

DECISION-MAKER:	CABINET		
SUBJECT:	IN-HOUSE TREE SURGERY TEAM		
DATE OF DECISION:	16 FEBRUARY 2016		
REPORT OF:	CABINET MEMBER FOR ENVIRONMENT AND TRANSPORT		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Nick Yeats	Tel: 023 8083 2857
	E-mail:	nick.yeats@southampton.gov.uk	
Director	Name:	Mark Heath	Tel: 023 8083 2371
	E-mail:	mark.heath@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY

N/A

BRIEF SUMMARY

Southampton City tree surgery works are currently being provided through an emergency interim agreement with three external tree surgery companies, following the effective dissolution of the current contract due to its inability to deliver health and safety works within a reasonable timeframe (the contract officially ends in August 2016). This has come about through an under-priced contract which has left the contractor unable to provide enough teams to undertake the amount of work needed in the City. Outsourced the cost of the contract only allows provision for one six person team and a Contract Manager.

The interim agreement does need to be formalised (potentially through the adoption of the Hampshire Tree Works Framework) or a decision made to bring the delivery in-house. An in-house team offers an opportunity to deliver better value-for-money for our own tree surgery works, a team of size which can deliver health and safety works at a reasonable time scale and some capacity to offer limited income generation by delivering services to partners and other organisations that are currently outside the contract scope – e.g. Academies, NHS, Universities etc.

RECOMMENDATIONS:

	(i)	To terminate the current contract under clause 7.1 of the contract.
	(ii)	To authorise the creation of a tree surgery team in line with the structure appended as Appendix 1 to be funded as detailed in Appendix 3.
	(iii)	To proceed with the procurement of all vehicles, equipment and relevant sundries relating to a Tree Surgery Team.
	(iv)	To note the requirements under TUPE and proceed with any necessary HR procedures to employ any workers qualifying for it.

REASONS FOR REPORT RECOMMENDATIONS

1.	To ensure the existing Tree Surgery contract is terminated in line with the clause set out in the contract, before setting up an in-house team.
2.	To ensure that HR, Procurement and Transport procedures are followed to employ staff and equip them to do the work.
3.	To ensure that the TUPE regulations are adhered to and acted upon appropriately.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
	See full business case appended as Appendix 2.
DETAIL (Including consultation carried out)	
4.	The Tree Surgery service for SCC went out to private contract in 1996 as part of the then compulsory competitive tendering regime. The Direct Service Organisation (In-house Team) originally won the tender for the contract but following a ruling by the Secretary of State that the process was deemed unfair, the SCC in-house team were not permitted to submit any further bids. The contract was won by Jeremy Barrell Tree Care (now called Pete Best Tree Care) who have since then won the contract at each new tender for the past 17 years.
5.	They (Pete Best Tree Care) are currently in a three plus two plus two year contract and are in the first year of the first extension period, i.e. they have completed the three year contract and are in the second year of the first two year extension. This first extension is due to finish in August 2016.
6.	It has become apparent that the contract is undervalued from a commercial point of view with not enough funding to provide enough staff to carry out the high volumes of work. This has particularly come to the fore in high wind events, where increased workloads have meant large backlogs of routine health and safety works.
7.	The current contract is worth circa £195,000 per year from Open Spaces, within the Trees and Natural Environment Budget, and circa £115,000 per year made up from budgets held outside the Tree Team, such as Education, Bereavement Services and Housing. These budgets fund the contract to provide two three person teams and a working Contracts Manager. Stump grinding services are also provided on the schedule of rates and a fee for administration (circa £1000+ per month). Extra capacity is provided from the company's own private working team at times of extreme weather events; however, this has not proved to be sufficient in recent years.
8.	In August 2015, it came to light that the backlog had reached a level that it was not tenable to continue with the current contractor as a single provider. In addition to this it became clear that works invoiced for had not been completed within their timeframes and this was adding to the backlog of works.
9.	Emergency measures have been put into place to ensure that urgent emergency tree works and ongoing health and safety tree works are continuing to be undertaken. This has been achieved by changing the provider of the emergency tree works (also known as call-out works) and inviting three contractors from the Hampshire Tree Surgery Framework to provide cover for health and safety works. Pete Best Tree Care is continuing

	to undertake all pre-paid backlog works and any outstanding orders which have not yet been invoiced for. (NB an outstanding order is one which has been started but not completed, all orders not started have been cancelled and will be re-ordered through the new contractors). The existing contract has not therefore been terminated as there was no immediate need to do so. Once all the pre-paid backlog is complete the situation will be reviewed and a decision made whether to either terminate or allow the contract to end at its next renewal date in August 2016. If we are to bring the tree surgery service in-house then we will need to terminate the current contract. All outstanding works will be complete before we do this.
10.	A business case was then undertaken to explore the viability of bringing tree surgery services in-house. The recommendation from the business case was to provide the tree surgery service for SCC in-house using a team of 10 qualified tree surgeons.

RESOURCE IMPLICATIONS

Capital/Revenue

11.	Revenue - The currently suspended contract was worth circa £310,000 p.a. made up from both Open Spaces and budgets such as Education, Bereavement Services, Housing and others. This provided a six person team and Contract Manager to undertake works exclusively in Southampton. The current interim arrangements to cover this contract, on average, would be equivalent to providing a six person team for the cost of £424,200 per annum ¹ (40% greater costs than the currently suspended contract). The in-house service option, with a larger capacity (nine person team plus Team Leader), is estimated to cost £315,000 p.a. at 2015/16 prices (or the equivalent to £225,240 for a six person team and Team Leader - 40% less than the current situation). There will be changes to the budgets for Open Spaces, Education, Bereavement Services, Housing and others, as detailed in Appendix 3, in that contract payments will be replaced by internal recharges.
12.	The draft estimated cost of the in-house team may be reduced by using existing vehicles (anticipated £4,000 reduction in cost), competitive procurement of machinery and equipment (anticipated £3,000 reduction in cost), other income (anticipated £5,000 sales income). Therefore it is estimated that the tree surgery team will be delivered within the approved budget. There will also be flexibility to generate additional income.
13.	The proposed new arrangements will entail a team of 10 FTE Council posts at an estimated cost of £257,000 within a gross revenue budget of £315,000 p.a. The General Fund revenue net budget is estimated to be £195,000 p.a., the same as the budget for the current arrangements. There is therefore a requirement for the new in-house service to generate charges to non-General Fund budgeted areas of £120,000 p.a. The HRA is estimated to fund £41,000 p.a. whilst charges to schools are estimated to be £30,000 p.a. This leaves an income requirement of £49,000 from other clients (services without specific approved budgets e.g. Bereavement, Property Services, Capital etc.). This may have some financial risk. Equally, the in-house team may have the

¹ Contract Management is not separately paid for and is absorbed as part of this cost, none of the contractors are currently providing exclusive Contract Managers.

	opportunity to pursue chargeable external work. The alternative to an in-house team would be provision of the service by contract, which may be at a higher cost.
14.	It is expected that the in-house team could start generating income by year two. When projected over a year, the Council may be able to deliver more work for the city or potentially for sale than was delivered under the suspended contract.
<u>Property/Other</u>	
15.	The Tree Surgery Team will be based at Red Lodge Depot along with the Parks Team. There is currently space which was occupied by the tree surgery contractor. Storage bays have been developed for storage of wood and chip which will then be used for biofuel. A market for this is currently being explored with the Energy Team and is showing positive results. There is also capacity for disposal of woodchip within allotment sites and as a mulch on parks and housing shrub beds.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
16.	The services outlined in this report may be provided in accordance with s.1 Localism Act 2011 and will be subject to compliance with all prevailing national legislation including the Health and Safety at Work Act 1974 (as amended) and associated Regulations and Guidance. Tree maintenance will be carried out in accordance with the Council's approved maintenance policies (as amended from time to time) and all goods and services associated with the delivery of the service provided through existing Council stock or procured in accordance with the Council's approved Contract Procedure Rules as set out in the Constitution. The Council has the power to appoint staff to undertake its functions in accordance with the Local Government Act 1972.
<u>Other Legal Implications:</u>	
17.	The Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) (TUPE) would potentially act so as to transfer to the Council the employment contracts of any employees of the current tree services contractors sufficiently assigned to the Council's services. Basic information has been received from the current contractor with regards to the posts that would qualify for TUPE. Six posts have been identified with similar positions/duties as set out above. They are broadly in line with the costings received from the analysis carried out on the in-house team with an overall cost of circa £140,660 for the six staff. Officers will be working closely with Pete Best Tree Care to ensure that all staff who qualify for TUPE are made fully aware of their rights under the Regulations.
18.	Tree works are currently being spread across three contractors ensuring that they are only working for SCC sporadically. In addition to this, the Council has made sure that none of the contractors have provided dedicated teams for Southampton work. It is therefore considered highly unlikely that staff from other contractors, other than Pete Best Tree Care, will qualify for TUPE.
POLICY FRAMEWORK IMPLICATIONS	
19.	The project meets the Council's transformation themes in the following ways:

Theme	How it meets the Theme
The Right Things	<ul style="list-style-type: none"> • A structure which ensures empowerment with accountability • Good training and CPD with potential for apprenticeships • Improved contact direct with Tree Surgery Team reducing missed works and errors • Improved customer relations
The Right Way	<ul style="list-style-type: none"> • Reduced contract management and administration • Reduced checking of jobs on invoices for completed works • Improved communications direct with Tree Surgery Team • Streamlined ordering system – delivered through IT not paper • Existing depot infrastructure in place
The Right Value	<ul style="list-style-type: none"> • Potential for income generation through working with other large organisations and local authorities to deliver their tree surgery needs • Additional income generated will help defray general fund overhead costs of entire parks service • More service delivered within the same budget envelope • Potential to increase capacity as demand for the service grows
The Right Provider	<ul style="list-style-type: none"> • More capacity with same expenditure • Existing commercial experience within parks service Trading Arm • Maximise available budgets for tree surgery works • No expenditure lost to profit • Reduced delays in the event of extreme weather

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	All
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Tree Surgery Team Structure Chart
2.	Tree Surgery Team Business Case V2.2
3.	In House Tree Surgery Team Finance
4.	Equality Impact Assessment
5.	Privacy Impact Assessment
Documents In Members' Rooms	
1.	None
Equality Impact Assessment	
Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	Yes
Privacy Impact Assessment	
Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out.	Yes
Other Background Documents	
Equality Impact Assessment and Other Background documents available for	

inspection at:		
Title of Background Paper(s)		Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	None	