



<b>Report for:</b>
<b>ACTION</b>
<b>Item Number:</b>

<b>Contains Confidential or Exempt Information</b>	<b>YES (Part)</b> Appendix 1 contains Exempt Information by virtue of Paragraph 3 of Schedule 12A to the Local Government Act 1972
<b>Title</b>	Award of Arboricultural Services Contract Lots 6-8
<b>Responsible Officer(s)</b>	Peter George – Strategic Director of Economy and Sustainability <a href="mailto:georgep@ealing.gov.uk">georgep@ealing.gov.uk</a>
<b>Author(s)</b>	Dale Mortimer – Tree Service Manager <a href="mailto:mortimerd@ealing.gov.uk">mortimerd@ealing.gov.uk</a>
<b>Portfolio(s)</b>	Councillor Deirdre Costigan – Deputy Leader and Climate Action
<b>For Consideration By</b>	Councillor Deirdre Costigan – Deputy Leader and Climate Action (ICMD)
<b>Date to be Considered</b>	17 <sup>th</sup> April 2024
<b>Implementation Date if Not Called In</b>	1 <sup>st</sup> May 2024
<b>Affected Wards</b>	All
<b>Area Committees</b>	All
<b>Keywords/Index</b>	Trees, Arboriculture, Contract, Invite, Tenders

**Purpose of Report:**

This report seeks approval of the Portfolio Holder for Climate Action to award the Arboricultural Services contracts to (LOT6) Barber Environmental Ltd., (LOT7) Complete Tree Care Ltd., and (LOT8) Contract And Personnel Services Ltd., from 1<sup>st</sup> May 2024 for the period of 3 years.

## **1. Recommendations:**

- 1.1 It is recommended that the Portfolio Holder for Climate Action award the three lots of the term arboriculture contracts to three separate contractors: for a minimum annual value of £0.093m as set out below, for a period of 3 years commencing on 1<sup>st</sup> May 2024, with the possibility of two three-year extensions.

LOT 6 (east wards):	Barber Environmental Ltd
LOT 7 (central wards):	Complete Tree Care Ltd
LOT 8 (west wards):	Contract And Personnel Services Ltd

## **2. Reason for Decision and Options Considered:**

- 2.1. The Arboriculture Service maintains trees on highways, parks and housing estates throughout the borough, and is responsible for tree planting. This involves the management of 90,000 council owned trees on Highways, Parks and Open Spaces, Cemeteries, Housing and Education, Social Services and other land.
- 2.2. The existing arboriculture service is split into 11 Lots covering three elements: Lots 1-5 Arboricultural Works, Lots 6-8 Basal Growth, and Lots 9-11 Tree Planting. This structure was developed in response to extensive soft market research (2015), which highlighted the competitive limitations of large contracts, which were beyond the financial thresholds of many smaller arboricultural contractors. The reduced financial threshold allows small and medium size contractors to compete through an open tender process. Having multiple contractors has also delivered better quality services for our customers and communities: recent storms and the 2022 drought created spikes in the work volumes on Lots 1-5, previously this would have been a huge challenge for an individual contractor, but under the new structure, the work was easily distributed amongst the five contractors.
- 2.3. The contracts for Lots 1-5 were tendered in 2022 and awarded in January 2023 for a 3-year period, with the availability of two three-year extensions to January 2032. The contracts for Lots 9-11 are due to expire in September 2025 and will have no further extensions available to use. All contracts for Lots 1-5 and 9-11 are delivering an excellent service.
- 2.4. Lots 6,7 and 8 concern the removal of basal growth from council trees, the Lots are aligned geographically as east, central and west wards respectively. The contractors previously delivering this service declined the optional three-year extension, and this element expired in September 2022.
- 2.5. An exception was granted to award contracts for 2023 to three existing arboricultural contractors (April 2023), who were already delivering Lots 1, 2, and 3, and working in the same geographical areas. All three

companies successfully completed the task at competitive rates. This arrangement started on the 1<sup>st</sup> May 2023 and expired on 31 December 2023.

- 2.6. The service provision was tendered using an Open Tender Procedure for years 2024-2033 (3+3+3yrs). Tendering the contract over these timescales is considered necessary to achieve best value for the service. Soft-market testing has suggested that three years is the minimum period to justify the investment in resources, and the delivery of a good service can be rewarded through the longer-term financial stability of the extensions. The basal growth contract needs to commence in mid-May 2024.
- 2.7. Within the arboricultural industry the removal of basal growth is considered a lower skilled task, the detailed technical specification and the KPIs will ensure high standards, therefore Lots 6-8 were assessed on a 60% price, 30% quality and 10% social value ratio.
- 2.8. The confidential Tender Report – Appendix 1 – provides details of the tender results, justification and recommendations to award the lots.

### **3. Key Implications**

- 3.1. Failure to award this contract could potentially lead to trees throughout the borough not being maintained to a safe standard. The removal of basal growth from 'Lime trees' and 'Other trees' is a biennial and annual task, respectively. The removal of growth from Lime trees must start in mid-May, closely followed by Other trees in July and a second round of Lime trees in September. If the service does not have contractors in place to complete this work, the pavements will become blocked, breaching Highways legislation, and the council could receive complaints.

### **4. Financial**

- 4.1. The council holds an annual budget of £0.705m for arboriculture services to be provided through the Tree Service across the 11 Lots. This excludes work undertaken on behalf of Housing, Schools and other council departments.
- 4.2. From the arboricultural budget, it is anticipated that £0.093m will be spent on Lots 6-8: removal of basal growth. The remaining budget is allocated existing contracts, on Lots 1-5: £0.573m on tree pruning and tree removal work; and £0.039m for Lots 9-11.
- 4.3. The rates obtained through this competitive tender process are the current market rate and represent value for money. The pre-tender estimated value of the contracts was £0.101m per annum across all 3 lots. The anticipated annual value of this contract will be £0.093m. If all extensions were to be taken (3yrs + 3yrs +3yrs) the nine-year value will

be £0.837m. The rates across all three contracts are subject to annual inflationary reviews in line with CPI. There is a risk that the total contract cost will increase through inflation, although the value and implications are not known.

- 4.4. The contract cost increase will be managed to ensure that the service remains within agreed budget forecasts. This will be achieved by varying the bill of quantities: reducing the volume of work issued across all lots. The service will review intervention levels, adapt the pruning regimes and applying stricter cost / benefit principles to the tree work recommendations: it should be noted that a decrease in tree pruning will ultimately lead to a higher frequency of resident enquiries, and more case work.

## **5. Legal**

- 5.1. A competitive tendering procedure has been followed for the procurement of the term arboriculture contract, which complied with the council's Contract Procedure Rules and Public Contracts Regulations 2015, as the value of the contract exceeds the applicable threshold. The contract was advertised in Contracts Finder, Find a Tender, and the Atamis e-tendering portal on 20th December 2023, with a return of 1st February 2024 at 12:00.
- 5.2. It was confirmed prior to starting the tender process that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE), would not apply to this service.

## **6. Value For Money**

- 6.1. The tender process was carried out in a way that ensures the council achieves value for money by increasing market competition. The structure was developed in response to extensive soft market research, which highlighted the competitive limitations of large contracts, that were beyond the financial thresholds of many smaller arboricultural contractors. Breaking the contract into 11 Lots, as specified in 2.2, has increased market competition and encouraged more contractors to bid for this tender.
- 6.2. An increase in contract cost was identified as a risk at Commercial Strategy stage (September 2023). This increase has not materialised, and the annual contract cost is roughly aligned to the previous contract rates.
- 6.3. The three winning bidders have submitted pricing generally in line with each other, indicating that these prices are pitched at a realistic rate.
- 6.4. Whilst the winning bidders share similar pricing levels, the wider pricing suggests the industry rate maybe higher and demonstrates the value for money offered by these local SMEs.

## **7. Sustainability Impact Appraisal**

- 7.1. Environmental sustainability and climate action was given due consideration during the tender process, in both, the Quality evaluation, and the Social Value evaluation. All applicants were rigorously assessed on their: environmental credentials, vehicle pollution levels, transition to electric machinery, and new initiatives to reduce waste, and reduce carbon production. Arisings generated from arboricultural works will be largely recycled and reused within the borough - improving natural habitats and reducing transport carbon.

## **8. Risk Management**

- 8.1. All arboriculture operations undertaken must be done in a way that complies with health and safety legislation and be risk assessed.

## **9. Community Safety**

- 9.1. The Tree Service ensures that the council meets its legal duty of care in respect to trees and public safety.
- 9.2. Works are routinely undertaken to improve sight lines for safety and CCTV cameras, and to improve street lighting and reduce the incidents of antisocial behaviour.

## **10. Links to the 3 Priorities for the Borough:**

- 10.1. The following are applicable to this report:
- Creating good jobs - returning good well-paid jobs to our borough
  - Tackling the climate crisis - cleaning our air and ensuring the borough we build is sustainable

## **11. Equalities, Human Rights and Community Cohesion:**

- 11.1. An Equalities Impact Assessment was carried out as part of the original procurement exercise and is still relevant to this contract.

## **12. Staffing/Workforce and Accommodation implications:**

- 12.1. There are no workforce or accommodation implications. TUPE in respect of the previous contractor staff did not apply.

## **13. Property and Assets**

- 13.1. There are no implications for property and assets.

## **14. Any other implications**

- 14.1. There are no other implications.

**15. Consultation**

15.1. Consultation has taken place internally with other users (Highways and Parks) of this contract as part of the re-tendering process.

**16. Timetable for Implementation**

16.1. The contracts will commence once authority has been obtained from the Portfolio Holder for Climate Action and call in has expired. Expected commencement date is 1<sup>st</sup> May 2024.

**17. Appendices:**

17.1. Appendix 1 – Confidential Tender Report.

**18. Background Information**

18.1. None

## Consultation

Name of consultee	Post held	Date sent to consultee	Date response received	Comments appear in paragraph:
<b>Internal</b>				
Cllr Deirdre Costigan	Deputy Leader and Cabinet Member for Climate Action	18/03/2024	19/03/2024	1.1, 2.4 (report 13, 17, 30)
Peter George	Strategic Director for Economy and Sustainability	18/03/2024		
Chris Bunting	Assistant Director of Leisure	18/03/2024		
Chuhr Nijjar	Senior Contracts Lawyer	18/03/2024		
Abdi Moallin	Accountant, Environment	18/03/2024		
Yalini Gunarajah	Finance Manager, Place	18/03/2024		
Surekha Chavda	Category Lead - Commercial Hub	18/03/2024		
Helen Harris	Director of Legal and Democratic Services	18/03/2024		
Russell Dyer	Assistant Director, Accountancy	18/03/2024		
Emily Hill	Strategic Director Resources	18/03/2024	27/03/2024	
<b>External</b>				

## Report History

<b>Decision type:</b>	<b>Urgency item? No</b>
Key decision	Yes
Report no.:	Report author and contact for queries:
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