

Subject: Brighton and Hove City Council Provision of
Arboricultural Services

Date of Meeting: 12th June 2014

Report of: Executive Director Environment, Development &
Housing

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Wards Affected: All

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT:

1.1 This report seeks approval for the procurement of a contract to provide for arboricultural services within Brighton & Hove.

2. RECOMMENDATIONS: That Policy and Resources Committee:

2.1 Approves the procurement of a contract for arboricultural services in Brighton & Hove with a term of three (3) years from 1 February 2015 to 31 January 2018 and an option to extend for a further two years to 31 January 2020;

2.2 Grants delegated authority to the Executive Director Environment, Development and Housing –

(i) to carry out the procurement of the contract referred to in 2.1 above including the award and letting of the framework agreement; and

(ii) to grant an extension to the contract referred to in 2.1 above of two years should he/she consider it appropriate at the relevant time.

3. CONTEXT/BACKGROUND INFORMATION:

3.1 The Council is statutorily responsible for maintaining the highway and the trees sited on the highway. Its highways contain approximately 12,000 trees and a high proportion of these form part of the internationally renowned National Elm Collection. The importance of elm trees is that they have specific Biodiversity Action Plan insect and lichen dependants. Unfortunately, millions of elm trees in the UK have died since the 1970s caused by Dutch Elm disease. The elm trees in the city, however, have resisted this devastating disease, primarily through a good sanitation programme instigated by the Council and an in-house team of arboriculturists. The Council's Arboricultural Service remains committed to containing Elm disease and extending the range of trees in the National Collection.

Thirty mature highway trees were lost during the adverse weather between October 2013 to March 2014. The trees had not been pruned for at least 4 years. Their crown sizes were large and there are indications that this was contributory to their collapse, lifting at ground level. These losses could have been prevented if effectively crown reduced according to the pruning rota. The unprecedented adverse weather restricted climbing and crown reduction operations, causing a set back of the pruning rota. This is now overdue and will benefit from a programme of tree pruning which would be implemented as part of the new contract.

- 3.3 The majority of the city's trees along highways have reached maturity. Mature trees are prone to dislocate from their restricted growing area. Tree movement by wind stimulates their roots to grip and 'anchor'. The action of this can cause serious ground disruption by lifting kerbs, paving, paths and utility pipes and is expensive to repair and it leads to insurance claims for damage. Reducing the size of trees in accordance with the pruning rota restricts their swaying motion and potential to dislocate underground services and structures, leading to fewer claims for damages.
- 3.4 Procurement of a new contract will continue to provide a timely crown reduction and sanitation programme to help reduce the number of mature tree deaths, claims and losses. If the tree pruning program is not renewed our mature highway tree population will diminish within a short period of time.
- 3.5 The proposed 3 + 2 year contract will stimulate a broader interest within the arboriculture industry, providing the confidence for interested private contractors to invest in appropriate equipment and staffing to ensure optimum service delivery.
- 3.6 Due to the proposed value of the contract which is £450,000 over 3 years, and a total of £750,000 over 5 years, the procurement would be subject to the full application of the EU Procurement regime. Officers from City Parks and Corporate Procurement will work closely to ensure a fully compliant process is undertaken, resulting in the best possible value for money for the Council.

4. ANALYSIS AND CONSIDERATION OF ANY ALTERNATIVE OPTION(S):

- 4.1 The Council's Arboricultural Service could potentially increase its capacity to accommodate the majority of tree which grow to towards the west half of the city the majority of which grow in Hove. However there is no available infrastructure or space to accommodate additional staff, machines, parking spaces and equipment with the necessary supervision and management. The current contract which enables both the Council and private contractors to work on the same tree stock stimulates a healthy and competitive environment. It is also a flexible and productive arrangement, especially when dealing with emergency situations.
- 4.2 The possibility of conducting a joint procurement and contracting exercise with neighbouring local authorities has been discussed. However due to concerns in relation to increased prevalence of tree disease (such as Dutch Elm Disease) in other areas, officers believe a single contract for Brighton and Hove to be the preferred option to concentrate upon the protection of the city's National Elm Collection.

5. COMMUNITY ENGAGEMENT AND CONSULTATION:

- 5.1 This is a contract for arboricultural services mainly on the Council's highway. Therefore the need to consult with external bodies is not applicable.

6. CONCLUSION:

- 6.1 It is imperative that the Council's provision for high quality pruning work by a private contractor continues as part of service expectations for its residents and highway users.
- 6.2 It is recommended that a 3 + 2 year term contract is offered. This term should stimulate broader interest over a wider range of contractors.
- 6.3 Additionally the possibility of a five year term is vital to build confidence and working relationships with the provider to provide a continual reliable service for the city's residents and highway users.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The recommended procurement process is subject to compliance with the councils Contract Standing Order and Financial Regulations. The procurement process will be prepared on a basis to maximise economy, efficiency and effectiveness and will therefore support achieving value for money.
- 7.2 The net TBM revenue budget for the arboriculture service in the 2014-15 financial year is £678k which includes a private contractor budget of approximately £151k. The financial implications of the recommendations will be dependent on the outcome of the procurement process. Any variation between the procurement value and the existing budget will be funded from existing revenue budgets.

Finance Officer Consulted: Steven Bedford

Date: 09/05/14

Legal Implications:

- 7.3 The Council, as a reasonable and prudent land owner, owes a duty of care to ensure the safety of the public when passing near trees on the highway. This duty closely mirrors the statutory duty owed under the Occupiers' Liability Acts. In addition, under the Highways Act 1980, the Council has a duty to cut or fell trees and shrubs that overhang the public highway, or cause danger.
- 7.4 The Policy & Resources Committee is the appropriate decision-making body in respect of the recommendations at paragraph 2 above, given that the value of the contract which is the subject of the proposed tendering exercise is likely to have corporate financial implications.

- 7.5 Further, the Council's Contract Standing Orders require that authority to enter into a contract valued at £500,000 or more be obtained from the relevant committee, which in this instance is the Policy and Resources Committee due to the value involved.
- 7.6 The value of the proposed framework means that the UK Public Contracts Regulations will apply in full to the procurement of the Framework Agreement. The tender will need to be advertised in OJEU. The tender will be scored on the criteria of quality and price as part of the evaluation process.

Lawyer Consulted: Johann Wylly Date: 9th May 2014

Equalities Implications:

- 7.7 There would be an expectation that the successful private contractor appointed would have an equalities policy which would be reviewed as part of the procurement process.

Sustainability Implications:

- 7.8 The successful private contractor would be expected to improve and contribute to the tree maintenance programme in terms of sustainable working and finding solutions to tree-related issues. This requirement will form part of the tender evaluation process, with information requested in relation to the reduction of any negative environmental impacts of the service.

Additionally, tenderers will be asked to provide information on their sustainability policy, environmental management systems and company history in relation to environmental legislation.

Crime & Disorder Implications:

- 7.9 No implications.

Risk & Opportunity Management Implications:

- 7.10 There are risks involved in failing to fulfil the Council's statutory duty as Highway Authority to maintain the trees on the public highway, and to prevent danger to the public from trees on the highway. Failure to maintain those highway trees and to reduce the risks from them will have adverse effects, leading to increasing rates of deterioration and associated risk of increasing claims in relation to health and safety, and other types of damage, such as damage to vehicles, which will mean increased insurance claims.

Corporate / Citywide Implications:

- 7.11 No specific implications.

SUPPORTING DOCUMENTATION

Appendices:

None

Documents in Members' Rooms

None

Background Documents

None