

	Officer Key Decision
	Report to the Strategic Director Regeneration and Environment
Authority to vary and extend the Arboricultural Services Contract	

Wards Affected:	All
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	None
Background Papers¹:	Cabinet: 16 th August 2021 - Redefining Local Services Delivery.
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Gavin F Moore. Head of Parking & Lighting; gavin.f.moore@brent.gov.uk ; Tel (020) 8937 2979

1.0 Purpose of the Report

1.1 This report seeks approval for the Council to vary the existing Arboricultural Services (tree maintenance) services contract (“the Services”) to take effect on or prior to 1st April 2023, provided under an agreement with Gristwood and Toms Limited dated 20th March 2018 (“the Contract”), and to extend the Contract for a period of two years from 1st April 2023 to 31st March 2025 in accordance with Contract Standing Order 112, and with sections A3 (Contract Period) and F3 (Service Variations and General Amendment) of the Contract respectively.

2.0 Recommendations

That the Strategic Director of Regeneration and Environment:

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- 2.1 Approves an extension to the current Contract for the maintenance of the street trees, trees in parks and trees in Housing with Gristwood and Toms Limited, for a period of two years from 1st April 2023 to 31st March 2025 at an expected value of £0.771m; and
- 2.2 Approves the variation of the Contract to enable the transfer in-house of part the Services, currently provided by Gristwood and Toms Limited, relating to surveying, database elements and raising of tree works orders, as further detailed in Sections 3 and 4 of this report.

3.0 Details: The Redefining Local Services (RLS) Programme

- 3.1 In 2018, Brent adopted a deliberate strategy to synchronise the end date for its outsourced environmental services so that they coincide for reconsideration at the same time. The Redefining Local Services (RLS) programme was subsequently initiated in May 2019 to develop and implement a commissioning strategy in time for new service arrangements to take effect from 1st April 2023.
- 3.2 Following a subsequent comprehensive review and options appraisals process and best value duty consultation, an overarching Redefining Local Services Delivery Model was approved by Cabinet on 16th August 2021. The agreed RLS Delivery Model is to re-commission its outsourced environmental services via a 'specialist contracts' delivery model from 1st April 2023. This comprises outsourcing using discrete, specialist contracts and the insourcing and enhancement of a small number of client functions that would provide the Council with greater strategic and financial control and improved contract management and stakeholder engagement.
- 3.3 The RLS Delivery Model aims to achieve the following overarching objectives:
 - A neighbourhood approach to managing local issues to meet the needs of local areas
 - A borough-wide approach to managing our assets and infrastructure (e.g. highways, street lighting) to ensure investment is spent well
 - A specialist contracts approach for outsourced services
 - Improved contract management and monitoring for contracted services
 - An intelligence-led approach to the deployment of resources
 - Integrated deployment of environmental enforcement services across public realm

- Greater responsiveness to addressing issues and problems in the public realm
- Better digital customer interface with real-time information and issue reporting
- Additional council capacity for continuous service improvement and innovation
- Focusing specialist officers where they can add the greatest value, with more triaging between generalist and specialist roles
- Deliver improved Social Value outcomes via our Social and Ethical Procurement Policy, including: striving for carbon neutrality by 2030 and enhancing nature and biodiversity; the number of local jobs created (where appropriate for the contract), including focus on disadvantaged groups; and the number of SMEs and third sector organisations that benefit from the procurement exercises.

3.4 The RLS objectives that are specific to Trees Maintenance are:

- To provide well-maintained trees that are appropriate for their setting, which improve the public realm, and contribute positively to local biodiversity and air quality.
- Remove and replace trees at high risk of causing insurance claims
- Maintain at least the current number of street trees
- Meet a high level of legislative requirements:
 - Safety of operatives and the public
 - COSSH
 - Environmental Protection Act 1990

3.5 In respect of Arboricultural Services, this is defined as a Specialist Contract which should continue to be outsourced and extended until 31st March 2025. As part of the Final RLS Delivery Model, it was agreed that:

“In-sourcing the Tree Surveying function, tree database and the raising of tree works orders would provide the Council with greater strategic and financial control of the Arboricultural Services contract, improved planning and completion of works and achieve better value for money from our tree maintenance budget.”

4. The Arboricultural Services Contract

4.1 The current trees maintenance contractor, Gristwood & Toms Limited (“G&T”) is a full service arboriculture company and one of the largest tree contractors operating in the south of England. Within the public

sector, they undertake work for around 20 London boroughs and have maintained the tree stock in Brent to a high level for almost 40 years. The service is responsible for the maintenance of approximately 20,000 street trees, 12,000 Parks trees and 5,000 Housing trees.

- 4.2 Tree maintenance involves ensuring the Council's trees are in good health and continue to thrive. Tree maintenance is also linked to the risk trees face or the risk they may pose to property, residents or the public highway.
- 4.3 The Council's Tree Management Policy emphasises the benefits and importance of maintaining our trees. It recognises the importance of trees, and shows how trees will help create Brent's landscape of the future, and meet the challenge of mitigating and adapting to climate change.
- 4.4 Trees in public spaces are now recognised as more than just pleasant features. When trees are well maintained, the environmental benefits in urban settings are numerous. They provide a range of environmental, health and community benefits such as absorbing carbon dioxide, the main greenhouse gas, reducing pollution and improving air quality as well as several other benefits.
- 4.5 The Council's tree inspection and maintenance programme is governed by a risk-based approach. The aim is to identify issues and deal with them before they escalate into complex problems that require greater attention and expense. Examples of tree maintenance techniques the Council uses include regular inspections, pruning, tree removal and pollarding. All of these functions are undertaken by G&T.
- 4.6 In undertaking the tree maintenance programme, G&T carry out regular inspections to identify problems early and take preventative action where appropriate. The Council retains trees unless there are good arboricultural, environmental, or risk-related reasons not to. We proactively manage our trees based on maintenance cycles ranging from 2 to 4 years depending on age, distance from property, species, health and other arboricultural factors.
- 4.7 In addition to the annual routine tree maintenance programme, G&T also carries out emergency and reactive inspections as and when they are deemed necessary. These are sometimes generated following requests from residents referred to the Councils Trees Officer, or following storms and strong winds that have caused damage to trees.
- 4.8 Over the years G&T have performed to a high level, often going above and beyond contractual requirements. They have also consistently achieved or exceeded the performance levels set in the Contract.

- 4.9 Key Performance Indicators (KPI's) are in place and monitored as part of the contract monitoring. The contractor has fully met expectations over the life of the Contract. For example, KPI's for attending to emergency call outs have always been met and dangerous situations made safe, leaving sites obstruction free and without any complaints from residents.
- 4.10 In accordance with the Cabinet decision of 16th August 2021, the expectation is for the Council to bring in-house the tree surveying and data management function before April 2025. With their years of experience, G&T have agreed to support and assist with this transition immediately following a decision whether to extend the Contract, ensuring the service can continue with a robust and uninterrupted tree survey regime.
- 4.11 The RLS report to Cabinet recommended extending the G&T maintenance contact for a period of 2 years from April 2023 as a commissioning solution for the following reasons:
- Until March 2025 the Council can expect the delivery of arboricultural services by a highly experienced company with a proven track record in Brent
 - The current contractor has already made the necessary investment in vehicles, plant and depot facilities
 - The contractor can draw from a wide pool of qualified technical staff, and attracts & retains staff by providing performance incentives
 - The contractor has arrangements in place to deploy additional staff during the winter months
 - Key costs are shared by the provider across several contracts, which makes it the least expensive option in the short-term due to economies of scale.
 - There will be no immediate need to mobilise a new provider
 - The cost of the Contract would not be subject to an inflationary price increase until April 2025
 - There will be an opportunity to review and amend the terms of the Contract based on lessons learned
 - Extending and varying the Contract would provide an opportunity to in-source the tree surveying function and associated database during the period of the contract extension, to provide the Council with greater control of the service, facilitating better planning and completion of works and achieving better value for money for our maintenance budget

5.0 Financial Implications

- 5.1 The annual contract value of the street trees maintenance service has remained at £0.571m for the past three years, and will continue at the

same level of expenditure during the two year extension of the Contract. In addition to this cost, in a single year the Parks service typically spends around £40k on trees maintenance, and the Housing service £160k.

- 5.2 The Contract does not contain a provision to apply an annual inflationary uplift. By extending the Contract for two years, the Council will therefore avoid the additional cost of inflation for that period.
- 5.3 Additional costs of the variation will not exceed £80k over the two year extension. These costs are estimated to be £30k per annum, comprising £20k in staff costs, and up to £10k per annum in a database license costs. There will also be a one off cost of £20k to purchase the tree database. These costs will be covered within the existing Environmental Services budget.
- 5.4 Staff time required to maintain the database will be covered from existing resources and/or as an element of the TUPE transfer to the Council of the existing surveyor post.

6.0 Legal Implications

6.1 Under section 3(b) of the table at paragraph 9.5 of Part 3 of the Constitution, the Strategic Director of Regeneration and Environment is able to extend contracts without the need for Cabinet approval:

- (a) provided that the extension would not be in breach of the Procurement Legislation.
- (b) provided that the extension does not substantially alter the terms and conditions of the contract.
- (c) provided that there is sufficient existing budgetary provision.
- (d) if the extension goes beyond the period of extension provided for in the contract (if any) or is otherwise not in accordance with the extension provisions in the contract:
 - (i) in the case of any contract, agreement, deed or other transaction with a life of not more than one year (including any possible extension provided for in the contract) the extension shall not exceed a period of six months; or
 - (ii) in the case of any contract, agreement, deed or other transaction with a life of more than one year (including any possible extension provided for in the contract) the extension shall not exceed a period of one year.
- (e) the relevant cabinet member (Lead Member Environment in this

case) shall be consulted prior to a decision within (d) (i) or (ii) above and may request that the decision instead be referred to them.

- (f) provided that in the case of any variation (other than an extension):
 - (i) the total value of the variation is less than £1m; and
 - (ii) if the total value of the variation (and any previous variations agreed under this provision) is more than £50k it is not more than 50% of the original contract value (calculated over the life of the contract including any extensions or possible extensions and adjusted in accordance with any price review mechanism provided for in the contract).

6.2 Using the numbering/lettering detailed in paragraph 6.1 above, it is considered that a Chief Officer has delegated authority to agree the extension as:

- (a) it is not considered that the extension and variation of the Contract would breach Procurement Legislation;
- (b) apart from the extension in term and variation to the Services that is provided for in the Contract at Clauses A3 and F3 respectively, no other amendments to the Contract are proposed;
- (c) there is sufficient budgetary provision covering the extension and variation;
- (d) Further the extension does not go beyond the extension period provided for in the Contract;
- (e) the relevant cabinet member (Lead Member Environment in this case) has been consulted and has determined that they are happy for the decision to be made by the Chief Officer;
- (f) further the total value of the variation is less than £1m and is not more than 50% of the original contract value (calculated over the life of the contract including any extensions or possible extensions and adjusted in accordance with any price review mechanism provided for in the contract).

6.3 Reverting staff currently engaged on the functions relating to tree surveying, tree database and the raising of tree works orders from G&T back to Council is likely to amount to a relevant transfer pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE"), regulation 3(1)(b)(iii). As such the staff currently assigned to this activity would have their employment transferred into the Council by operation of law. Further details as to numbers of staff involved are set

out below in the human resources implications section.

- 6.4 In the circumstances, it is considered that the Strategic Director Regeneration and Environment has the necessary delegated power to agree the extension and variation of the Contract.

7.0 Equality Implications

- 7.1 The Section 149 of the Equality Act 2010 provides that the Council must have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between those who share a protected characteristic, and those who do not.

- 7.2 The proposals in this report have been subject to screening and officers believe that there are no significant equality implications. Full details of the Councils approach and consistent application are contained in the Tree Management Policy 2017, attached to this report as Appendix 1.

8.0 Consultation with Members and Stakeholders

- 8.1 Statutory consultation on the RLS Delivery Model Options, to comply with Section 3 of the Local Government Act 1999, took place from 17 May to 28 June 2021. The results which were reported in the 16 August 2021 Cabinet report which recommended the Final RLS Delivery Model agreed by Cabinet.

- 8.2 The Lead Member for Environment has confirmed she is content with the recommendations in this report.

9.0 Human Resources Implications

- 9.1 This service is currently provided by external contractors, and there are no immediate implications for existing Council staff arising from extending the Contract.

- 9.2 Officers will seek to negotiate the in-sourcing of the trees surveying and database function with the current contractor. It is expected that this will lead to the transfer under TUPE provisions of a single member of staff.

Related Documents:

Cabinet: 16th August 2021 - Redefining Local Services Delivery

Report sign off:

Alan Lunt
Strategic Director Regeneration and
Environment