



**Decision of Cabinet Member for
Public Realm and Enforcement**

**Report from the Corporate Director,
Neighbourhoods & Regeneration**

**AUTHORITY TO TENDER CONTRACT FOR ARBORICULTURAL
SERVICES IN ACCORDANCE WITH PARAGRAPH 13 OF PART 3 OF
THE CONSTITUTION**

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 Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Name: Tony Kennedy Job Title: Head of Highways Management Email: tony.kennedy@brent.gov.uk

1.0 Executive Summary

1.1 This report concerns the procurement of Arboricultural Services for the provision of planned cyclical maintenance, unplanned and urgent tree works to the Authority's trees in highways, Council managed housing estates, parks, cemeteries, and other Council managed areas. This report requests approval to invite tenders in respect of a contract for Arboricultural Services as required by Contract Standing Orders 88 and 89.

2.0 Recommendation(s)

That the Cabinet Member for Public Realm and Enforcement, having consulted with the Leader and in accordance with paragraph 13 of Part 3 of the Constitution:

2.1 Approves inviting tenders for a contract for Arboricultural Services on the basis of the pre - tender considerations set out in paragraph 3.10 of the report.

- 2.2 Approves Officers evaluating the tenders referred to in 2.1 above on the basis of the evaluation criteria set out in paragraph 3.10 section (vi) of the report.
- 2.3 Approve the variation of the existing contract for Arboricultural Services with Griswoods and Toms Limited to permit the extension for the reasons set out in paragraph 3.9.
- 2.4 Approves the extension of the Contract detailed in paragraph 2.3 for a period of three (3) months from 1 April 2025 to 30 June 2025 in the sum of £125,000 for the reasons set out in paragraph 3.9.

3.0 Detail

Contribution to Borough Plan Priorities & Strategic Context

- 3.1 Maintaining our existing tree asset along the public highway, in parks, and on Council managed estates is vital to our ambitions for the climate and local environment. It will aid nature recovery, improve air quality, health and wellbeing and support climate change mitigation.
- 3.2 It will directly contribute to Strategic Priority 2 of the Borough Plan 2023-2027 – A Cleaner, Greener future and Strategic Priority 5 – A Healthier Brent. It will also contribute to the Brent Climate & Ecological Emergency Strategy 2021-2030 – Theme 4 Nature & Green Spaces.
- 3.3 Efficiently maintaining trees on the public highway will reduce insurance claims (reducing the inconvenience caused to residents and the financial implications for the Council) and minimise the incidence of tree-related subsidence.

<https://www.brent.gov.uk/the-council-and-democracy/strategies-priorities-and-policies>

Background

- 3.4 The Council requires the provision of Arboricultural services. 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. 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.
- 3.5 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.

- 3.6 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.
- 3.7 The planned maintenance programme is delivered on a 4-year cycle with each ward visited once every four years. Over the years, with reducing budgets and increasing prices, the extent of maintenance has had to be reduced and we are currently operating at minimum levels prioritising work considered of greatest risk to safety. A new contract is unlikely to have prices lower than the current levels and unless budgets for tree maintenance is increased we will continue to experience difficulties in effectively maintaining our tree stock. There will be a greater reliance on reactive maintenance, which is more expensive, and some trees will not receive any maintenance until in urgent need.
- 3.8 In recent years to repurpose funding to areas considered of high risk, we have paused the Groundworks service. This involves a basic inspection of all the trees on the public highway by the Streets Trees contractor on an annual basis, and carrying out all ground level remedial works. Such works include removing or cutting back low hanging branches that stretch across footpaths, removal of epicormic growth located at the base of trees, attention to stakes and ties on sapling and reporting back to client officers any defects noted during inspection. Pausing the programme has resulted in an increase in complaints from the public as accessibility along the public highway is hindered by low hanging branches and basal growth. It also gives the perception the highway is unkept. We intend to reintroduce this work in the new contract. However, this will mean we do even less crowning and pollarding work which resulting in some trees increasing in size. This will provide additional canopy cover, although will have to be closely monitored as an increase will also have implications for root expansion and potential obstruction to adjacent buildings.

Extension of existing contract

- 3.9 Officers also recommend the variation and extension of the existing contract for Arboricultural services with Griswoods and Toms Limited for a period of 3 months from 1 April 2025 to 30 June 2025. The current contract expires on 31 March 2025 and is delivered by Griswoods and Toms Limited who have worked in the borough for many years. The Council entered into contractual arrangements for Arboricultural Services with Griswoods and Toms Limited on 1st April 2018 for a period of 5 years with an option to extend for a further 2 years. The contract was extended in accordance with the extension provisions in the contract from 1st April 2023 to 31st March 2025. Officers envisage that the new contract for Arboricultural Services will not be in place by 1 April 2025 due to the lack of resources to prepare the procurement which has led to time

constraints with the procurement timetable. Officers therefore recommend that the existing contract is varied and extended for a period of 3 months to avoid a disruption of services until the procurement process is completed and the new contract is in place. Officers have entered into discussions with Griswoods and Toms Limited to explore the possibility of varying and extending the existing contract from 1 April 2025 to 30 June 2025, and Griswoods and Toms Limited have indicated their agreement to the proposed variation and extension for 3 months.

Pre-tender Considerations

3.10 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations for the procurement of the contract for Aborticultural Services (the “Contract”) have been set out below for the approval of the Cabinet Member:

Ref.	Requirement	Response
(i)	The nature of the services / supplies / works.	The provision of planned cyclical maintenance, unplanned and urgent tree works to the Council's trees in highways, Council managed housing estates, parks, cemeteries and other Council managed areas.
(ii)	The estimated value.	Circa £4.2m (ex VAT) Highways: £3,420,000 Brent Housing: £600,000 Parks: Circa £180,000 upon request only
(iii)	The contract term.	Four (4) years with the option to extend by yearly periods up to a maximum of two (2) years (on a 4+1+1 basis).
(iv)	The tender procedure to be adopted.	Single Stage open tender
v)	The procurement timetable.	Indicative dates are:
		Creating ITT document (Specs / drawings / schedules / pricing schedule programme dates / SQ Q's SQ criteria scoring / NDA / T&C's /

Ref.	Requirement	Response
		SV / Sust & Circ Econ, HSQ&E Policies & requirements)
		Adverts placed via Proactis 12/02/25
		Site visits 14/02/25
		Deadline for Tender Clarifications 07/03/25
		Deadline for tender submissions 21/03/25
		Mandatory Checks 04/04/25
		Cost Evaluation 07/04/25
		Panel evaluation and shortlist review 09/04/25
		Moderation 30/04/25
		Clarification Q's from Moderation and Cost Analysis 01/05/25
		Response to Clarification Q's from Moderation and Cost Analysis 05/05/25
		Clarification Interviews if required and Contract award decision 05/05/25 - 08/05/25
		Report recommending Contract award circulated internally for comment 09/05/25 - 16/05/25
		Cabinet Member approval 19/05/25
		Despatch Award Letters Mon 23/05/2025
		Minimum 10 calendar day standstill period – notification issued to all 24/05/25 – 03/06/2025

Ref.	Requirement	Response						
		<p>tenderers and additional debriefing of unsuccessful tenderers (contracts covered by the full requirements of PCR 2015 only)</p> <table border="1"> <tr> <td>Contract Mobilisation</td> <td>06/06/25</td> </tr> <tr> <td>Contract start date</td> <td>01/07/2025</td> </tr> <tr> <td></td> <td></td> </tr> </table>	Contract Mobilisation	06/06/25	Contract start date	01/07/2025		
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(vi)	The evaluation criteria and process.	<ol style="list-style-type: none"> 1. A selection questionnaire will be used to identify organisations meeting the Council's financial standing requirements, technical capacity and technical expertise. 2. For those meeting the Council's financial standing etc. requirements, the panel will evaluate the tenders against the following criteria: <ul style="list-style-type: none"> • Price 50% • Quality 35% • Social Value 10% • Sustainability & Circular Economy 5% • Health & Safety compliance pass/fail 						
(vii)	Any business risks associated with entering the contract.	No specific business risks are considered to be associated with entering into the proposed Contract.						
(viii)	The Council's Best Value duties.	An open tendering process will enable the Council to achieve best value for money.						
(ix)	Consideration of Public Services (Social Value) Act 2012	The Council is under duty pursuant to the Public Services (Social Value) Act 2012 ("the Social Value Act") to consider how services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the Council might act with a view to securing that improvement; and whether the Council should undertake consultation. Officers have had regard to considerations contained in the Social Value Act in						

Ref.	Requirement	Response
		relation to the procurement and social value forms 10% of the evaluation score.
(x)	Any staffing implications, including TUPE and pensions.	See section 9 below.
(xi)	The relevant financial, legal and other considerations.	See Financial Considerations at Sections 5 and Legal Considerations at Section 6 below.
(xii)	Sustainability	This has been assessed in line with the Procurement Sustainability Policy and determined that a quality measure for sustainability is not required and can be captured as part of the Social Value criteria.
(xiii)	Key Performance Indicators / Outcomes	Appropriate Key Performance Indicators / Outcomes will be included in the Contract.
(xiv)	London Living Wage	The Contract will require the payment of the London Living Wage
(xv)	Contract Management	A contract manager will be appointed and appropriate contract management provisions will be included in the Contract.

4.0 Stakeholder and ward member consultation and engagement

4.1 N/A.

5.0 Financial Considerations

5.1 The estimated total value of the service to be provided under the contract over the contract term of 6 years (4+1+1) is £4.02m at today's prices.

5.2 It is anticipated that the cost of the Contract will be funded from existing revenue resources for tree maintenance. As per the above it is anticipated that £3.42m will be funded Highways Management, and £0.6m from Brent Housing.

6.0 Legal Considerations

6.1 The estimated value of the proposed Contract is above the threshold for Services under the Public Procurement Regulations 2015 (the "PCR 2015") and the procurement is therefore governed by the PCR 2015.

6.2 The procurement is subject to the Council's own Standing Orders and Financial Regulations in respect of High Value Contracts given the procurement is valued at £4.02m plus VAT. In accordance with paragraph 13 of Part 3 of the Council's

Constitution, the Cabinet Member for Public Realm and Enforcement, subject to consultation with the Leader, has delegated power to approve the pre-tender considerations set out in paragraph 3.10 above (Contract Standing Order 89) and the inviting of tenders (Contract Standing Order 88) for High Value Contracts.

- 6.3 Once the tendering process is undertaken, Officers will report back to the Cabinet Member in accordance with Contract Standing Orders, explaining the process undertaken in tendering the contracts and recommending award.
- 6.4 As this procurement is subject to the full application of the PCR 2015, the Council must observe the requirements of the mandatory minimum 10 calendar standstill period imposed by the PCR 2015 before the Contract can be awarded. The requirements include notifying all tenderers in writing of the Council's decision to award and providing additional debrief information to unsuccessful tenderers on receipt of a written request. The standstill period provides unsuccessful tenderers with an opportunity to challenge the Council's award decision if such challenge is justifiable. However if no challenge or successful challenge is brought during the period, at the end of the standstill period the Council can issue a letter of acceptance to the successful tenderer and the Contract may commence.
- 6.5 As the decision that is being sought here is a Key Decision, the decision is subject to a 5 clear day call-in period that will run concurrently with the standstill period under the PCR 2015. The decision to award may not be implemented until after expiry of the call-in period provided that no call in has been made.
- 6.6 As the decision that is being sought here is a Key Decision, the decision may not be taken by the Cabinet Member unless this matter has been published on the Forward Plan. The Key Decision must be published on the Forward Plan (Paragraph 30 of the Access to information rules) and must be included on the Forward Plan not less than 28 days before the decision is to be made. (Paragraph 34 of the Access to Information Rules). Cabinet Member decisions are to be recorded and published along with the report.
- 6.7 The Transfer of Undertakings Protection of Employment Regulations (TUPE) is likely to apply here as there is a continuation of the service by a new contractor upon Contract award. There will be no Council staff impacted by this decision.
- 6.8 Officers recommend the variation and extension of the original contract for Arboricultural Services with Griswoods and Toms Limited as set out in recommendation 2.3 and 2.4. The value of the original contract is such that it is subject to application of the PCR 2015.
- 6.9 A contract may only be modified (to include an extension) without a new procurement procedure where this is done in accordance with Regulation 72 of the PCR 2015. Regulation 72 sets out various circumstances in which it is

possible to vary and extend a contract. Regulation 72 (1)(b) of the PCR 2015 states that contract and framework agreements may be modified without a new procurement procedure for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor:

- (i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, and
- (ii) would cause significant inconvenience or substantial duplication of costs for the contracting authority;

provided that any increase in price does not exceed 50% of the value of the original contract.

Given that a change of contractor cannot be made due to the requirements of interchangeability or interoperability with existing services, and would cause significant inconvenience and a substantial duplication of costs for the Council, and given that the variation does not exceed 50% of the original value of the contract, it is considered that the Council can rely on Regulation 72 (1) (b) for the variation and extension of the contract. It should be noted that potentially there are also other grounds under Regulation 72 that could be relied upon to justify the variation and extension.

7.0 Equity, Diversity & Inclusion (EDI) Considerations

7.1 Pursuant to s149 Equality Act 2010 (the “Public Sector Equality Duty”), the Council must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it,

7.2 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

7.3 Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising

disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.

7.4 There is no prescribed manner in which the council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary.

7.5 The proposals in this report have been subject to screening and officers believe that there are no adverse equality implications.

8.0 Climate Change and Environmental Considerations

8.1 The procurement of the Arboricultural Service to effectively maintain the borough's tree asset will have a positive impact on the Council's environmental objectives and climate emergency strategy. It will assist in improving air quality, improve general health and wellbeing and support climate change mitigation by providing shade along the urban environment.

9.0 Human Resources/Property Considerations (if appropriate)

9.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from retendering the Contract.

9.2 As part of the procurement process, employee liability information will be sought from incumbent contractor to be provided to the tenderers. The TUPE process and any issues that may arise from it will be managed during the mobilisation phase. Should another contractor be awarded the Contract, then staff currently employed by the incumbent contractor may be eligible to transfer to the new service provider pursuant to the TUPE Regulations 2006.

9.3 There are no property considerations as the service will be delivered in the field and from the providers premises.

10.0 Communication Considerations

10.1 N/A

Report sign off:

ALICE LESTER
Corporate Director,
Neighbourhoods and Regeneration

