

## **REPORT TO EXECUTIVE**

Date of Meeting: 1<sup>st</sup> October 2024

## **REPORT TO COUNCIL**

Date of Meeting: 15 October 2024

Report of: Interim Joint Director - Environment, Waste and Operations

Title: Tree and Woodland Maintenance and Inspections Contract

### **Is this a Key Decision?**

No

### **Is this an Executive or Council Function?**

Council

### **1. What is the report about?**

1.1 This report outlines the requirements for a new Tree Maintenance and Inspections Contract after the expiry date of the current contract on 1 April 2025.

1.2 The report provides an options appraisal and details the preferred route to market and is compliant with the Councils Contract procedure rules 04 April 2023.

### **2. Recommendations:**

2.1 That Executive approves and recommends that Council:

2.2 Authorises council officers to proceed with the procurement process to appoint a contractor to provide a new tree maintenance and inspection service in accordance with the proposals set out in the report to use an open tender process for the procurement of a single supplier; and

2.3 That authority to confirm the award and appoint a contract following the procurement process be delegated to the Interim Director Community Services in consultation with the Strategic Director for Corporate Resources.

### **3. Reasons for the recommendation:**

3.1 The contract will support the ongoing delivery councils tree management in respect of industry best practice, duty requirements, and the Council's Corporate plan 2022-2026.

### **4. What are the resource implications including non financial resources**

4.1 The contract auditing and management requirements will be undertaken by the Councils Tree Team as business as usual.

4.2 The tree inspection and maintenance contract are fully funded by existing approved revenue budgets. The estimated annual contract cost of the contract will be £266,650 based on those budgets as seen below:

	Cost Centre	Account	Budget
Parks and Green Spaces	F033	31008	115,780.00
Parks and Green Spaces	F033	41029	4,100.00
Housing (HRA Shrubs and Trees)	H060	34050	132,770.00
Housing (HRA Shrubs and Trees)	H060	34052	14,000.00
	<b>Sub-Total</b>		<b>266,650.00</b>
Ash Die Back (Capital)	Z1394	Z1394	100,000.00

4.3 The contract length will be a total of 5 years with two years of possible extension, providing a whole term contract value of £1,866,550.

## 5. Section 151 Officer comments:

5.1 In line with the Council's Contract Regulations, the report seeks approval to tender for a new contract for tree and woodland maintenance.

## 6. What are the legal aspects?

6.2 In accordance with the Exeter City Council's Procurement and Contract procedures, the approval of full Council is required at the following stages of a procurement process when the contract value exceeds £1 million:

- 1) Confirmation of business case / Options Appraisal – Authorisation at this stage provides authority to commence with the purchase / procurement process in line with the agreed business case, options appraisal, and route to market.
- 2) Confirmation of Award – Authorisation at this stage provides authority to enter into the contractual agreement with the preferred supplier as a result of the outcomes from the approved purchase / procurement approach.
- 3) Confirmation of Benefits Realisation (above OJEU Level for Services)

At this stage, authorisation is required to commence the procurement process. The report sets out the business case and options appraisal and recommends commencement of the procurement process in compliance with the Public Contracts Regulations 2015.

## 7. Monitoring Officer's comments:

7.1 Members will note the requirement to comply with the Public Contracts Regulations 2015 and the council's own Procurement and Contract Procedures as set out above.

## 8. Report details:

### Options Appraisal

8.1 Alternative routes to market were considered:

- Option 1. Self-delivery, insourcing a tree team with appropriate skills and equipment.
- Option 2. Using the existing Devon County Procurement Framework
- Option 3. National framework
- Option 4. Using an Open tender for a formal single supplier contract

	Budget (Cost)	Quality	Flexibility	Scope
Self-delivery	✗	✓	✗	✓
Framework	✓	✗	✓	✗
Open Procedure	✓	✓	✓	✓

8.2 Option 1. Self-delivery is not considered to provide value-for-money in comparison to a formal contract. The costs for establishing and maintaining a full-time skilled team, including aerial works, are prohibitive. A provisional estimate of the annual cost for an outsourced team is as follows:

	Forecasted Annual Cost	Budget Detail
Labour	£203,942	<ul style="list-style-type: none"> <li>-Management: the organisation and allocation of work is currently a delegated task taken on by the contractor, to bring this in house additional management capacity would be needed. Costs assumes 0.5 of a Grade H.</li> <li>-Operational team: safety requires a team of three on tree works. 2 must be aerial rescue qualified staff at anticipated grades G, and 3 general arboriculture operatives at expected grade E. Absence cover is required to cover on average 15% staff absence level.</li> </ul>
Contractual on duty arrangements	£27,000	Emergency call out provision 365 days per annum. There is the possibility of sub-contracting out at a slightly lower cost.
Equipment and Materials	£12,000	PPE, uniform, safety equipment & inspections, all consumables, and HSE mandated training.
Fleet	£25,000	Fleet supply and maintenance costs, motor fuel, vehicle insurance, plant replacement and specialist equipment hire costs.
Traffic Management	£8,000	Traffic management for highways-based works.
Insurance	£1000	Professional Indemnity
<b>Total</b>	<b>£276,942</b>	

At c.£277k per annum, insourcing costs will exceed that of an external supplier. In addition to the forecasted budget requirement there is likely to be additional hidden annual costs not accounted for at this stage, and an initial capital outlay to procure the plant and equipment required to support an inhouse team.

8.3 Option 2. Devon County framework could achieve a low cost and flexible basic service. However, the framework limits procurement to a cost-only award process. It will not support the Council having direct control over the quality of the Contractor or their work. This will potentially impact the health and wellbeing of the Councils Tree Stock. In addition, the framework did not provide for the full scope of essential maintenance tasks

required. Without quality control or the provision of the full range of work requirement, it is not considered a suitable alternative.

8.4 Option 3. Ad hoc, or casual purchasing arrangements would not be compliant with either set of procurement regulations (2015/2024), and there were no local suppliers on national frameworks. As a result, national framework could not be pursued.

8.5 Because the tree maintenance contract is a significant strategic contract that protects and enhances the councils' trees and woodlands, the Council requires a supplier with diverse capabilities, expertise to provide work to unique specifications, and the ability to support the development of the service applying both current and emerging best practice. Continuing with option 4. a strategic single supplier through open tender will achieve this.

8.6 ECC Ash Die Back action plan, Tree Risk Management strategy, and Tree and woodland strategy require triage assessment of works. As a result of the quantified risk assessment approach, efficiencies are applied throughout the term of the contract as works are only costed, carried out, and invoiced, where necessary to ensure the health and wellbeing of the tree and/or people. These efficiencies alongside contract performance management will ensure best value.

## **9. How does the decision contribute to the Council's Corporate Plan?**

9.1 The Tree and Woodland maintenance contract supports the Corporate Plan by promoting and enhancing carbon sequestration and negating the effects of air pollution, enhancing the amenity and recreational values of urban areas, and encouraging recreational activity in woodlands.

9.2 It will also meet three of the six pillars of leading a well-run Council, by maintain A balanced budget, providing a value-for-money service, and ensuring well-managed assets.

## **10. What risks are there and how can they be reduced?**

10.1 Procurement of the contract presents the risk of:

- Financial failure of the supplier;
- Contract termination costs;
- Contract and/ or cost variations; and
- Force majeure.

These risks are mitigated through the application of the Council contract procedure rules, due diligence, and Legal Contract processes.

Any Contract Variations will be managed through ECC contract variation procedure in consideration with Legal.

And/ or break and exit strategies will be applied as required as per clause 5 of ECC standard terms and conditions.

10.2 The Operational risks

- Business continuity failure; and

- Quality management failures

These risks will be managed and mitigated through contract performance management.

## **11. Equality Act 2010 (The Act)**

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation, and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies, and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage, and civil partnership status in coming to a decision.

11.4 In recommending this proposal no potential impact has been identified on people with protected characteristics as determined by the Act because the strategy recommendations are limited to the delivery of tree management and welfare across the council estate. This bears no relevance to protected characteristics and is a service based on legal duty compliance.

## **12. Carbon Footprint (Environmental) Implications:**

12.1 As highlighted under section 9.1.

## **13. Are there any other options?**

13.1 To ensure the Council complies with all relevant legal requirements, including but not limited to domestic legislation, UK Public Contracts Regulations 2015 ("the Regulations") the options that form the appraisal are the only viable options for this contract.

**Interim Joint Director - Environment, Waste and Operations, Cat Chambers**

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## **Local Government (Access to Information) Act 1972 (as amended)**

Background papers used in compiling this report:-

None

Contact for enquires:

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