10. The newly combined tree service will continue to process emergency, high risk and ad hoc works and service a routine maintenance insurance mitigation programme borough-wide delivering high quality outcomes for the borough's residents, businesses and visitors.
11. The supporting tree maintenance contracts will replace the programmes currently procured under the framework arrangement in order to process the majority of work produced by condition surveys and ad hoc inspections on an annual basis.

OPTIONS AND CONSIDERATION

12. In December 2021 the GW1 paper was approved by Cabinet with officers advertising the contracts through the contracts finder website and issuing an Invitation to Tender notice for the new contracts through the Procontract procurement portal in January 2022. The form of the contracts is described in paragraphs 14-23.
13. During the period of procurement it was decided to continue the issue of emergency and high risk works to the in-house tree team whilst utilising the framework to process high volume backlog works in order to manage risk in a descending hierarchy of priority (as outlined above in paragraphs 8-11).

Description of procurement

14. The contract form was agreed with a term of 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 contracts are performing well and meeting the desired outcomes.
15. As per the Gateway 1 report, the contract consists of three tree maintenance lots reflective of the three geographical areas; North, Central and South.
16. The contract(s) include the provision of an emergency call out service for contingency, storm events and business continuity purposes. However, the main service in this regard will continue to be provided by the in-house tree team and supplemented by the framework mechanism on an as required basis (see paragraph 19 for further detail).
17. Suppliers were able to bid for all three lots, however no single supplier shall be awarded more than two lots. Those bidding were able to express a preference for their preferred lot. This approach was chosen to provide choice for the market, and demonstrate whether best value for money can be achieved by suppliers having more than one lot ensuring a level of balance between achieving value for money and having a number of available suppliers is in place to manage capacity, risk and mitigate the potential for the build-up of backlog works. This approach is advantageous in providing optimum business resilience and contingency options.
18. This approach was sought to provide maximum flexibility for the market to attract smaller, local providers, as well as larger arboricultural firms. The main focus of external contractors will be undertaking work generated through planned tree inspections, covering various tree pruning operations. The work undertaken by the in-house team will cover tree felling, priority ad-hoc tasks, sensitive works, insurance cyclical pruning, stump grinding and emergency call outs.
19. In line with the Public Contract Regulations, and the corresponding GW1, utilisation of a framework agreement (Exceeding/Constellia) has been approved and will provide additional risk mitigation should a service failure occur. Originally the intention was to set up a framework agreement, however since drafting the GW1 report this previously unknown mechanism emerged and has already been put to use in processing backlog works.

Estimated contract value

20. Price estimates for external works were based on the costs of works being procured to deal with the tree works backlog programme back in 2020/21. At that time Brexit and COVID-19 were key considerations and contingency in this regard was built in.

21. Budget estimates were based on a combination of individual schedule of rate items (SOR's) multiplied by estimated frequencies, which in turn were based on their average use for the entire service over a three year period.
22. The financial estimates for the contract were that each of the three lots, north, central and south of the borough were approximately £500k pa in total.
23. Since the estimated lot values were calculated it has become apparent that costs associated with Brexit and the inflationary climate have fed through to the market and increased potential running costs for suppliers hence the differential between the above estimates and the tendered prices.

Key / Non Key decisions

24. This is a key decision.

Procurement project plan (Key Decision)

25. Table 1 – Procurement project plan

Activity	Completed by/Complete by:
Forward Plan (If Strategic Procurement) Gateway 2	31/05/2022
Briefed relevant cabinet member (over £100k)	16/06/2022
Approval of Gateway 1: Procurement Strategy Report	07/12/2021
Invitation to tender	24/01/2022
Closing date for return of tenders	07/03/2022
Completion of evaluation of tenders	06/06/2022
DCRB Review Gateway 2:	15/06/2022
CCRB Review Gateway 2:	16/06/2022
Notification of forthcoming decision – despatch of Cabinet agenda papers	01/07/2022
Approval of Gateway 2: Contract Award Report	18/07/2022
End of Scrutiny Call-in period and notification of implementation of Gateway 2 decision	01/08/2022
Standstill Period (if applicable)	10/08/2022
Contract award	10/08/2022
Add to Contract Register	12/08/2022
TUPE Consultation period (if applicable)	30/09/2022
Contract start	03/10/2022

Activity	Completed by/Complete by:
Publication of award notice in Find a Tender Service	12/08/2022
Publication of award notice on Contracts Finder	12/08/2022
Contract completion date	08/10/2026
Contract completion date – if extension(s) exercised	08/10/2028

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

26. The key objectives identified in the procurement strategy will be delivered in lots as detailed below:
- Lot 1 (North) – CSG Ushers Ltd (Tenderer A)
 - Lot 2 (Central) – Glendale Countryside Ltd (Tenderer B)
 - Lot 3 (South) – Glendale Countryside Ltd (Tenderer B)
27. The contracts are JCT Term Service Contracts with minor amendments to suit Southwark arboricultural requirements to include a pricing schedule and other key documents.

Policy implications

28. 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.
29. An effective tree service provision is linked to a number of the themes in the Borough Plan through specific commitments set out below.
30. 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.

Tender process

31. This followed an Open Procedure as set out by the PCR 2015, with tenderers asked to submit a Selection Questionnaire (SQ) alongside their tender proposals. The SQ was assessed prior to the tenderer's proposals being evaluated with the evaluation panel assessing the capacity, capability and experience of the supplier to provide these services.
32. Evaluation of bids were conducted following evaluation criteria weightings of 55% price, 35% quality and 10% social value considerations.
33. Each tenderer's price was 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 recommended to be awarded the maximum scores for the price evaluation; the other tenderers' scores will be based on a percentage of that score.
34. The quality element of the tender evaluation was scored 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.
35. The questions required bidders to explain how they intend to deliver the services. The responses submitted by the winning tenderers will form part of their contract.
36. The quality evaluation was carried out independently by an evaluation panel. Each question was scored independently by each member of the evaluation panel from 0 to 5. Once each question was scored the appropriate weighting was applied to each score.
37. Following this a quality moderation meeting was chaired by an officer who did not independently score the quality submissions, and attended by all officers who have independently scored the quality and social value submissions. At this meeting a consensus score was agreed to ensure consistency in the scoring methods. The consensus scores were then weighted as defined in the tender documents and were added together to produce the final quality score for that tender.
38. The price score and the quality score were then added together to produce an overall score for each lot.

39. Tenderers were invited to bid for any or all three lots but could win a maximum of two lots, which would result in the appointment of two or three successful contractors. Quality and social value scoring (by lot) remained constant, but any referential discounts given against pricing for winning two lots were evaluated to show which combination will achieve best value for the delivery by the council of the contracts. This criteria was then used to allocate pricing scoring against the evaluation with this information being used to recommend the award of the contract(s).

Tender evaluation

40. The price, quality and social value for each tender was evaluated using the weightings listed below:

- Price 55%
- Quality 35%
- Social value 10%

41. Each tender submission for each lot was checked for compliance in accordance with the ITT Evaluation Criteria document.

42. The quality submissions were issued to each of the quality assessors. These submissions were individually scored by each assessor. A consensus quality score meeting was held where the quality score for each tenderer was agreed.

43. Four tender returns were received however only three bidders progressed to the quality & price evaluation stage, with one bidder failing a mandatory requirement. Of the remaining bidders, two tenderers bid for two lots each, and one tenderer bid for one lot only.

44. The remaining three bidders scored reasonably evenly in terms of quality. There was some disparity of the social value scoring, however no significant differentials in the total quality and social value scores. This was not surprising given that all three bidders were established industry providers.

Table 2 – Summary of tender evaluation (Price, quality & Social Value)

Scoring	LOT1-3 Evaluation	
Tenderer	Tenderer A	Tenderer B
Total points for price (out of 55)	33.9	55.0
Total points for quality (out of 35)	31.0	33.0

Scoring	LOT1-3 Evaluation	
Tenderer	Tenderer A	Tenderer B
Total points for social value (out of 10)	9.1	9.3
Grand total Point (out of 100)	74.1	97.4
Ranking	2	1

45. Tenderer B achieved the highest scoring with the application of their referential discount for two lots preferencing Lots B and C in combination. Tenderer A achieved the second highest score bidding for one lot only (preference stated for Lot A).
46. Therefore, the recommendation is to award the lots at maximum value detailed below:
- Lot 1 (North) – CSG Ushers Ltd (Tenderer A)
 - Lot 2 (Central) – Glendale Countryside Ltd (Tenderer B)
 - Lot 3 (South) – Glendale Countryside Ltd (Tenderer B)

Total annual contract value = £1,738,351

47. The original contract estimates assumed maximum volumes of work based on historic outputs. It is anticipated that previously estimated volumes will not be realised and as such actual spend will be in the region of the original contract estimate of £1.5m.

Plans for the transition to the new contract

48. As previously described for the procurement period, the plans for issuing high priority works to the in-house team and procuring other works at volume through the framework mechanism will continue through the mobilisation period from the contract award to commencement (August-October 2022).
49. There are currently no anticipated TUPE implications associated with the recommended contract awards, but this will be kept under review and appropriate steps taken to manage individual instances that may arise.
50. Mobilisation Plans will be developed with suppliers to allow for sufficient time for the parties to comply with their respective obligations plans for monitoring and management of the contract.

Plans for monitoring and management of the contract

51. The contracts will be managed by officers from the Trees and Ecology Team (Parks and Leisure).
52. A series of Key Performance Indicators (KPIs) have been developed within the Performance Mechanism to apply to each lot and will be used to measure the suppliers' performance.
53. In addition to the KPIs the suppliers will report their social value performance with the required evidence within the required Annual Performance Report that will be presented as required by Contract Standing Orders.

Identified risks for the new contract

54. Table 3 – Risks

No.	Risk	Risk rating	Description and mitigation
1	Successful challenge to award decision	Medium	Measures were taken to ensure the procurement was carried out in line with UK regulations and guidance. The evaluation methods were clearly identified within the procurement documents and the evaluation was carried out as laid out in the tender documents.
2	Insufficient client resourcing of contracts (budget & staffing) - having the appropriate resource to service the contracts could result in delays/stop this project. Not providing this service would leave the council vulnerable to risk	Low	Appropriate resources have been identified to ensure the contracts are resourced correctly. A commensurate budget uplift capable of servicing the contracts has been applied. All client officer roles within the service structure required to manage the contract have been permanently filled.
4	Failure of suppliers to pay LLW to contracted and sub-contracted staff	Low	Paying London Living Wage (LLW) is a contractual requirement in the Conditions of Contract to include all contracted and sub-contracted staff.
5	Failure of suppliers to ensure financial security in the context of inflationary, Brexit and COVID-19 challenges	Medium	From Contract year 2 (October (2024) in a rolling annual basis an inflationary contract uplift based on an indexation calculation approved by the client will apply.

No.	Risk	Risk rating	Description and mitigation
			The percentage price adjustments will apply across the price list.

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

Community impact statement

55. 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.
56. 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.
57. 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.
58. 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

59. 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.
60. 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.

61. The 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 is needed, where appropriate.

Health impact statement

62. Southwark's trees are maintained to reduce incidences of predictable failure ensuring a safe environment for its residents, workers and visitors.

63. Trees intercept and remove polluting particulates from the air and sequester and store carbon.

64. Trees are known to contribute positively to people's mental wellbeing and quality of life.

65. Research demonstrates that trees and other green assets can have a positive influence in recovery rates following ill health.

Climate change implications

66. The new contracts will as far as is reasonable work towards delivering on the aims and objectives of the council's Climate Emergency Strategy.

67. 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.

68. 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.

69. 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 to achieve its carbon neutral target.

Social Value considerations

70. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the wellbeing of the local area can be secured. The social value considerations included in the tender (as outlined in the Gateway 1 report) are set out in the following paragraphs in relation to the tender responses, evaluation and commitments to be delivered under the proposed contract.

Economic considerations

71. Fairer Future Procurement Framework and the economic and social benefits to Southwark has been considered and weighted as part of the procurement process and the criteria for award in line with this policy.
72. The council is an officially accredited London Living Wage (LLW) Employer and is committed, to ensuring, 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.

Social considerations

73. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, development partners engaged by the council to provide services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. Both Tenderer A and Tenderer B have confirmed they and their sub-contractors, comply with these requirements.
74. Through the Selection Questionnaire process both successful tenderers demonstrated that they acknowledge and meet the legal requirements around an individual's rights to be members of trade unions.
75. Through the tender process both successful tenderers advised of their commitment to equal opportunities within the arboricultural services industry when delivering these services.
76. Both successful tenderers confirmed their compliance with the council's policy on gender and ethnicity pay gaps as detailed within their Fairer Future Procurement Framework submissions.

Apprenticeships/internships

77. Through Social Value submissions both tenderers have set out their commitments to providing a minimum of two full-time apprenticeships annually paid above the national scale and for the full term of the contract.
78. Both tenderers have set out their commitments to engage with local schools in order to provide at least two work placements/internships in the summer months.

Local employment opportunities and use of local suppliers

79. Both tenderers have confirmed through Social Value submissions that new roles associated with the contracts are to be advertised locally and local suppliers used where possible.

Community engagement

80. 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.
81. All social value commitments as described above will be measured against actual achievements in Annual Service Review reports produced by the service providers as part of the requirements of the Performance Schedule.

Environmental/Sustainability considerations

82. The services will be provided with consideration for Environmental and Sustainability impacts. Both successful tenderers have set out their environmental and sustainability commitments through the relevant Quality method statement submissions in relation to the following areas:
 - Environmental policies
 - Environmental impacts and audits (monitoring and measurements)
 - Water conservation
 - Recycling
 - Biodiversity
 - Reducing carbon emissions
 - Contract waste
 - Procurement of supplies
 - Training, awareness and competence

- Operational management
- Non-conformance and corrective and preventive action plans.

Market considerations

83. Both Tenderer A and Tenderer B provide arboricultural services to a number of London Boroughs including term and framework contracts.

Staffing implications

84. In line with the Gateway 0 and Gateway 1 reports the current in-house client and operational teams have been merged within the Parks and Leisure Division.
85. There are currently no TUPE (The Transfer of Undertakings (Protection of Employment) Regulations 2006) implications associated with this recommendation as there are no anticipated changes to service provision from the existing arrangements. However, as indicated at paragraph 49 of the report, should individual instances arise these will be addressed in line with the requirements of the Regulations.

Financial implications

86. The estimated gross cost of this Gateway 2 is £6.953m (£1,738k per annum) for the 4 year contract and a further £3.477m if the 2 year extension is exercised. This brings the total estimated cost for the 6 year period to £10.43m.
87. The proposed contract can be contained within the Tree Team's approved revenue budgets.

Investment implications

88. There are no investment implications in this report.

Legal implications

89. Please see concurrent from the Director of Law and Governance.

Consultation

90. Engagement was undertaken with both tree service staff members and unions leading up to the associated GW0 and GW1 papers and their processes.

Other implications or issues

91. None.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (EL22/026)

92. This report seeks the Cabinet to approve the award of the Southwark Arboricultural Maintenance Contract in three lots commencing on 03 October 2022 for an initial duration of four years at an estimated cost of £6,953,403 (i.e. £1,738,351 annually) with an option for the council to extend for up to two further years at a cost of £3,476,702 making the total contract value of £10,430,105 if the two years extension is exercised to;
- Lot 1 (North) – (Tenderer A)
 - Lot 2 (Central) – (Tenderer B)
 - Lot 3 (South) – (Tenderer B).
93. The Strategic director of finance and governance notes the financial implications and understands that the ongoing cost implications will be contained in the Tree Team's revenue budget.
94. Staffing and any other future maintenance costs connected with this contract will need to be contained within existing departmental revenue budgets.

Head of Procurement

95. This report seeks the approval of Cabinet for the award of the Southwark Arboriculture Maintenance Contract in three contract lots. These contracts will commence on 3 October 2022, for an initial duration of four years. The estimated annual cost of the contracts is £6,953,403. Each contract has an option for the council to extend it for up to two further years at an estimated additional two-year cost of £3,476,702. If exercised, the total contract value of all three contracts for six years is estimated to be £10,430,105. The three contracts are to be awarded with their geographical lot to: CSG Ushers Ltd in the North of the borough, and to Glendale for lots 2 and 3 that cover the central and south areas of the borough.
96. The detail of the procurement process and evaluation that took place is within paragraphs 31-47 of the report. The contracts will pay London Living Wage (LLW) as confirmed within paragraph 72 of the open report. The Community, Equalities, Health and Climate Change Impact Statements are within paragraphs 55-69 of the open report.
97. The plans for the management and monitoring of the contracts are set out within paragraphs 51-53 and the risks are set out in table 3 in paragraph 54 of the open report.

Director of Law and Governance

98. This report seeks approval of the award of the Southwark Arboricultural Maintenance Contract in three lots as further detailed in paragraph 1.
99. Due to the nature, scope and estimated value of the maintenance services that the council requires their procurement is subject to the full application of the Public Contracts Regulations (PCR) 2015. This report confirms at paragraph 12 and from paragraph 31 that officers have conducted a publicly advertised competitive tendering process, following the Open Procedure prescribed by the PCR.
100. It is confirmed that the competitive process undertaken is also consistent with the council's Contract Standing Orders (CSOs).
101. Legal advice has been provided to the project team throughout the procurement exercise, in particular in connection with the tender clarification process and the extent to which the TUPE Regulations may apply upon the award of the proposed contract lots. The TUPE related implications are summarised at paragraph 86 and the procurement timetable is sufficiently flexible to ensure that the council and the affected contractors are able to comply with legal obligations that could potentially arise in respect of TUPE.
102. The proposed contract awards are in relation to a strategic procurement as defined in the 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.
103. 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, religion, 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 55 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 91 which confirms that affected staff and unions have been consulted from an early stage about the procurement strategy.

BACKGROUND DOCUMENTS

Background documents	Held At	Contact
Gateway 0 - Strategic options assessment for the future direction of the tree service Arboricultural Services Options Appraisal – Options around future service provision.	160 Tooley Street, SE1 2QH.	Julian Fowgies Phone number 0207 525 0225
Link (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		
Gateway 1 - Procurement Strategy Approval for the Borough's Tree Works Programme	160 Tooley Street, SE1 2QH.	Julian Fowgies Phone number 0207 525 0225
Link (please copy and paste into browser): https://moderngov.southwark.gov.uk/documents/s103359/Report%20Gateway%20-%20-%20Procurement%20Strategy%20for%20Tree%20Services.pdf		

APPENDICES

No	Title
Appendix 1	GW1 – Future Direction of the Tree Service Equality impact Assessment

AUDIT TRAIL

Cabinet Member	Councillor Catherine Rose, Parks, Streets and Clean Air	
Lead Officer	Toni Ainge, Director of Leisure	
Report Author	Tara Quinn, Head of Parks and Leisure	
Version	Final	
Dated	5 July 2022	
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
Director of Law and Governance	Yes	Yes
Director of Exchequer (for housing contracts only)	No	No
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		5 July 2022