

LONDON BOROUGH OF BRENT

EXECUTIVE – 21st July, 2003

FROM THE DIRECTOR OF ENVIRONMENT

FOR DECISION

NAME OF WARD: ALL

REPORT TITLE : RETENDERING OF THE ARBORICULTURAL SERVICES CONTRACT

1.0 SUMMARY

- 1.1 This report concerns the maintenance of the Council's stock of highway trees and shrub beds. The report requests approval from the Executive for the tendering process leading to the award of an Arboricultural Services Contract commencing on 1st April, 2004.
- 1.2 The services to be tendered will be required to comply with the requirements of the proposed new Street Tree Policy that has yet to be approved by the Executive. Therefore, approval to pre-tender considerations will be subject to approval by the Executive of a proposed new Street Tree Management Policy to be set out in a Report to the Executive referred to at paragraph 7.5 below.

2.0 RECOMMENDATIONS

- 2.1 The Executive to give approval to the pre-tender considerations and the criteria to be used to evaluate as set out in paragraph 7.8 of the Report, subject to approval by the Executive of a proposed new Street Tree Management Policy to be set out in the Report referred to at paragraph 7.5 below.
- 2.2 The Executive to give approval to officers to invite tenders and evaluate them in accordance with the approved evaluation criteria referred to in 2.1 above, subject to approval by the Executive of a proposed new Street Tree Management Policy to be set out in the Report referred to at paragraph 7.5 below.
- 2.3 Members should note that in the event that the Executive does not approve the proposed new Street Tree Management Policy in the form set out in the Report referred to at paragraph 7.5 a further report seeking approval to tender of the services will be required to be approved by the Executive.
- 2.4 That officers consider further the specifications for the maintenance of shrub beds and free standing street planters to address some concerns about the quality of current maintenance.

3.0 FINANCIAL IMPLICATIONS

- 3.1 The Council's current budget for street tree maintenance is £545,700 per annum, excluding emergency and ad-hoc works, and shrub bed maintenance. The total sum available, including these three items is £683,000. The Contract is intended to procure the full range of services, i.e. street tree maintenance (including some new tree planting), shrub bed maintenance, emergency and ad-hoc works.
- 3.2 The proposals in this Report are intended to procure a new Arboricultural Services Contract on expiry of the current contract on 31st March, 2004. The precise cost of a new Contract will not be known until the outcome of the tendering process. However, benchmarking work described in a previous report to the Executive (dated 2nd December, 2002) and revisions to the street tree maintenance regime to be set out in the proposed new Street Tree Management Policy (which will be the subject of a separate report to the Executive referred to at paragraph 7.5 below) suggest that it is feasible to procure an effective maintenance contract for services revised in accordance with the new proposed Street Tree Management Policy within existing budgets.
- 3.3 The outcome of the tendering process recommended in this Report will clarify the cost of an Arboricultural Services Contract from 1st April, 2004.
- 3.4 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500k or works contracts exceeding £1million shall be referred to the Executive for approval to invite tenders and in respect of other matters identified in Standing Order 90.
- 3.5 The estimated value of this services contract is in excess of £5m over the maximum possible contract period of eight years.

4.0 STAFFING IMPLICATIONS

- 4.1 An external contractor currently provides the service, and there are no implications for Council staff arising from retendering the contract.

5.0 ENVIRONMENTAL IMPLICATIONS

- 5.1 The retendering of this Contract will put in place an effective regime for the continued proactive maintenance of the Council's highway trees and shrub beds, with some provision for ad-hoc and emergency works, as well as new tree planting.

6.0 LEGAL IMPLICATIONS

- 6.1 This is a High Value service contract (over £500,000 over the life of the contract) as such, in accordance with the Council's contract standing orders, any retendering needs Executive approval. The full application of the EC Public Procurement Regulations applies to the services to be procured under this contract.
- 6.2 Once the tendering process is undertaken, Officers will report back to the Executive in accordance with Contract Standing Orders, explaining the process undertaken in tendering the contracts and recommending award.

- 6.3 At the date of this Report the new proposed Street Tree Management Policy has not been approved by the Executive. While it is possible for the Executive to approve the pre-tender considerations in advance of that approval, the tendering of the contract must be subject to that approval.
- 6.4 The pre-tender considerations at paragraph 7.8 below indicates advertising the contract in the Official Journal of the European Community (the OJEC notice) in advance of approval of the proposed new Street Tree Management Policy. The reasons for this are set out at paragraph 7.6 below.
- 6.5 The OJEC notice requires the Authority to provide details of the nature and scope of the services and the value of the contract. These can be included in the OJEC notice on the basis of services anticipated by the proposed new Street Tree Management Policy. However, should approval to the new Street Tree Management Policy not be given or if there is a material change to the Council's requirements arising out of the approval of the Policy which alters the advertised nature of the services than a new OJEC notice will be required to be issued effectively restarting the tendering timetable.

7.0 DETAILS

- 7.1 The existing Arboricultural Services Contract was awarded to Gristwood & Toms for a period of 6 years, to commence on the 1 April 1994 and to expire on the 31 March 2000.
- 7.2 On 10th January 1996, the Council's Environmental Services Committee resolved to agree a six-year extension to this Contract with a review after the first three years in order to make savings.
- 7.3 Following that decision by the Council's Environmental Services Committee, by a letter of agreement dated 2nd October, 1996, between the Council and Gristwood & Toms, it was agreed that the contract referred to at paragraph 7.1 would run for a further period from 1st April, 2000 to 31st March, 2003. It was also agreed that the Council would have an option exercisable by notice in writing, which may be given at anytime on or before the 31 December 2002, to extend the Contract for a period of a further 3 years, expiring 31 March 2006.
- 7.4 At its meeting on 2nd December, 2002 the Executive resolved (amongst other things):
- a) To approve proposed changes to the maintenance regime for 2003/04.
 - b) Subject to successful negotiations referred to in the recommendation, to extend the existing Contract for a further one year until 31st March, 2004 in order that the service could be re-tendered during 2003/04 in order to seek longer-term savings.
 - c) To instruct officers to re-tender this service contract during 2003/04. Detailed tendering proposals would be the subject of a further report to the Executive.
- The negotiations referred to at point b) above were successfully concluded and the contract extended.
- 7.5 The Report to the Executive dated 2nd December, 2002 described the services and contract proposals in more detail. A further report to the Executive for its next meeting on 22nd September, 2003 will give details of the proposed new Street Tree Management Policy that the Contract will be designed to deliver. As mentioned in paragraph 6.2 above, award of the final contract will be subject to approval of the Executive.

- 7.6 In order to meet the procurement timetable, the drafting and preparation of much of the tender documentation will be contemporaneous with seeking Executive approval for the Street Tree Management Policy. This should enable the tendering process to proceed promptly after approval of the Policy and meet the 1st April 2004 contract start date.
- 7.7 The contract specification will not, therefore, be completed until the Executive has given approval to a new Street Tree Management Policy, as this key policy document will determine the maintenance regime outlined in the specification.
- 7.8 In accordance with Contract Standing Orders 89 and 90, pre-tender considerations have been set out below for the approval of the Executive.

Ref.	Requirement	Response		
(i)	The nature of the services.	The maintenance of the Council's stock of highway trees and shrub beds.		
(ii)	The estimated value.	In excess of £5m		
(iii)	The contract term.	Five years, with an option on the Council's part only to extend for a further period of three years.		
(iv)	The tender procedure to be adopted.	EC Procurement (Restricted Procedure)		
(v)	The procurement timetable.	<table border="0"> <tr> <td> <ul style="list-style-type: none"> ▪ OJEC Notice ▪ Expressions of interest returned ▪ Shortlist drawn up in accordance with the Council's approved criteria ▪ Invite to tender ▪ Deadline for tender submissions ▪ Report recommending award circulated internally for comment ▪ Executive approval ▪ Contract start date </td> <td> <ul style="list-style-type: none"> ▪ 1st Aug 03 ▪ 8th Sep 03 ▪ 3rd Oct 03 ▪ 20th Oct 03 ▪ 2nd Dec 03 ▪ 19th Dec 03 ▪ 4th Feb 04 ▪ 1st Apr 04 </td> </tr> </table>	<ul style="list-style-type: none"> ▪ OJEC Notice ▪ Expressions of interest returned ▪ Shortlist drawn up in accordance with the Council's approved criteria ▪ Invite to tender ▪ Deadline for tender submissions ▪ Report recommending award circulated internally for comment ▪ Executive approval ▪ Contract start date 	<ul style="list-style-type: none"> ▪ 1st Aug 03 ▪ 8th Sep 03 ▪ 3rd Oct 03 ▪ 20th Oct 03 ▪ 2nd Dec 03 ▪ 19th Dec 03 ▪ 4th Feb 04 ▪ 1st Apr 04
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(vi)	The evaluation criteria and process.	The shortlist will be drawn up in accordance with the Council's Contract Management Guidelines namely the select list questionnaire and thereby meeting the Council's financial standing requirements, health and safety standards and technical expertise. The panel will evaluate the tenders against the following criteria: Most Economic Advantageous Offer		
(vii)	Any business risks associated with entering into the contract.	If the contractor performs poorly this could cause various difficulties including, increased client costs, increased insurance claims for subsidence and poor visual appearance of street trees. These risks will be reduced by employing a carefully managed and full procurement process, as set out in this Report.		

(viii)	The Council's Best Value duties.	This proposed retendering follows a review of the services undertaken outside a formal Best Value Review, by an Officer Group whose work and findings was reported to the Executive on 2 nd December, 2002.
(ix)	Any staffing implications, including TUPE and pensions.	See paragraph 4.1 of this Report.
(x)	The relevant financial, legal and other considerations.	See sections 3, 5 and 6 of this Report.

8.0 BACKGROUND INFORMATION

8.1 Details of Documents

- (i) Report: Arboricultural Management for street trees in the London Borough of Brent in respect of subsidence damage (Giles Biddle).
- (ii) Contract details: Arboricultural Services Highways Trees and Shrubs Volumes 1,2,3 and 4.
- (iii) Street tree management policy document (completed June 2001).
- (iv) Report and decision of the Council's Environmental Services Committee, 10th January, 1996.
- (v) Report to, and decision of, the Executive, 2nd December, 2003

8.2 Any person wishing to inspect the above papers should contact Keith Ellis, StreetCare, Brent House, 347-359 High Road, Wembley, Middlesex, HA9 6BZ. Telephone: 020 8937 5603.

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