

TITLE OF REPORT - Arboricultural Maintenance & Tree Planting/Post Planting Management Framework

CONTRACT APPROVAL

Key Decision No. - NH S26 Arboricultural Maintenance & Tree Planting/Post Planting Management Framework

CABINET PROCUREMENT AND INSOURCING COMMITTEE MEETING DATE (2021/22)

06 December 2021

CLASSIFICATION:

Open report with the following appendices:
Exempt appendix - Appendix 1
Open appendix - Business Case

If exempt, the reason will be listed in the main body of this report.

WARD(S) AFFECTED

All Wards

CABINET MEMBER

Cllr Caroline Woodley - Cabinet Member for Families, Early Years, Parks and Play

Cllr Mete Coban - Cabinet Member for Energy, Waste, Transport and Public Realm

KEY DECISION

Yes

REASON

Spending/All Wards

GROUP DIRECTOR

Ajman Ali - Neighbourhoods & Housing

1. CABINET MEMBER'S INTRODUCTION

- 1.1. The Council has a duty to maintain its Arboricultural resource within Hackney for which it is responsible, mainly in parks, on the public highways and on housing land. This report seeks approval to support the contractual engagement of Bidder 1,2,3 and 4 (named in Appendix 1) for the Arboricultural Maintenance & Tree Planting/Post Planting Management Framework contract.
- 1.2. The contract will run for a period of four years 2022-2026. The award of the proposed Framework contract will support the continued delivery of high quality services to maintain and improve our tree management. In the period leading to the award of the contract, officers within Streetscene will continue their investigations into bringing some of the services associated with the Arboricultural Maintenance framework back in-house over a phased approach and period.
- 1.3. This report provides an update on the procurement carried out by the Streetscene Highway, Parks and Open Spaces and Housing with other services areas related to a Arboricultural Maintenance & Tree Planting/Post Planting Management Framework contract, and seeks approval to proceed with a contract award as detailed in the recommendations.
- 1.4. The award of the proposed framework contract will support the continued delivery of high quality services to maintain and improve our tree resources in streets, parks and open spaces, housing environments and other service areas of the borough. It is through a strong partnership approach between the Council and their service providers that works to the public realm and improves Hackney for the benefit of all users.
- 1.5. Members should note that whilst the report seeks approval to continue to contract out Arboricultural Operations on a new framework contract, as part of the Council's commitment to look at insourcing of services. There has already been some preliminary work in scoping arboricultural or planting operations over a phased stage going forward bringing certain achievable elements of operations back in-house over a 18-24 month period, as this may be judged to be operationally advantageous to do so and meets the authorities objectives.
- 1.6. Consideration will also be given to insourcing for Highways, Parks and Open Spaces and the Council Estate (when the decision to transfer Estate Housing Infrastructure to Streetscene has been finalised). The insourcing of the respective service for Arboricultural Operations will need to be reviewed and given a lead in time to make sure this can be a viable route and option and not lead the authority vulnerable and unable to meet its legal duty of care.

- 1.7. Consideration to in-house service provision and areas of responsibilities with elements of arboricultural operations are likely to be in 18 – 24 months and will only proceed if it is considered viable. The report explains why bringing the activities of elements of arboricultural operations in-house in a phased approach to a new in-house service team provider would be advantageous to the council.
- 1.8. The authority is presently operating with an Arboricultural Maintenance Framework contract which was procured in 2015 for a term of four years (until 2019). When the framework exceeded its time frame, an extension was granted under a Single Tender Action (STA) agreement until 1st February 2022 to allow for the new tender process to be completed and a new contract awarded for February 2022.

2. GROUP DIRECTOR'S INTRODUCTION

- 2.1. Following a competitive procurement process, this report seeks approval to appoint 4 contractors to provide day-to-day arboricultural services across the Council for the following disciplines:
 - Tree Maintenance
 - Tree Felling
 - Stump Removal
 - Root Pruning
 - Tree Planting
 - Emergency Service
 - Decompaction/Amelioration Works
 - Surveying
- 2.2. The Streetscene Arboricultural Framework contract will deliver the following:-
 - Provision of a cost-efficient, quality-driven highways related service, which delivers a safe, high-quality public realm environment for the people that live, work and travel through Hackney.
 - A contract that focuses on the Sustainable Procurement Policy, Strategy (PSG) and that provides local employment opportunities including at a minimum, the London Living Wage (LLW). There is also a requirement for one apprentice to be employed on the contract for every £1m of expenditure.
 - A contract that reduces construction waste by re-use and recycling wherever possible.

- A practical solution in which to have a phased return to insourcing and enable the Council to grow the in-house service provision that will result in less reliance on external service providers.
- 2.3. The duration of the framework will be 4 years and it is anticipated that the contract award will be announced in December 2021, with an 8 weeks contract mobilisation period then after, and contract commencing in February 2022.
 - 2.4. The Arboricultural Maintenance & Tree Planting/Post Planting Management framework contract allows a prompt response to reactive maintenance issues with a shared opportunity of workload between the providers. The performance of the current providers and contractor-client relationship has been good with no significant disputes or concerns about the contract specification.
 - 2.5. The award of the proposed contract will support the continued delivery of high quality services to maintain and improve our tree resource. In the period leading to the award of the contract, officers within Streetscene will continue their investigations into bringing some of the services associated with the Arboricultural Maintenance & Tree Planting/Post Planting Management framework back in-house.
 - 2.6. A practical proposal for the provision of the Streetscene Arboricultural Maintenance & Tree Planting/Post Planting Management Framework has been agreed with internal and external stakeholders and the proposals included in this report received positive feedback. As we had done when awarding the current contracts, the Council shall again consider both quality and price when taking the decision to award the new contract.

3. RECOMMENDATION(S)

That Cabinet Procurement and Insourcing Committee approves:

- 3.1. **The award of the Arboricultural Maintenance & Tree Planting/Post Planting Management Framework contract to 4 bidders (listed in Appendix 1), for a period of 4 years from 1st February 2022 to 31 January 2026.**
- 3.2. **The Cabinet Procurement Committee notes that whilst the report seeks approval to contract out the arboricultural services that, as part of a phased insourcing programme, some areas of responsibilities and elements of arboricultural operations are likely to be in 18 - 24 months and will only proceed if it is considered viable. Further information is contained Exempt Appendix 1 Insourcing Feasibility Study for Arboricultural Services 2021**

4. RELATED DECISIONS

- 4.1. The strategy for the procurement of the new Arboricultural Framework contract was reviewed at the Hackney Procurement Board (HPB) as detailed in the Business case linked below (approved 14th July 2020). With an extension to the existing contract for 15 months, and approval for procurement of the new framework for a period of four years 2022 - 2026.

5. REASONS FOR DECISION/OPTIONS APPRAISAL.

- 5.1 The Council has a statutory obligation under the Highways Act 1980 (s41) to maintain the public highway and that includes all arboricultural assets. Further as the owner and manager of trees on all Council land, the London Borough of Hackney has a legal duty of care under Occupiers Liability Act 1985 to protect people and property from foreseeable hazards caused by the tree's failure. This would not be possible without the support and assistance of specialist tree contractors or in-house service providers.
- 5.2 In 2015, the Council awarded the contract for the Arboricultural Maintenance Framework to 3 providers. The contract was extended for a three year period by a single tender action process to the end of February 2022 to facilitate the completion of this procurement process and to ensure business continuity.
- 5.3 The previous procurement model of delivering the Arboricultural Maintenance boroughwide was achieved through a framework contract in 2015 resulting in three different contractors being appointed at that time. This was an opportunity to engage small and medium sized contractors in the procurement process and encourage greater competitiveness in each area of work. This framework contract of several contract providers has worked extremely well and had the end result of greater flexibility, better value for money, improved quality standards and services delivery. Notwithstanding the benefits of this greater flexibility, the benefits of giving small, medium enterprises (SME's) the ability to tender for the works is seen as being equally important and for this reason the proposal to group all the works into one large contract or single provider has been resisted.
- 5.4 Early consultations with service providers, and discussions with other local authorities, the Head of Service (Streetscene) and Group Engineer (Highways) and Procurement agreed that the current method with 4 providers of a framework contract is a viable solution to deliver arboricultural services. Consideration is also being given to insourcing the responsive service although this is likely to be in 18 - 24 months from the commencement of the new contract if it is considered to be a suitable method to deliver part of the arboricultural services.

- 5.5 Hackney Council annually delivers a vast range of arboricultural services to its local community of people who live, work and spend their leisure time in the borough. Trees are an integral part of the urban environment. They improve local areas ecologically, sustain communities, socially, economically and physically most importantly they benefit human health. Trees absorb and filter pollution to improve air quality, improve urban biodiversity, create shade on hot days, act as mitigation measures for interception in flash flooding and attenuation of the rainfall. It is important, however, to choose the right species of tree; in the right places which will provide the best eco-services and ensure that we are providing diversity to ensure we have the resilience for pests and diseases and continued changing climate.
- 5.6 Hackney Council aspires to increase its tree canopy coverage of the Council owned public realm in the borough (public highways, parks, other green spaces and housing estates) from its current level of 23% (GLA figures the London Urban Plan). This will bring Hackney in line with the Mayor of London's commitment on trees in London by 2050. The planting of 5,000 new street trees by 2022 increasing the street canopy from 20% to 30% will be the single largest investment in trees in the history of the borough. We expect this to be funded from a variety of sources internally and governmental grants but also looking at innovative ways of funding particularly crowdsourcing, developer contributions, sponsorship, and pursuing avenues of green carbon credits.
- 5.7 The arboricultural resource on public highways in parks is maintained at public expense and is an important part of the integrated transport network that supports the local economy and sustainable growth. It is a high priority of the Council to maintain and improve the arboricultural resource in order to enable safe and expeditious movement of its users throughout the Borough. This would not be possible without the support and assistance of specialist arboricultural related works contractors.
- 5.8 Many local authorities have a range of contracts from a single supplier in use or a framework with multiple suppliers. Frameworks with different methods of call off for works which are fixed priced Schedule of Rates to packages of works which are individually bid on a mini tender basis.
- 5.9 The contract will utilise the existing capital and revenue budgets during the life of the contract. The recommended framework contract with multiple suppliers will operate on a 'call off' basis with a fixed schedule of rates for operations with no guarantee of work volumes. This gives flexibility to ensure that programmes can be met from within existing and future budget allocations. The Specification and Schedule of Rates has been prepared in accordance with industry standards of works and operations. The contract schedule of rates that are priced by the contractor are used in delivering all tree related operations on the public highway, parks and open spaces and

housing site as well as other service areas for the borough which this framework can be utilised for. The type of tree operation will determine which items are used from the schedule of rates. The contract rates can also be used by other departments within the Council for their infrastructure related projects.

5.10 The total value of the framework contract will ultimately be determined by the available capital and revenue budgets during the life of the contract. The estimated value of the framework contract is approximately £3.5m over the full term. The annual spend in recent years has been:

- 2015/16 - £625,000
- 2016/17 - £657,000
- 2017/18 - £677,000
- 2018/19 - £695,000
- 2019/20 - £698,500

5.11 There is the option for other service areas within the Council to use the Streetscene Arboricultural Maintenance & Tree Planting/Post Planting Management Framework where there is an urgent requirement for works to be undertaken or to benchmark prices that they have received for similar projects.

5.12 This procurement has been carried out in accordance with the process approved by the Hackney Procurement Board (HPB) in the Streetscene Arboricultural Framework Contract detailed Business case (approved 14th July 2020).

5.13 The Business Case approved the procurement strategy for the re-tender of an arboricultural framework contract with 4 service providers for a period of 4 years (2022-2026) to be advertised via Find a Tender, in compliance with UK legislation.

5.14 The decision to undertake a Restricted (two-stage) tender was selected as the preferred procurement route as it provided the pre-qualification of bidders so reducing the number of bidders invited to tender to those suitably qualified and to make the tender more attractive.

5.15 In line with the Public Contract Regulations (PCR) 2015 and Council's Contract Standing Orders (CSOs), the contract was advertised on Contracts Finder, London Tenders Portal, Hackney Council's webpage, and in Find a Tender to ensure that we achieved the procurement principles of transparency, fairness and competition by offering the opportunity to the largest number of bidders as possible.

5.16 The tender submissions have each been evaluated based on 30% quality and 70% price.

6 ALTERNATIVE OPTIONS (CONSIDERED AND REJECTED)

- 6.1 Hackney Council faces significant budgetary pressures across the next few years due to ongoing Central Government funding reductions and as a result needs to continue reviewing their service provision options as they look to make efficiencies, reduce budgets and improve performance. The Highways Maintenance Efficiency Programme (HMEP) produced useful information when seeking different models of service delivery to compare and evaluate. While some authorities believe the best way of achieving these measures is through handing as much as possible over to external contractors (outsourcing), others believe bringing services back in-house (insourcing) is the more cost-effective long term option. Hackney Council closed its own Highways DLO (Direct Labour Organisation) and outsourced the works in 2000 / 2001.
- 6.2 We have considered the following procurement strategy options:
- Option 1 - Single supplier award (not a framework)
 - Option 2 - In-house provision
 - Option 3 - Supplier framework agreement extension
 - Option 4/5 - Use of existing framework
- 6.3 A single supplier award is not a viable option as we cannot define the total value of work to be placed under this contract. A single supplier award would also make it more difficult to bring parts of the service in-house.
- 6.4 Bringing all the activities included in the Arboricultural maintenance framework contract is not considered a viable option at this stage due to the requirement for the service in-house to provide a wide range of tasks (felling, planting, stump removal, arboricultural operations etc.) which require specialist equipment, qualified and fully trained operatives. These tasks fluctuate throughout the year resulting in the need for a highly flexible workforce.
- 6.5 The preferred procurement route is therefore a four supplier option framework agreement with call-off contracts as it allows Hackney not to commit to a total spend over the period of the contract and gives the security of procuring a flexible resource that can meet the demand of the service.
- 6.6 This contract will apply to all trees on the Council land (including highways, housing, parks and open spaces with other services areas). It is necessary to process a new contract for this work as the current contract will come to an end on 1st February 2022 and Hackney needs to ensure continuation of the service.

6.7 The deliverables for this contract are:

- Providing a cost efficient, quality driven tree related service, which delivers a safe, high quality public realm environment for the people that live, work and travel through Hackney.
- Contract that focuses on the Sustainable Procurement Policy, Strategy Guidance (PSG) and that give employment opportunities where as a minimum the London Living Wage (LLW) will be paid to employees.
- Contract that contributes in maintaining and improving the borough's housing, park and street trees for residents to enjoy, improving the quality of life and local environment and creating the conditions for a vibrant economy.
- Contract that meets with the Council's corporate priority; improving the satisfaction of residents and businesses with the London Borough of Hackney as a place to live, work and study. The Council's procurement strategy aims to support the delivery of the corporate plan by enabling the procurement of value for money goods and services; the tendering and extension process undertaken for the tree contracts support this aim.
- Ensures compliance with the Council Standing Orders, Regulatory Procedures and the Council's Corporate Policy.

7 Option 1 - Award a single contract for all the works consisting of the Arboricultural Maintenance & Tree Planting/Post Planting Management contract.

7.1 The general trend across London boroughs has been to award large single Arboricultural contracts, however a number of authorities continue to award separate Arboricultural contracts. The recently updated procurement strategy promotes and encourages smaller businesses and therefore the size of this large contract would unnecessarily exclude these businesses from bidding. It should however be recognised that the approach of a single large contract would have encouraged SME's, albeit at the upper echelons of turnover. The National and European definition of an SME is as follows: A small or medium-sized enterprise, or SME, as defined by the European Commission is a business or company: that has fewer than 250 employees; and has either (a) annual turnover not exceeding £40 million or (b) an annual balance-sheet total not exceeding £34 million.

7.2 This option does not preclude larger contractors from tendering for the framework contract; however, the framework contract with 4 suppliers gives the opportunity for smaller contractors to bid for the works. The model for a

single contractor to bid for all the works in one contract was therefore rejected.

8 Option 2 - Bring all the works associated with the contract back in house.

- 8.1 There is a current lack of operational and supervisory experience, together with a lack of specialist plants and equipment that is currently provided by the outsourced contractor. As a result of this deficiency of resources at the present time, the Council would (dependent on the outcome of any TUPE transfer) need to upskill new staff with the relevant skills and experience, an operational base to function from and to invest considerable sums of money to procure the specialist equipment required to provide an arboricultural service.
- 8.2 Any insourcing will also impact upon ancillary services such as finance and human resources to deal with a significantly increased number of staff (all operatives would become council employees). The amount of operational staff required to undertake all works in the contract would be in excess of 15 staff and it has been estimated that very few of the required operatives would transfer under TUPE. The likely outcome is that when the contract ends in March 2026 the contractor will take their specialist skills, specialist equipment and best staff with them leaving the council exposed to not being in a position to maintain the arboricultural service, resulting in an increase in claims and a major delay in being able to deliver all the schemes and major tree related capital projects. In addition to the staff requirements it has been estimated that 3 – 5 medium sized 7.5T lorries would need to be either purchased or leased. This does not include all the specialist equipment that is required such as climbing apparatus, chainsaws, stump grinders, wood chippers, mobile elevated platforms, water bowsers, breakers, mini diggers. There is a major risk to the Council that at the point of transfer there would not be any contingency arrangements in place to guarantee service delivery.
- 8.3 The issue of work continuity also has an impact on labour requirements. This needs to be addressed when managing an insourced arboricultural maintenance contract. There are peaks and troughs in the works programme that affect the amount of specialist labour required at different times throughout the financial year. There are a number of activities that are completed on a daily basis and work programmes and operations listed below.

Programmed Tree Works	Quarter period for works
Triennial Pollarding & Reduction	Quarter 3 - October November

Programme	December and Quarter 4 - January February March
Basal/Stem Growth Programme	Quarter 1 – April May June Quarter 2 - July August September
Fell & Grind Programme	All Quarters
Planting Programme	Quarter 3 - October November December and Quarter 4 - January February March
Post Planting Maintenance Programme	All Quarters
Adhoc Programme	All Quarters
Other Programmes	All Quarters

- 8.4 This ensures that operatives have a steady stream of work. Whilst an outsourced contractor has the ability to move the surplus skilled operatives and specialist equipment to another contract an insourced service provider has a more limited scope to transfer specialist staff on to other work streams.
- 8.5 In summary, Officers consider that this model has a limited likelihood of providing savings and efficiencies needed at this stage. A resource shortage would be a likely outcome of selecting this delivery model as potentially only a very limited number of employees are likely to TUPE to a completely new in-house Direct Labour Organisation (DLO). This would leave a major gap in resources and expertise in key skilled roles and a major risk to this council in maintaining the highway, Parks and Opens Spaces and Housing trees.
- 8.6 The lack of staff, equipment and operational accommodation associated with insourcing all the arboricultural maintenance activities included in the Arboricultural Framework maintenance contract en masse at the end of the current contract does not make this option viable and was therefore rejected.

9 Option 3 – Extend the existing contracts

- 9.1 The current arrangement was let as a framework contract and the Council has no legal basis under the Public Contracts Regulations 2015 to extend them beyond their current expiry dates.
- 9.2 However, as a result of slippage and in order to facilitate the procurement of the new contract, the existing contract has been extended via STA for a further 15 months to ensure essential maintenance continues to be provided.

10 Option 4 - Share another Authority's contract.

- 10.1 The option for Hackney Council to work across Borough boundaries to collaborate and partner with neighbouring councils where their objectives and local services complement each other was considered.
- 10.2 In practice for this to work, it was realised that any partner would need to be on a similar contract procurement time frame as Hackney and that any proposed contract would permit such arrangements.
- 10.3 A review was undertaken by neighbouring authorities with a view to collaboration to identify suitable authorities and informal discussions were held with a number of these authorities. For many, given the timescale of their current arrangements, any interest they had was expressed in a possible collaborative procurement process in the future. When considering sharing a contract, each authority would need to be satisfied that there would be mutual benefits, a reduction in tendering costs and a saving in tendered rates.
- 10.4 In undertaking this exercise, Islington & Haringey Council were identified as two authorities that met these mutual requirements. Islington & Haringey Council have similar Arboricultural Maintenance & Tree Planting/Post Planting Management maintenance requirements to Hackney Council and are considering other options to their current arrangement with the London Highways Alliance contract (LoHAC).
- 10.5 Senior Streetscene officers met with their Islington & Haringey counterparts in October 2017 to explore any benefits of sharing a highways maintenance contract that they were at the early stages of procuring.
- 10.6 Islington & Haringey would have taken the lead in managing the contract. A number of lessons were learned as part of the review such as co-ordination issues between the boroughs in terms of ordering and planning of works programmes, different contract specifications & response times but the main barrier to the success of this type of arrangement surrounded which borough had priority when ordering works and projects. There was a concern that this could have led to Hackney receiving a secondary service during peak work periods.
- 10.7 In the event the procurement timetable did not align with Hackney and for this and the reasons above this option was rejected.

11 Option 5 - Sign up to use the London Highways Alliance contract (LoHAC) was promoted by TfL.

- 11.1 LoHAC is a framework of collaborative highways services contracts. It was developed jointly by Transport for London (TfL) and London Boroughs for the

provision of highway maintenance works throughout London that is accessible to all London Boroughs and used by (TfL) to maintain their own highway network.

- 11.2 London is split into four regions for the purposes of the LoHAC. These regions were chosen to maintain a manageable and sustainable contract size in the event that there was a take-up by London Boroughs. Hackney is included within the Central area together with Camden, City of London, Southwark, Tower Hamlets, Wandsworth, Lambeth, Hammersmith & Fulham, Kensington & Chelsea, Islington and Westminster.
- 11.3 Each framework commenced in April 2013 for a period of eight years until the end of March 2021. The successful contractor for the Central area was CVU which is a Joint Venture (JV) between Colas, Volker Highways and URS. In the Central area, the London boroughs of Camden, Tower Hamlets and Islington joined LoHAC under framework agreements as Tier 1 authorities.
- 11.4 Currently a number of London Borough are actively looking to leave the contract or are considering other arrangements when the term that they signed up for with LoHAC ends. The London Borough of Ealing decided not to use the framework after finding that they were more expensive than a rival bid from a contractor after going through a procurement exercise. Similarly officers within Streetscene have undertaken extensive cost comparisons with the rates provided in LoHAC that also demonstrated that our current contract rates were more competitive whilst providing the same level of quality.
- 11.5 The LoHAC in the Central region has recently run into trouble after a key joint venture partner pulled out. The CVU joint venture of Colas, Volker highways and AECOM has left the LoHAC road maintenance contract after news of a planned drop in work levels and contract issues relating to the available hours that the contractor could work on schemes during the night. The London Mayor and TfL confirmed that cuts in government funding would mean a two-year hiatus on non- essential road repairs.
- 11.6 Hackney Council has continued to keep up to date with the development and progress of the new LoHAC that is due to commence from 2021 with a view to joining the framework agreement if it proved advantageous to do so. Currently it is not considered beneficial for Hackney to join LoHAC. If for any reason the Streetscene highway maintenance contract failed, which is extremely unlikely, the decision to join LoHAC could be taken up. In addition to this option and as a result of the lessons learnt from the Carillion failure, Hackney will also keep the option to share other contracts open as one of a number of service continuity measures.

- 11.7 The LoHAC contract does not meet our specification for tree operations in Parks and Open Spaces and Housing Environments or other service areas as it is tailored to highway tree operations only.

12 PROJECT PROGRESS

12.1 Developments since the Business Case approval.

None

12.2 Whole Life Costing/Budgets:

Budgets include both revenue and capital funding. These budgets include Transport for London allocations received by Hackney and the S106 sums received through the planning process.

The contract is based on term schedules of rates and provides no guarantee of any specific volumes of work to the contractor(s). The Council could considerably reduce or cease using the contract should there be a funding shortfall.

The recent year's expenditure on the existing Arboricultural contract with 3 contractors has been:

- 2015/16 - £625,000
- 2016/17 - £657,000
- 2017/18 - £677,000
- 2018/19 - £695,000
- 2019/20 - £698,500

The anticipated spend over the 4 year life of the Framework contract is approximately £2.8m. This estimate is based on an annual revenue budget of £498,500 and a capital budget of £200,000. A revenue allocation of £175,000 for the financial year 2021 - 2022 to manage the additional 5,000 street tree programmes going forwards.

13 SAVINGS

- 13.1 The amount of cashable savings generated by the new contract has been calculated on the new priced schedules of rates commencing in 2022 and the existing contract rates:-

- Tree Maintenance + 10% (Increased)
- Tree Planting +5% (Increased)

- 13.2 However, over the term of the current framework contract, it has been static since 2015 with no increases until the expiry in 2019. It was agreed that a 3% increase in the contract schedule of rates would be applied in line with the inflation indexation for the arboricultural maintenance and tree planting service.
- 13.3 Whilst any savings realised during year 1&2 have been fixed on the new Streetscene Arboricultural Maintenance & Tree Planting/Post Planting Management Framework contract.
- 13.4 A Consumer Price Index (CPI) Increase Indexation has been capped at a maximum of 5% over the duration of the contract which would be reviewed and only applied at the start of year 3&4 in line with the Bank of England inflation results taken on a fiscal year.

14 SUSTAINABILITY ISSUES

14.1 Procuring Green

The contract addresses environmental sustainability by insisting that the contractor operates an environmental management system, and operates at all times within the Environment Protection Act 1990 and the Environment Act 1995. The contract also details protection of waterways, wildlife protection and specifically protection under the Wildlife and Countryside Act 1981, the Conservation of Habitats and Species Regulations 2017 such as bats and nesting birds.

This has also been explored within the tender returns through method statements. The contractor will be required to submit and adhere to method statements detailing how they will carry out and manage any works, and ensure that their staff are appropriately trained.

More minor aspects of the contract involve travel around the borough, which will be mitigated by the contractor scheduling works to minimise travel. Other aspects include those associated with the use of offices and tools by the contractor – e.g. energy and water use and waste generation. All bidders are expected to have an environmental management system in place to address these, and will also be legally required to comply with the waste hierarchy, prioritising recycling over landfill.

There will be an obligation on the contractor to comply at all times with the Environmental Protection Act 1990 and other relevant legislation but also with the environmental policies of the Council. An example of this would be to ensure that vehicles minimise emissions.

The contract will have an environmental positive impact as low noise levels whilst working will be stipulated. Tree waste recycling indicators will be monitored during the contract. Wherever possible, the most environmentally friendly fuel will be used in machinery, biodegradable lubrication oils, especially on chainsaw bars where oil is left in the environment. The use of electric battery power arboricultural equipment has been considered to reduce noise and vibration where practical.

The recommended contractors have offices and a compound on the Borough boundary which again will also reduce travelling time between sites. All vehicles used by the contractor have been specified Euro 6 compliant or above with incorporating start/stop technologies. Waste will be minimised through the reuse of materials where practical. Where appropriate, permeable materials will be specified within the contract to minimise the impact of surface water flooding.

14.2 Procuring for a Better Society

The new Streetscene Arboricultural Maintenance & Tree Planting/Post Planting Management Framework contract promotes local employment and training. The contractor was asked to review the position of employing a number of apprentices (1 apprentice per £1m. spend) due to the contract value between the four supplies this could not be evaluated. It is an aspirational target which the suppliers have indicated they would be willing to work to. In addition to employing apprentices, each contractor was required in their submission process to demonstrate how they will recruit and retain local staff during the life of the contract.

All of the successful bidders have also confirmed that they will pay as a minimum the London Living Wage, as well as applying this to all firms within their supply chain. They also intend to work with local businesses which they listed in their tender submissions.

The 4 providers will provide an arboricultural unit to participate in one event per year with the Arboricultural Officers. This event will be held on a Saturday or Sunday. There will be no charge from the Contractor for this. Events such as tree climbing demonstrations, planting days, equipment demonstrations would be required to represent the authority with the community of Hackney.

14.3 Procuring Fair Delivery

As part of the selection process, the contractor was asked to provide evidence that they comply with the Equality Act 2010 and the Council's standards. Contractors were required to demonstrate as part of their quality submission that they operate an active equal opportunities policy that achieves targets that encourage an ethnically diverse workforce; also that they demonstrate their consideration for local employment.

A well-maintained arboricultural streetscene service benefits all groups and in particular assists older people, visually impaired people, those with mobility problems and their carer's that have particular requirements in navigating the public realm. These groups are considered at the design stage of tree planting and during routine maintenance operations that are implemented using the arboricultural framework contract.

14.4 Equality Impact Assessment and Equality Issues:

As part of the tender selection process all bidders were asked to provide evidence that they comply with the Equality Act 2010. Contractors were required to demonstrate as part of their tender quality submissions that they operate an active equal opportunities policy that achieves targets that encourage an ethnically diverse workforce; and also that they demonstrate their consideration for local employment.

Improvements and good maintenance of the public realm will benefit all sections of the community. A high quality environment increases the sense of well-being. An effective Arboricultural contract supports the Council's disability and gender equality outcomes by making the public realm barrier free and more accessible.

Maintenance of the public tree stock is a universal service that affects / benefits all residents and visitors in the borough. There are not thought to be any particular adverse impacts on those with protected equality characteristics.

The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding.

Parks and Open Spaces land may be used more by women and children as well as the elderly than other groups. The services delivered under this framework are considered to have a medium positive impact and low negative impact on the various groups considered. With reference to PRIMAS, there is no negative impact on the various groups.

15 TENDER EVALUATION

15.1 Evaluation:

In compliance with the Public Contracts Regulations 2015 and in order to achieve 'best value', a notice of the proposed tender is required to be published in Find a Tender, (via the online London Tenders Portal), as the combined contract value of over £600k per annum (£3.5m over 4 years) is more than the services threshold of £189,330 for service contracts. It is proposed that a two stage procurement procedure will be used.

The Selection Questionnaire (SQ) and the Invitation to Tender (ITT) including a Bill of Quantities, specifications and associated appendices was published on London Tenders Portal via Pro-Contract, the Council's e-procurement system on the 04th June 2021 with a submission deadline for the pre-qualifying (SQ) stage of 05th July 2021.

In addition to the standard SQ questions the potential bidders were required to respond to project-specific questions as part of the pre-qualifying process to be shortlisted. The project-specific questions weightings were as follows:

- Relevant experience 20%
- Management team 10%
- Case Studies 15%
- Added Value 10%
- Social Value 20%
- Environmental Value 15%
- Health & Safety Value 10%

In response to the tender advert, the Council received 7 SQ stage submissions. The responses were assessed individually by the Evaluation Panel comprising two Streetscene Officers followed by a moderation meeting facilitated by the Procurement Category Manager. Following the SQ stage evaluation, 7 bidders were invited to participate in the second tender stage and were issued an Invitation to Tender (ITT). At the second tender stage (ITT), out of the 6 shortlisted suppliers, 4 bidders submitted a compliant tender outlined in the exempt Appendix 1.

The final contract award was based on the Most Economically Advantageous Tender (MEAT). The tender evaluation criteria at the second ITT tender stage were based on Quality and Price which has been specified and weighted below:

Evaluation criteria	Weighting
Quality score	30%
Price	70%

Total score

100%

The Tenders were evaluated with 30% of the maximum score available to respond to the quality questions, and 70% of the maximum score available for price submissions.

All evaluations have been completed; the Council has added the quality and price scores together to provide a total score for each Tenderer. The Tenderers with the highest combined scores are recommended to deliver the contract.

The final weighted scores together with the ranking of the bidders are summarised in **the table below**:

Bidder	Quality Score (30%)	Price Score (70%)	Total Score	Rank
1	29.3%	66.1%	95.4%	1
2	21.8%	70.0%	91.8%	2
3	29.6%	50.5%	80.1%	3
4	28.2%	43.0%	71.3%	4
5	opted out			
6	no response			

The above table inclusive of the Supplier names is provided in the exempt Appendix 1 attached to this report.

Tender Evaluation Team comprised of:

- Principal Engineer (Streetscene), Public Realm Division
- Senior Arboricultural Officer (Streetscene), Public Realm Division
- Supported by a Procurement Category Manager (Construction & Environment)

15.2 Procurement Process

In compliance with the Public Contracts Regulations 2015 and in order to achieve 'best value', a notice of the proposed tender was required to be published in Find a Tender (via the online London Tenders Portal), as the combined contract value of over £600k per annum (£3.5m over 4 years) is more than the UK threshold of £189,330 for service contracts.

15.3 Recommendation:

The evaluation panel recommended the bidders that were the lowest in price and highest in quality for this contract. The panel clarified the tender rates to

ensure that the bidders had made a full and complete submission for all elements. In addition to evaluating the bidders' price schedule of rates against an indicative package of annual works the panel also used pre-set sample rates. This exercise reduces the possibility of any bidder submitting a 'rogue' price for any schedule of rates item.

It is recommended that the Cabinet Procurement and Insourcing Committee approves the award of the Arboricultural Maintenance & Tree Planting/Post Planting Management Framework contract to the 4 bidders listed in Exempt Appendix 1, for a period of 4 years from 1st February 2022 to 31 January 2026.

16 CONTRACT MANAGEMENT ARRANGEMENTS

16.1 Resources and Project Management (Roles and Responsibilities):

The contract will be managed and monitored by Streetscene. The recommended contract is a Hackney Framework terms and conditions contract and provides no guarantee of work.

The contract will set out the management expectations and mechanism for the collaborative relationship between the Council and the appointed contractor. The contract specification and conditions will set out the frequencies of operational tasks, strategic meetings and the route for problem resolution. Performance will be measured against KPIs as part of the contract terms and conditions and will incorporate users' satisfaction with service provision, measured through regular performance meetings. Contract Progress meetings will be convened by the contract manager and meetings will be attended by the providers' management as well as representatives from Streetscene. Meetings are likely to be monthly with possible higher level meetings involving Head of service.

16.2 Key Performance Indicators:

The new framework contract will include a range of performance indicators that will demonstrate that the successful providers are operating with due regard to the environment as well as ensuring value for money.

A general list of the proposed contract management performance indicators are listed below:-

Main KPI Targets Set	Monitoring
1. Total Monthly Default Points: To measure over the life of the contract the total monthly default points that have been accrued.	To be used to gauge the Contractors performance over the life of the contract.

<p>2. Individual Default Categories: To measure over the life of the contract the total monthly points that have been accrued against each individual default point category.</p>	<p>This will be monitored through feedback from the Contractor undertaking planned and unplanned works to newly planted trees between 18 months – 3 years following planting.</p>
<p>3. Post Planting Management (PPM): To help assess the quality of young tree maintenance by the Contractor.</p>	<p>This will be monitored through feedback from the Contractor undertaking planned and unplanned works to newly planted trees between 18 months – 3 years following planting.</p>
<p>4. Complaints Handling:</p>	<p>To ensure the Contractor is providing a good quality service in relation to complaints.</p>
<p>5. Measure Efficiencies:</p>	<p>To monitor the Contractor’s performance against the method statement and risk assessment.</p>
<p>6. Monthly invoices monitoring:</p>	<p>Apart from the first month of the financial year, invoices must be submitted for works completed until that point on a monthly basis.</p>
<p>7. The amount of programmed and ad hoc work orders that are completed by the required completion date: Works orders such as the reduction/pollarding programmes, Programmed Tree Work and subsidence related works orders are essential to managing the Council’s risk in relation to subsidence claims.</p>	<p>All works orders completed will be recorded as either: a) Completed on time. b) Completed late but with prior notification. c) Completed late but with/without prior notification.</p>
<p>8. Contract Managers Communication:</p>	<p>To measure over the life of the contract the total monthly default points that have been accrued. To be used to gauge the Contractors performance over the life of the contract.</p>

17 COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

- 17.1 This report seeks approval to support the contractual engagement of Bidder 1,2,3 and 4 (named in Appendix 1) for the Arboricultural Maintenance & Tree Planting/Post Planting Management Framework contract.
- 17.2 The recommendation set out in Section 3 of the report is to award the Arboricultural Maintenance & Tree Planting/Post Planting Management Framework contract to the 4 bidders listed in Exempt Appendix 1, for a period of 4 years from 1st February 2022 to 31 January 2026.

- 17.3 The estimated spend over the 4 year life of the Framework contract is approximately £2.8m. This estimate is based on an annual revenue budget of £498,500 and a capital budget of £200,000 (already part of the capital programme), which will be funded from the existing revenue and capital budget. There will be a schedule of rates for works which the service will use to ensure the volume of work requested is contained within budget control totals.
- 17.4 This Report also seeks approval to proceed, as detailed in the recommendations, to programme a phased implementation of insourcing elements of the service. It is anticipated that this review will be completed by February 2021. The intention is to set-up, in a phased approach, an In-House service provider as soon as practicable and to grow this service over a period of time that will result in less reliance on external service providers. The decision to do so will be subject to the review concluding and a comprehensive cost benefit analysis and will require Members' agreement.
- 17.5 Hackney owns and manages approximately 95,000 trees, distributed across our streets, housing estates, parks and cemeteries. It is essential that the health of Hackney's tree resource is protected so that it minimises the risk of trees falling or growing in such a manner that threatens people's safety or their property, therefore reducing insurance liability costs.

18 VAT Implications on Land & Property Transactions

18.1 N/A

19 COMMENTS OF THE DIRECTOR, LEGAL AND GOVERNANCE SERVICES

- 19.1 This matter was classified as Low Risk and therefore the Business Case for the procurement was signed off by the Group Director in accordance with paragraph 2.8.1 of Contract Standing Orders. However, the value of the contract to be awarded in this Contract Award Report is over £2m and therefore this Report is being presented to Cabinet Procurement and Insourcing Committee in accordance with paragraph 2.5.4. of Contract Standing Orders.
- 19.2 The Council used the Restricted Procedure pursuant to the Public Contracts Regulations 2015 in order to seek bids for the framework agreement to be established. The details of the bids received and the recommendations for contract award are set out in this Report.

20 COMMENTS OF THE PROCUREMENT CATEGORY LEAD

- 20.1 This procurement was advertised in Find a Tender and a restricted process was followed. This framework has a range of suppliers on it to cover the different types of specialist work for which we do not have the skills in house for. The

service is used by several departments within the Council thus allowing good value for money as the spend is aggregated. All suppliers will work with the local community.

21 APPENDICES

Exempt:

- Appendix 1 (containing: Long list of SQ Bidders and Scores, Shortlisted through to ITT stage, Summary of final ITT scores, Breakdown of ITT Quality scores, link to *'Insourcing Feasibility study for the tree contract final version'* document)

22 BACKGROUND PAPERS

In accordance with The Local Authorities (Executive Arrangements) (Meetings and Access to Information) England Regulations 2012 publication of Background Papers used in the preparation of reports is required

Description of document (or None)

Open:

- *Business case for the retendering of the framework contract for trees final 'version' (approved by Hackney Procurement Board 14th July 2020)*

Report Author	Quaysoor Miah (Group Manager - Highways) 020 8356 2954 quaysoor.miah@hackney.gov.uk
Comments for and on behalf of the Group Director of Finance and Corporate Resources	Nurur Rahman - Tel : 0208 356 2018 Group Accountant nurur.rahman@hackney.gov.uk
Comments for and on behalf of the Director of Legal & Governance Services	Patrick Rodger: 020 8356 6187 Senior Lawyer, Legal Services patrick.rodger@hackney.gov.uk
Comments of Procurement Category Lead	Candace Bloomfield Category Lead candace.bloomfield@hackney.gov.uk