



## London Borough of Enfield

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<b>Title:</b>	Extension of the Enfield Council Tree Maintenance Contract G MD371
<b>Report to:</b>	Cheryl Headon, Interim Director of Parks, Leisure and Culture
<b>Cabinet Member:</b>	Cllr Chinelo Anyanwu, Cabinet Member for Public Spaces, Culture and Local Economy
<b>Director:</b>	Director of Parks, Leisure and Culture, Cheryl Headon
<b>Report Author:</b>	Andrew Dodkins
<b>Ward(s) affected:</b>	All
<b>Key Decision Number</b>	KD 5652
<b>Classification:</b>	Part 1 & 2 (Para 3)
<b>Reason for exemption</b>	Information relating to the financial or business affairs of any particular person (including the authority holding that information).

### Purpose of Report

1. This report details the requirement for an extension to the existing Enfield Council Tree Maintenance Contract G MD 371, which was tendered through the London Tenders Portal.
2. To approve the procurement of a new Enfield Council Tree Maintenance Contract.

## Recommendations

- I. To approve the extension of the Enfield Council Tree Maintenance Contract G MD 371, for a period of up to 24 months to the incumbent contractor under the same terms and conditions of the existing contract awarded under KD 3923 on 1st April 2015, including annual CPI price fluctuation.
- II. To approve the adjustments to the contract rates relating to current market conditions as detailed in the Annex 1.
- III. To note that the contract expired on 31st March 2023 and the contract continued to provide service, and to note the extension from 1<sup>st</sup> April 2023.
- IV. To approve the procurement of a new Enfield council Tree Maintenance contract.

## Background and Options

3. The current term contract commenced on 1<sup>st</sup> April 2015, with an initial term of 5 years, plus the option to extend up to a further 5 years.
4. The contract was extended in April 2020 for a period of 3 years.
5. A further extension of the current contract is required to ensure service continuity while the new contract is procured.
6. The incumbent contractor 'Gristwood and Toms' have successfully provided the contract during the original 5-year period of this contract and subsequent 3 year extension and are very well placed to continue with the delivery of the contract through the next contract extension period.
7. Options considered include to use the In-house arboriculture team. However, the team do not have the necessary equipment or resources to be able to fulfill the requirements of this contract.
8. Another alternative is to use other contracts. Arboriculture works are specialist and other contracts do not have the ability to undertake these specialist works.
9. Invite to quote could be used for specific arboriculture works, although this would be more time consuming and less efficient than entering a term contract. The costs are likely to be higher, and the increased time in tendering would not allow for a reactive maintenance service for dealing with urgent and dangerous tree works.
10. Should a decision not be taken with the current Enfield Council Tree Maintenance Contract, the provision for undertaking tree works in the Borough would be severely reduced, and the emergency call out service would end. This will result in potentially dangerous trees not being able to

be pruned / felled or made safe. The number of complaints would increase relating to trees not being pruned.

11. There would be no increased risks for approving the decision. The current contract allows within its terms and conditions for extension, and the current contractor is providing a good service.

### **Preferred Option and Reasons for Preferred Option**

12. Approval of the extension will allow the Council to continue with tree maintenance works while a new 10-year contract is procured.

### **Relevance to Council Plans and Strategies**

13. Enfield's trees are an important asset for the Borough, which add to the environmental well-being of the community.

14. The Contract will span across multiple services, including Highways, Parks and Open Spaces, and Journeys and Places. The Contract will support these services in delivering the Council's plan priorities.

15. Clean and green places

Trees are a key part of enhancing biodiversity.

Trees assist in provide a welcoming environment and can actively reduce pollution.

16. Strong, healthy and safe communities

Trees provide shade, increase biodiversity, and reduce pollution, which support healthy communities.

17. Thriving children and young people

Increase local education, play and leisure opportunities for children and young people with special educational needs and disabilities.

Engage children and young people in positive activities.

18. An economy that works for everyone

Well managed trees enhance community spaces, which assist in encouraging local businesses to invest in the borough.

Trees support town centres in being vibrant, healthy and inclusive.

Trees also help to transform our industrial land to create modern and low carbon spaces for business.

### **Financial Implications**

19. This report details the requirement for an extension to the existing Enfield Council Tree Maintenance Contract G MD 371, with an approved total annual revenue budget of £455k (ES1343).

## Legal Implications

20. Pursuant to S.96 of the Highways Act 1980, the Council has the power to maintain its highways including to plant and maintain trees, shrubs and grass verges on the public Highway. S.23 of the Local Government (Miscellaneous Provisions) Act 1976 gives the Council the power to fell trees in its area where it considers the tree to be in a condition that there is imminent danger of causing damage to persons or property (dangerous trees) and to take steps that it considers appropriate for the purpose of making a dangerous tree safe. The Council further has a duty of care under both the common law and legislation including the Occupiers Liability Acts 1957 and 1984 to take such care as is reasonable in all the circumstances to ensure that individuals do not suffer injury on its premises. Pursuant to S.111 of the Local Government Act 1972 the Council may do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of the Council's functions. The recommendations in this report are in accordance with these powers.
21. The Council must ensure that it complies with its obligations regarding best value in accordance with the Local Government Act 1999. The Council is also required to act in accordance with the Public Sector Equality Duty under section 149 of the Equality Act 2010 and have due regard to this when carrying out its functions in the delivery of the services recommended in this report.
22. The contract documentation must comply with the variation procedure under clause 21 of the existing contract and the agreement must be in a form approved by Legal Services on behalf of the Director of Law and Governance. Any contract that is above the key decision threshold must be executed under seal.
23. The new contract to be procured will be a public services contract if the contract value exceeds the current threshold of £214,904 (inclusive of VAT). Accordingly, the Council must ensure that the procurement for the new is carried out in accordance with the PCR 2015 (or the Procurement Act 2023 if commenced after the latter comes into force). The Council must further ensure that it complies with its Constitution, in particular the Contract Procedure Rules (CPRs).
24. The CPRs require that where a contract is awarded with a value of £1 million or over, the contractor must be required to provide 'sufficient security' as defined in CPR Rule 7.3 (such as a performance bond or a parent company guarantee). Evidence of the form of security required, or why no security was required, must be stored and retained on the E-Tendering Portal for audit purposes. If this requirement is waived, then the Executive Director of Resources must approve the financial risk prior to any award, and this report must set out the reasons for the waiver and what measures are to be taken to manage the risk. It is further advised that any security obtained under the existing contract (in the form of a bond or parent company guarantee) should be checked to ensure that it is valid for the duration of the extension and that all insurance policies are valid for the period of the extension.

## Equalities Implications

25. An Equality Impact Assessment has been carried out. The mitigation actions of the EqIA are listed below.

Protected characteristic	Impact	Mitigation
Age	None	N/A
Disability	Access and orientation during any works commissioned through this contract may be more difficult for disabled people.	Works carried out will have temporary measures that meet accessibility guidance, adapted to the specific location as required.
Gender reassignment	None	N/A
Marriage and Civil Partnership	None	N/A
Pregnancy and Maternity	Pregnant people and those in the early months after birth, who may also have other young children, as well as a new-born baby, to look after, as a family group may need to take extra care, both when walking on the footway and crossing a road. Access and orientation during any works commissioned through this contract can be more difficult for new parents with prams.	Works carried out will have temporary measures that meet accessibility guidance, adapted to the specific location as required.
Race	None	N/A
Religion and belief	None	N/A
Sex	None	N/A
Sexual Orientation	None	N/A
Socio-economic deprivation	None	N/A

26. It should be noted that projects or work stream deriving from this may be subject to a separate Equalities Impact Assessment. Therefore, any projects or work stream will be assessed independently on its need to undertake an EQIA to ensure that the Council meets the Public Sector Duty of the Equality Act 2010.

27. Through the tender process the contractor has signed up to the Equality Act 2010, Human Rights Act 1998 and the Employers Equal Opportunities policy all detailed in ANNEX E Standard Conditions (Para 2.1.4 and Section 45) of the contract.

### **Environmental and Climate Change Implications**

28. The Enfield Council Tree Maintenance Contract directly links to the Council Climate Action Plan 2020 with the action to increase blue green infrastructure across the borough, by increasing the number of trees planted.
29. Trees contribute to carbon reduction which will help with council achieve its carbon neutrality targets for 2040. We also know that trees enhance local areas not only for residents but also for wildlife. In addition, they are instrumental in keeping streets cool in the summer by providing shade, helping to mitigate flood risks by soaking up excess rainwater and improving soil quality.

### **Public Health Implications**

30. Trees provide public health benefits in terms of reducing air pollution, carbon capture, reduce flooding and providing shade. These assist with addressing climate change which has been described as the greatest threat to public health in the 21st century.

### **Property Implications**

31. With regards to Corporate Property assets, there are no property implications that arise from the implementation of the contract.

### **Procurement Implications**

32. This extension was carried out in accordance with the Councils Contract Procedure Rules (CPR's).
33. The request for the contract extension was presented to Procurement Assurance Group for endorsement and was agreed on the 29/03/2023.
34. The contract extension, including evidence of authority to extend, promoting to the Councils Contract Register, and the uploading of executed extension must be undertaken on the London Tenders Portal project reference number DN49723 including future management of the contract.
35. As this contract will be over £500,000, the CPR's state that the contract must have a nominated contract manager in the Council's e-Tendering portal. Contracts over £500,000 must show evidence of contract management of KPI's to ensure VFM throughout the lifetime of the contract. The contract will be managed in line with the Contract Management Framework and evidence of robust contract management, including, operations, commercial, financial checks (supplier resilience) and regular risk assessment shall be uploaded into the Council's e-Tendering portal. over £500,000 must show evidence of contract

management of KPI's to ensure VFM throughout the lifetime of the contract.

36. For the new Enfield Council Tree Maintenance Contract, Procurement Strategy Options Report Gateway 3 was presented and endorsed at the Procurement Assurance Group on the 24<sup>th</sup> January 2024. Any procurement must be undertaken in accordance with the Councils Contract Procedure Rules (CPR's).

The award of the contract, including evidence of authority to award, promoting to the Councils Contract Register, and the uploading of executed contracts must be undertaken on the London Tenders Portal project reference number DN49723 including future management of the contract. This includes procurements from a framework. Where procurement was undertaken outside of the LTP, all documentation can be provided to [Procurement.support@enfield.gov.uk](mailto:Procurement.support@enfield.gov.uk) for uploading into the London Tenders portal, and the corporate contract register.

All awarded projects must be promoted to Contracts Finder to comply with the Government's transparency requirements.

All frameworks must be legally accessible to the Council and be access in line with the framework rules.

All contracts over £100k must have a nominated contract manager in the London Tenders Portal. Contracts over £500,000 must show evidence of contract management of KPI's to ensure VFM throughout the lifetime of the contract.

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## Appendices

Confidential Part 2 Report

**#Departmental reference number, if relevant :- ECPLC2324\_006**