

Notice of KEY Executive Decision

Subject Heading:	Award of Highways Tree Maintenance Contract
Decision Maker:	Neil Stubbings Strategic Director of Place.
Cabinet Member:	Cllr Barry Mugglestone, Cabinet Member for Environment
SLT Lead:	Neil Stubbings Strategic Director for Place
Report Author and contact details:	<p>Jacki Ager Waste and External Contracts Manager Ext 3363 Jacki.ager@havering.gov.uk</p> <p>Chris Collings Contracts Management Officer Ext 2445 Christopher.collings@havering.gov.uk</p>
Policy context:	Ensure Havering is kept Clean and Safe, by ensuring the Council's tree stock continues to be maintained in a safe and visibly appealing manner thus enhancing the environment.
Financial summary:	The contract costs are estimated to be £2.418m over 5 years this will be funded through use of the Trees budget (A27004) and Parks (A20500).
Reason decision is Key	Expenditure of £500,000 or more
Date notice given of intended decision:	16 th June 2022

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Relevant OSC:	Places
Is it an urgent decision?	No
Is this decision exempt from being called-in?	NO

The subject matter of this report deals with the following Council Objectives

People - Things that matter for residents

Place - A great place to live, work and enjoy X

Resources - A well run Council that delivers for People and Place.

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

This report seeks approval to commence award of a contract for tree maintenance services for a period of five years with the option to extend for two years, subject to the satisfactory completion of the initial term. The anticipated value of the five-year contract is £2,418,925, plus a potential 2 year extension value of £967,570, therefore a total value of 7 years of £3,386,495. This does not take into account any annual inflationary increases.

AUTHORITY UNDER WHICH DECISION IS MADE

Part 3 [Responsibility for Functions] of the Council's Constitution

3.3 Powers of Members of the Senior Leadership Team

Contract powers

(b) To award all contracts with a total contract value of between £500,000 and £5,000,000 other than contracts covered by Contract procedure Rule 16.3.

STATEMENT OF THE REASONS FOR THE DECISION

The Council has a statutory duty to ensure the Highway is kept safe for its users. Section 142 of the Highways Act 1980 gives the Council the power to license planting, retention and maintenance of trees on the highway. The liability rests with the Council to ensure its tree stock does not injure or cause damage to road users and property.

The previous contract for tree maintenance was awarded to City Suburban Tree Surgeons Ltd on 1 April 2016. The contract was for a period of five years with the option to extend for a further year subject to satisfactory completion of the initial term. This extension was applied and the contract ended on 31 March 2022. Since 1 April 2022, the Council have been contracting smaller pieces to local contractors on an ad-hoc basis and has an agreement in place with a local contractor for emergency works.

The commencement of the procurement was delayed due to staffing pressures within the Procurement team, and as the incumbent contractor was being taken over, the option to further extend the existing contract was not available. It was originally intended to include tree maintenance in an integrated public realm contract, however soft market testing revealed little appetite for this within the marketplace. The Council has since carried out and completed the procurement tender process for Highways Tree Maintenance services as a stand-alone contract.

The procurement process was undertaken from November 2022 using the Council's electronic tendering platform Fusion to procure this contract in compliance with the Council's Contract Procedure Rules. The evaluation criteria for the contract was based on the Quality and Price of submissions, with Quality being worth 30% and Price 70% of the available score. Six bids were received.

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All tenders were evaluated in accordance with the defined evaluation criteria. It is recommended that this contract be awarded to Essex Tree Care Ltd due to their bid submission, which contained a good standard of responses within their method statements, and a price comparative to market rates that was deemed appropriate to deliver the Services required. The final evaluation can be seen below.

Tender Evaluation				
	Ranking	Pricing Score	Quality Score	Overall Scores
Essex Tree Care Limited	1	70.00	22	92.00
Bidder B	5	31.10	21	52.10
Bidder C	6	35.62	14	49.62
Bidder D	2	51.21	22	73.21
Bidder E	3	58.63	14	72.63
Bidder F	4	49.06	6	55.06

OTHER OPTIONS CONSIDERED AND REJECTED

The team has sought quotations for putting the programme of pruning works out in smaller lots to attract local companies, however the prices received showed that over the course of a year, the total could be up to double the rate enjoyed under the previous contractor. This is not unexpected, as officers consider the previous contract very low cost compared to the general market.

A further investigation into joining a framework proved unsuccessful, as the framework was limited in its scope, only offering a choice of three contractors, and the hourly rates showed a stark increase compared to the previous contract.

PRE-DECISION CONSULTATION

None

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Jacki Ager

Designation: Waste and External Contracts Manager

Signature:

Date:

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Council has a statutory duty under s150 of the Highways Act 1980 to remove any obstruction from the highway. Under s142 of the same Act the Council, as the highway authority can grant a licence to retain and maintain trees on the highway or land adjoining the highway.

The Council has the power to procure a contract for these works under section 111 of the Local Government Act 1972, which allows the Council to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions, or through its general power of competence under section 1 of the Localism Act 2011 to do anything that individuals generally may do. The recommendations in this report are compatible with these statutory duties and power.

The proposed contract value is above the applicable public procurement threshold for service contracts stipulated in the Public Contracts Regulations 2015 ("PCR") of £213,477 and is subject to the full rigours of the Regulations. Officers undertook an open tender in compliance with Regulation 27 PCR and the Council's Contract Procedure Rules. The contract is being awarded to the most economically advantageous tender.

FINANCIAL IMPLICATIONS AND RISKS

The maximum cost for this service is estimated to be £0.483m per annum, or £2.418m for the full 5 years, plus a potential 2 year extension value of £0.968m. This will be met through the Trees budget (A27004) and Parks (A20500 - £0.060m). This does not take into account any annual inflationary increases.

The price element of the contract is evaluated by providing a list of works orders and the frequencies that these tasks were carried out in a financial year. Bidders were required to provide a cost per unit for each works item.

Work will be commissioned on the basis of a schedule of rates with orders being raised monthly in line with the inspection programme, or on an ad hoc basis where required. The contract costs can therefore be managed within the available budgets. The award of contract is for 5 years, but with a further extension option of 2 years to test whether better value for money can be achieved on the bidders' schedule of rates.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

There is no impact on any directly employed Council employees, and no existing contract is currently in operation. The award of contract process can be undertaken within existing staff resources.

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EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, sexual orientation.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

Due to the nature of the contract, it will have a potential to impact all residents living in the Borough. An Equality Impact Assessment has been undertaken and will be kept under review.

HEALTH AND WELLBEING IMPLICATIONS AND RISKS

There are no health and wellbeing implications or risks relating to the proposed decision.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

Tree maintenance contributes to the environment by assisting to impact on reduction of carbon emissions. Healthy tree stock in the borough aids preparation for the impacts of climate change. The contract includes an option for the successful bidder to undertake tree planting in the borough, upon the request of the Authorised Officer. Havering's annual tree planting programme is arranged by Havering's Tree Officer, in line with best practice around species offering pollution mitigation, as well as promotion of a varied stock that can provide more resistance against pests, disease and increasing air temperatures.

» [Climate Change Committee Guidance \(havering.gov.uk\)](http://climatechange.havering.gov.uk)

BACKGROUND PAPERS

None

Key Executive Decision

APPENDICIES

None

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Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Delete as applicable

Proposal NOT agreed because

Details of decision maker

Signed



Name:

Neil Stubbings

Cabinet Portfolio held:

CMT Member title:

Head of Service title:

Other manager title:

Date:

21.09.23

Lodging this notice

The signed decision notice must be delivered to Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____