

From: Simon Jones – Corporate Director, Growth Environment and Transport.

To: Neil Baker Cabinet Member, Highways and Transportation

Subject: Procurement and award of contract/s for Highway Arboriculture Programmed Works

Key decision – 23/00118

Classification: Unrestricted

Summary: The procurement and award of this contract will facilitate programmed and ad-hoc tree works for a five-year period both on and adjacent to the highway network with the possibility to extend for a further three years. The current contract for this service comes to an end on 31st August 2024. A Key Decision is required to award the contract/s for this service as the value of the contract over the term, including optional extensions, exceeds £1m.

Recommendation(s):

The Cabinet Member for Highways and Transportation is asked to:

- APPROVE the procurement of the Arboriculture Programmed Works Contract and in consultation with the Cabinet Member for Highways and Transportation delegate authority to the Director of Highways and Transportation to approve the award of the subsequent contract to the preferred bidder and to take other relevant actions, including but not limited to finalising the terms of and entering into required contracts or other legal agreements, as necessary to implement the decision

and

- in consultation with the Cabinet Member for Highways and Transportation DELEGATE authority to the Director of Highways and Transportation to award extensions of the Arboriculture Programmed Works Contract in accordance with the possible extension clauses within the contract

as shown at Appendix A.

1. Introduction

1.1 The arboriculture programmed works contract is required to ensure that KCC complies with its 'Duty of Care' under the Highway Act 1980 and fulfils its obligations in both Statute and Common Law as a land and tree owner.

1.2 The requirement is for the provision of safety critical tree works resulting from the Highway Soft Landscape Teams Tree Safety Audits.

1.3 The contract will also provide for street tree planting and allow KCC to fulfil its commitments to *Plan tree* by maintaining our current tree asset numbers and planting 850 trees p/a.

- 1.4 The current contract comes to an end on 31st August 2024 after five years which includes three one-year extensions, no further contract extensions can be made under this contract. In order to ensure continuity of service, new arrangements need to be in place from September 1st, 2024.
- 1.5 To allow for a three-month mobilisation period the successful tenderer will need to be appointed by the 1st June 2024.

2. Report

2.1 The contract will provide for:

- Programmed tree works as a result of Tree Safety Audits (TSA).
- Removal of dangerous trees and branches on both public and private property.
- Removal of tree stumps and replacement tree planting.
- Cyclical pollarding and basal growth removal
- Emergency response during storm events
- Management of Ash Dieback
- Street tree planting

2.2 There are currently approximately 40,500 individual tree assets on the urban highway network and 80,000 within groups. There are a further 370,000 trees within tree belts, rural areas, and woodland fringes. A conservative application of the industry standard Capital Asset Valuation of Amenity Trees (CAVAT) system estimates the value of the 40,500 individual urban trees at over £371m.

2.3 It is important that Kent Highways delivers an effective fit for purpose highway arboriculture works service which operationally delivers, meets our statutory obligations in terms of highway Asset Management and public safety whilst protecting the reputation of the County Council in delivering this part of the Highway service.

2.4 The contract will support tree clearance services during emergency events such as storms or heavy snow.

2.5 Trees are a long-term organic asset and as such poor-quality tree works can have a long-lasting impact on the Soft Landscape asset with limited scope for rectification. This contract, through robust specification, contract management and quality monitoring delivers on this and secures the long-term future of our tree stock.

2.6 The arboriculture works contract requires specialist knowledge by those contractors undertaking the works. They must comply with British Standard BS3998: 2010 Tree Work Recommendations and have the requisite industry standard certificates of competence to carry out the works.

2.7 The contract will allow for street tree planting and will go towards the Councils commitment on *Plan Tree*. It will be used to plant between 850 and 1000 trees per year for Kent Highways.

3. Commissioning

- 3.1 Market engagement meetings were held during early June 2023. Eight SME's were shortlisted and provided detailed information on their preferences for lot size, contract term and specifications which have influenced the final commissioning strategy.
- Lotting:
Suppliers preferred smaller lots, enabling them the flexibility to bid for multiple lots to suit their business capacity and capability.
 - Contract Period:
A contract term of greater than five years was preferred to allow investment in machinery and staff.
 - Investment in the Market:
Resourcing is problematic to the industry; it is hard to retain skilled staff and attract school leavers to the industry. Continuing to combine tree planting and tree maintenance contracts provides suppliers with work requiring a varying level of skill and allows them to take on school leavers and/or apprentices.
- 3.2 The arboriculture works market is almost exclusively provided by SME's as the specialised nature of these works favours this type of supplier.
- 3.3 A Commercial Strategy report was provided to the Commercial and Procurement Oversight Board on the 31st October 2023 and subsequently approved with amendments to support the best value duty of "Securing Kent's Future".
- 3.4 This procurement will cover the whole of the county (12 districts). The contract is proposed to be let for five years with the option to extend by up to three years in one-year intervals (Eight years total).
- 3.5 The County has been divided into two lots and will be awarded on the basis of the most economically advantageous bid, with Tenderers being able to bid for both lots. The quality assessment will evaluate that Tenderers have the relevant capability and resource to deliver the service countywide; if they fail this element the maximum number of Lots awarded will be capped to one.
- 3.6 The lotting strategy is as follows:
- Lot 1 – West (Gravesham, Sevenoaks, Dartford, Tonbridge & Malling, Maidstone and Tunbridge Wells)
 - Lot 2 - East (Thanet, Dover, Folkestone & Hythe, Ashford, Canterbury, and Swale)
- 3.7 The procurement will be completed using a negotiated style process with selection questions and award in two stages and will be conducted under the close supervision of the Commercial and Procurement Division. The procurement timetable is detailed below.

- 3.8 Suppliers will be required to meet minimum standards for Health and Safety and other key selection criteria through a Selection Questionnaire (SQ) process. Once through the SQ stage successful tenderers will be requested to submit a price and answer further project specific quality questions. Once the quality threshold has been achieved evaluation will be based on price.
- 3.9 The Council reserves the right to undertake an optional negotiation stage (third stage). Following this stage tenderers will be invited to submit their final best and final offers, which is expected to focus on price rather than quality.

Procurement timetable

- SQ Out – 20th Nov 23
- SQ Return – 20th Dec 2023
- ITT Out – 29th Jan 2024
- ITT Return – 28th Feb 2024
- ITT Negotiation (if required) – mid – late March 2024
- Final ISFT Out –w/c 8th April 2024
- Evaluation and Award Governance – Est w/c 10th May
- Standstill period – 17th May - 27th May 2024
- Contract Award – Est end May 2024
- Mobilisation Period – June, July, August 2024
- Service Commencement Date – 1st September 2024

4. Financial Implications

- 4.1 The annual budget for the work covered by this contract is **£1.09m** per annum. The majority of the work is reactive and based around tree safety audits. The current forecast of safety critical work fits within the Soft Landscape base budgets. The total spend over the contract duration (five years plus extensions) is estimated at **£8.72m**.
- 4.2 This contract has been tendered based on existing specifications and work volumes and will be contained within the Highways - Soft Landscaping team's budgets.
- 4.3 The funding for this contract will come from both Capital and Revenue budgets. The revenue spend will be concerned with the delivery of the tree safety audit works and general maintenance and is forecast to be **£970k** p/a which fits within the Soft Landscape team's budget. The capital budget will be used for tree planting schemes and is forecast to be **£120k** p/a. which is included within the DfT capital grant and supplemented with additional Government Grants.
- 4.4 The contracts will allow for an annual uplift based on GM87, the Ground Maintenance index for soft landscaping services.
- 4.5 Delivery Options - To date three options for the future provision of these works have been considered, as set out below.

- Option 1 – **Do Nothing**

Discounted as The Council has a legal duty to carry out safety critical maintenance of its trees.

- **Option 2 – Procure one provider to deliver the county.**
Unlikely to access SME providers and does not provide as much resilience as multiple providers but could deliver a more competitive price.
- **Option 3 – Procure multiple providers across district grouped lots.**
This is a similar model to other tree contracts E.g., Emergency Tree Contract. Provides more resilience throughout the County but may not deliver the most cost-effective solution.
- **Option 4 – Procure across district grouped lots but allow one provider to deliver the County if most competitively priced.**
Provides access to both SME's and larger providers. If two providers are lowest combined price this could also provide resilience.

4.6 To ensure that the Council obtains best value, Option 4 has been taken forward with a two-lot strategy. This provides the possibility for larger providers to bid for the whole County but still allows SME's to bid for individual lots. This will give a competitive tender process with the opportunity of more resilience to the supply chain.

5. Legal implications

- 5.1 The Council has a 'Duty of Care' under the Highway Act 1980 and obligations under both Statute and Common Law as a land and tree owner. This includes ensuring that its trees are regularly inspected and raising appropriate works.
- 5.2 The award of any contracts will be in full compliance with all relevant procurement regulation.
- 5.3 This contract includes raising appropriate safety critical works to ensure public safety.

6. Policy Framework

- 6.1 Allows compliance with the Highway Asset Management Plans risk-based approach and the principles of the Well-managed Highway Infrastructure Code of Practice 2018.
- 6.2 Kents Environment Strategy 2016 seeks to 'Improve the county of Kent's environmental, social and economic resilience to environmental change'. With sub-priority 9.4 seeking to 'Build resilience to the impacts of environmental change, disease and invasive species on human, plant and animal health'.
- 6.3 Objectives set out in 'Kent County Councils Tree Establishment Strategy 2022 – 2032' determine a key action point as 'exemplar provision for trees on our own estate' in addition to 'Improving protection to trees in Kent'.
- 6.4 The commissioning of a professional arboriculture works service will assist in facilitating Kent's objectives in *Plan Tree*, the 'Kent Tree Establishment Strategy 2022-2032'.

7. Equalities implications

- 7.1 An equalities assessment for the Arboriculture Programmed Works service has been carried out as part of the commissioning process. No impacts have been found.

8. Conclusions

- 8.1 The current Arboriculture Programmed Works contract will end on the 31st August 2024.
- 8.2 A procurement process has commenced in line with the timetable contained within this report and as detailed in the Commercial Strategy presented to the Commercial and Procurement Oversight Board on the 31st October 2023.
- 8.3 There are no further options to extend the existing contract.

9. Recommendations:

The Cabinet Member for Highways and Transportation is asked to

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as shown at Appendix A.

10. Background Documents

- Appendix A – Proposed Record of Decision
- Appendix B - EqIA SC22272 Highways Arboriculture Contract

11. Contact Details

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