

TONBRIDGE & MALLING BOROUGH COUNCIL

COMMUNITY AND ENVIRONMENT SCRUTINY SELECT COMMITTEE

21 September 2023

Report of the Director of Street Scene, Leisure & Technical Services

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision

1 GROUND MAINTENANCE CONTRACT

Summary

This report advises Members on the retender of the Council's Ground Maintenance Contract for Public Open Spaces. The report seeks Members comments and recommendations to Cabinet in regard to the procurement process and timeframe, length of contract, standards and levels of service and the proposed evaluation of tenders/award of contract.

1.1 Background

1.1.1 The current Ground Maintenance Contract is delivered by Landscape Services and was awarded on 1 January 2014. The contract was tendered for a five-year period, with an optional five-year extension. Following Cabinet approval of the five-year extension the current contract is due to expire on 31 December 2024.

1.1.2 The annual cost of the contract is currently £698,000 and generally covers ground maintenance of the following areas:

- Tonbridge Castle Grounds
- Tonbridge Cemetery
- Sportsgrounds in Tonbridge
- Amenity areas/Public open spaces
- Inspection of Council's tree stock

At the last meeting of this Committee Members considered strategic options for the future delivery of the services, potential savings to the contract and future measures to help address climate change. The Committee recommended to Cabinet that 'the Council progresses the external procurement of the Grounds Maintenance contract and updates the work previously undertaken by external consultants WCL including the preparation of a Public Sector Comparator. The cost of the consultancy work is £10,493.75.

1.2 Services Provided

1.2.1 The current contract covers a variety of ground maintenance services that generally consist of the following:

- grassed amenity area grass;
- hedge maintenance;
- shrub bed maintenance;
- planting and maintenance of annual bedding schemes;
- maintenance and inspection of trees, ditches, ponds, watercourses, weed
- control, cleansing of paths and internal roads;
- maintenance and inspection of children's play areas and equipment.

1.2.2 A full costed summary of the current specification was reported to the last meeting of this Committee.

1.2.3 The Council has appointed a temporary officer to audit the current areas covered by the contract to ensure the specification and bills of quantity are as accurate as possible and up to date. The officer will complete the audit by the end of the calendar year and amendments will subsequently be made to the documentation to be sent out to tenderers.

1.2.4 At the last meeting of this Committee a full copy of the current costed contact specification was presented to Members alongside potential specification alterations. Further to this, Members were asked to consider and bring forward any further alterations to the specification ahead of this Committee meeting. No such requests have been received and therefore the proposed alterations presented to Members at the last Committee are shown at **Annex 1** for Member consideration and recommendation to Cabinet. The only exception is the deletion of proposals for removal of flower beds and instead Officers will work with the incoming successful contractor to increase the use of perennials in the future design of flower bed displays. It is hoped that the savings resulting from this will equate to a saving in the region of £65,000 though no such saving can be guaranteed and will be dependent on how tenders approach and cost their bids. This figure is higher than previously advised as contract indexation has now been added.

1.2.5 At the previous meeting Members also agreed to progress the increase in Roadside Nature Reserves (RNR's) managed under the Contract. It is, therefore, proposed that the ambition to increase RNR's during the Contract term is reflected in the contract documentation and Officers identify potential sites with the support

of relevant Local Members and implement in liaison with the successful incoming Contractor.

- 1.2.6 Pesticide use was also previously raised and it is confirmed that use will continue at the minimal level and annual reviews on the requirement of application will be undertaken, specifically in regard to sports pitches. It is also proposed that contractors offer alternative costed methods through the tender for consideration.
- 1.2.7 The appointed contractor has use of maintenance storage buildings at Tonbridge Racecourse Sportsground, Tonbridge Farm Sportsground and Tonbridge Cemetery. These buildings are owned by the Borough Council and are made available to assist in the delivery of the contract.

1.3 Procurement/Timeframe

- 1.3.1 The contract will be retendered in line with the Council's Procurement Guidance, and in close liaison with the Directors of Finance & Transformation and Central Services.
- 1.3.2 With regard to external procurement a 'Framework' has been identified for potential use. The Kent Commercial Services framework provides the opportunity to seek tenders from a list of contractors which have already undergone thorough financial and quality appraisals. Seven companies are on the framework including the Council's existing contractor. The suitability of the framework has been considered by Dartford Borough Council and the Chief Solicitor and it has been agreed by them that the framework meets the authority's procurement rules. There is no additional cost to using the Framework.
- 1.3.3 It is the intention to procure and administer the contract with the assistance of Dartford Borough Council (DBC). This approach has been adopted previously on other major contracts led by this Council and DBC has proven to offer an efficient and value for money service. The cost of this assistance is £1,500.
- 1.3.4 An outline tender timescale has been developed which meets the requirements of the Council's Contracts Procedure Rules and takes into account programmed meetings of this Committee, Cabinet and Council. A copy of the timescale is attached at **Annex 2**, with Award of Contract being considered by this Committee in May 2024.
- 1.3.5 Over the next few months, the tender documents will be produced by members of the Officer Group overseeing the contract retender.

1.4 Type of Contract

- 1.4.1 Consideration has been given to the type of contract specification to be used and the relative benefits of each; these being frequency (i.e., cut the grass on a specified number of occasions per year) and performance (i.e., maintain the grass at a level no higher than a specific height). There are concerns that using a solely

performance related specification could create uncertainty for the contractor and could lead to a higher contract price.

- 1.4.2 It is noted, however, that there may be benefits to a performance specification in relation to specialised areas of maintenance such as fine turf and sports pitches. Frequency based contracts can remove ambiguity therefore tender evaluation can be carried out more confidently. It is suggested that a contract combining both types of specification would be appropriate and would offer a balanced approach. Whilst a predominantly frequency-based contract would be specified, the opportunity will also be taken to utilise performance related elements where appropriate. This hybrid approach is similar to the approach adopted in the Council's current grounds maintenance contract, which has generally served the Council well to date.

1.5 Length of Contract

- 1.5.1 The Council's current contract is for a 5-year plus 5-year option to extend. It is suggested that a minimum of 5 years should be applied and there should be caution to a single contract period over 10 years as it will remove flexibility for the Council should we decide to opt for another route at a later time or at the expiry of the 5-year term. Contractors understandably find it beneficial if contract duration is related to the average life of larger front-line machinery (five to seven years), and the Council would want the opportunity to retender after 5 years if significant changes occur in vehicles and equipment that support its environmental aspirations in the next few years. It is therefore suggested that a 5 plus 5-year contract be considered for the new contract.

1.6 Contract Evaluation

- 1.6.1 There are two possible award criteria: price and the Most Economically Advantageous Tender ("MEAT"). Price alone will rarely be a suitable criterion to adopt as it does not allow any aspects of the quality of the bid to be taken into account. It is therefore proposed that the award criteria for this contract should be MEAT, weighted 50%-50% between quality and price to ensure value for money is achieved and that the quality of the bids can be evaluated.
- 1.6.2 Factors that will be taken into account in determining the quality of the bids will include Tender presentation, Staffing Structure and Qualifications, Plant and Machinery, Health and Safety and Environmental Considerations. Quality elements will be evaluated using a weighted scoring matrix. This evaluation process, combining with the pricing score, will result in the contractor achieving the highest overall score being awarded the contract. The proposed criteria and weighing for tender assessment is shown at **Annex 3** for Members consideration.
- 1.6.3 In addition to the above, due diligence checks will also be undertaken on all tenderers to include financial stability, health and safety and previous experience. These will not be scored as part of the evaluation criteria though will be considered as pass/fail.

1.7 Lease of Maintenance Buildings

1.7.1 Under the existing grounds maintenance contract, a lease of Council owned maintenance buildings/facilities is granted to the contractor to use to deliver the contract. These include Tonbridge Racecourse Sportsground maintenance building, part of Tonbridge Farm Pavilion and areas at Tonbridge Cemetery.

1.7.2 It is assumed these facilities will be required by the contractor in the next contract and therefore a new lease will need to be granted on the following terms:

- Tenant – the contractor appointed to perform the grounds maintenance contract
- Term – to match the grounds maintenance term (10 years)
- Rent - £1 p.a. (if demanded). The alternative approach would be to charge a 'market rent' for the facilities, however that would simply result in the level of rent being added to contractor's tender. In this situation it is common practice to simply charge £1 p.a.
- Contracted Out – the lease will be 'contracted out' of the Landlord & Tenant Act 1954, which means at the end of the term the contractor is not automatically guaranteed a new lease, on the basis the overarching contract would have expired
- Break Clause – in the event a 5 + 5 year contract is awarded, the Council will have the ability to break the lease at the expiry of 5 years should the contract not be extended by a further 5 years
- Surrender – in the event the contract is determined the contractor shall surrender the lease

1.8 Legal Obligations

1.8.1 Legal obligations are met and adhered to the Council's Contract Procedure Rules.

1.8.2 Waivers to the Council's Contract Procedure rules will be required for the use of the Framework and the appointment of WCL and these will be sought from the Council's Statutory Officers.

1.9 Financial and Value for Money Considerations

1.9.1 At the last meeting of this Committee Members were advised of the current ground maintenance market and the potential impact this may have on the final contract price.

1.10 Risk Assessment

1.10.1 Liaison with the Chief Solicitor has been undertaken to ensure that the procedures applied fully conform to the Council's procurement rules and timeframe. The use

of an established framework ensures all required checks of the contractors have been undertaken and by working with Dartford Borough Council, full compliance with the administration of the contract will be met allowing the necessary compliance required for this type of tender. Full liaison with Services across the Council will be achieved via the Officer Group and Members will be fully updated throughout. Failure to do so could result in time delays causing a financial loss in a competitive market or an external challenge to our procedure.

1.11 Equality Impact Assessment

1.11.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.12 Policy Considerations

1.12.1 Asset Management, Community and Healthy Lifestyles.

1.13 Recommendations

1.13.1 It is RECOMMENDED that Members of this Committee consider the proposed approach to the procurement of the ground maintenance contract outlined in this report, and make recommendations to Cabinet based on the following suggestions-

- Kent Commercial Services Framework is used for the external procurement.
- Length of contract will be five-years plus five-years.
- The Contract will be awarded based on the most economically advantageous tender and be evaluated on 50% price and 50% quality.
- The quality assessment criteria be agreed as set out in Annex 3.
- A lease be granted to the successful contractor as per the terms detailed in the report.

Background papers:

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Nil

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