

Details of Leadership Team meeting and the date the decision will be taken	Leadership Team Date of report: 1 December 2020 Date of decision: 9 December 2020	 THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA
Forward Plan ref:	KD05651/20/K/AB	
Report title	PARKS AND LANDSCAPE MAINTENANCE CONTRACT AWARD	
Reporting officer	Sue Harris, Executive Director for Environment and Communities	
Key decision	Yes	
Access to information classification	<i>Part A - Public</i> <i>Part B – Appendix with confidential/exempt commercially sensitive information exempt from disclosure on the grounds that:</i> <i>(i) it contains information relating to the financial or business affairs of a particular person (including the authority holding that information) under paragraph 3 of Schedule 12A of the Local Government Act 1972, and in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</i>	
Wards	<i>All</i>	

1. EXECUTIVE SUMMARY

- 1.1. As the current parks service contract expires on 31 March 2021, a new one needs to be procured to commence from 1 April 2021. This report details the procurement process undertaken and seeks approval from the Leadership Team to appoint the preferred contractor to operate a new borough-wide parks and landscape services contract for a period of 10 years with the option to extend for a further five years. Therefore, a total contract term of up to 15 years, but with break clauses at years 5 and 10.

- 1.2 The new contract will improve on the already high standards and levels of customer satisfaction whilst also providing value for money. The current contract includes:
- provision of park keepers, gardeners and cemetery staff
 - opening and closing of parks and open spaces
 - providing and maintaining annual bedding
 - maintaining shrub beds and hedges
 - grass cutting and lawn maintenance
 - waste management in parks (litter collection, green waste)
 - inspection of playgrounds and park equipment
 - opening and cleaning public toilets in parks
 - gravedigging and other burial-related functions
- 1.3 Additional services added to the new contract include:
- monthly and annual play inspection service and minor repairs service
 - maintenance of parklets
 - provision of cemetery office staff taking funeral bookings and maintaining records
 - inspection of memorials in cemeteries
 - provision of protective fencing in parks during carnival weekend
- 1.4 The new contract addresses some of the Council's more recent aspirations, including additional social values and environmental measures to help deliver its priorities in these areas. The social values include paying wage rates equal to or above London Living Wage, local recruitment, developing local supply chains, offering two apprenticeships annually and working in partnership to support local community projects.
- 1.5 The contract also requires the contractor to reduce the environmental impact of the service and help the Council work towards being net carbon neutral by 2030, improving air quality, and minimising waste including;
- Using a low emission vehicle fleet (ULEZ compliant) and introducing a programme of fleet electrification to include large plant where possible. 92 per cent of vehicles and 100 per cent of small plant will be electric in year one of the contract. Large plant will be a mix of electric and diesel equipment and will be replaced with electric options in line with emerging advances in electric plant.
- 1.6 A Competitive Procedure with Negotiation (CPN) procurement process was followed and resulted in three final tender submissions being evaluated by the Parks Procurement Evaluation Panel. The preferred bidder submission is capable of meeting the Council's needs and requirements from a qualitative, financial, legal and commercial perspective, this includes delivering an enhancing specification and achieving savings of £132,000 per annum.

2. RECOMMENDATIONS

The Leadership Team is recommended to:

- 2.2 Approve the award of the Parks and Landscape Services Contract (and associated agreements) to Idverde Limited (“the Contractor”) for an initial period of 10 years with the option for the Council to extend for up to a further five years, subject to not exceeding the maximum contract length of 15 years. The estimated contract sum is £2,079,760 per annum before indexation to current year staffing rates.
- 2.3 Approve the grant of ten separate leases to Idverde Limited in respect of the Council’s depots as detailed in Appendix Part B to this report.

3. REASONS FOR DECISION

- 3.1 The current contract expires on 31 March 2021 with no provision to extend any further, therefore a new contract is required. On 15 January 2020 the Leadership Team signed off a Key Decision Report which approved going out to tender using the Competitive Procurement with Negotiation (CPN) procedure and approved the procurement strategy for this tender.
- 3.2 As a result of the procurement process and evaluation of the submitted bids the contractor with the Most Economically Advantageous Tender submitted has been selected as the preferred bidder.
- 3.3 Officers have tested the market through competitive procedure and have secured an enhanced contract offer for the approval of the Leadership Team.
- 3.4 The contractor’s bid submission is capable of meeting the Council’s needs and requirements from a qualitative, financial, legal and commercial perspective. Their bid clearly demonstrated how they would achieve the contract strategic outcomes as detailed below:
- 3.5 **Strategic Outcome 1**

The contractor maintains our Parks, Open Spaces, Cemeteries and Highways planters and verges to a high standard and meets the authorities long-term environmental objectives as follows:

- to meet public expectations (in relation to improvements and high standard of services provided, improved horticultural practices and increased customer satisfaction rates);
- to meet quality award standards including Green Flag and London in Bloom;
- to meet health and safety requirements;
- to promote best horticultural practices and techniques;
- to reduce single use plastics across our operations and buildings;
- to achieve carbon neutrality by 2030;
- to meet ULEZ requirements.

3.6 Strategic Outcome 2

The contractor meets the objectives of the Council's Parks Strategy 2016-2025

3.7 Strategic Outcome 3

The contractor supports the objectives of the Council's business plan 2019-2023 and its values.

3.8 The new contract enhances the current parks service standards and delivers increased social values such as paying London Living Wage and environmental measures such as working towards a fully electric fleet.

4. BACKGROUND

4.1 The current parks service contract covers 90 individual sites including parks and open spaces, cemeteries, highway verges and street planters, and office planters and floral decorations.

4.2 71 per cent of the cost of the contract is labour. The contract will employ 70 staff of which 62 are permanent posts and eight are seasonal posts. Of this, 15 staff are based in the cemeteries and the remainder in parks.

4.3 The contract includes supply of park keepers, gardeners and cemeteries staff, opening and closing parks, providing and maintaining annual bedding, maintaining shrub beds and hedges, grass cutting and lawn maintenance, waste management in parks (litter collection, green waste), inspection of playgrounds and park equipment, opening and cleaning public toilets in parks, and items relating to cemeteries such as gravedigging and memorial inspections.

4.4 A Project Board is in place chaired by Councillor Emma Will, Lead Member for Community Safety, Culture and Leisure and includes a representative from the Friends of Holland Park, and all relevant services including legal, finance, property, insurance, climate change, community engagement, and media and comms. The Board meets monthly.

5. OPTIONS, ANALYSIS AND PROPOSALS

5.1 The new parks and landscape services contract includes the following:

- General Requirements; Opening and closing of parks, litter and waste management, path sweeping, weed control, overhanging vegetation, maintenance of sustainable drainage systems (SuDS), green flag awards, infrastructure inspection and maintenance, toilets and premises cleaning.
- Parks services; Park furniture and equipment maintenance, park attendance, and operation of kiosks

- Grass cutting and maintenance; amenity grass, sports fields, wildflower grasslands, cemetery grass, seeding, turfing and maintenance, and bulbs, corms and tubers
 - Horticultural features; hedges, rose beds, shrubs and mixed shrub beds, herbaceous borders, annual bedding, green roofs and green walls.
 - Sports services; sports facility bookings and maintenance.
 - Play area maintenance
 - Water features; maintenance of water play areas, and ponds.
 - Tree services; planting and caring for young trees and coppicing.
 - Cemeteries and bereavement services; funeral bookings, grave sales, grave digging and other associated works.
 - Provisional services (all of which to be included in the new contract); theatre area (Holland Park), Notting Hill Carnival event preparations and fencing, parklets maintenance, Leighton House museum garden maintenance, volunteer programmes, hanging baskets and troughs in parks and floral displays, Social Services Sites.
- 5.2 The contract specification has been improved significantly to include requirements for social value commitments (including local recruitment and procurement), carbon reduction commitments, improved community engagement, and improved horticultural standards. There is also a requirement for improved technological solutions for recording data, sports bookings, and contract monitoring and compliance.
- 5.3 The most significant change to the specification relates to provision of park keepers and to ensure this role is effective and benefits the parks; currently six parks have a park keeper based on site during park opening hours working a three-day shift pattern from park opening to park closing. This fully staffed service has a high labour cost and is very difficult to recruit to due to the long hours and is therefore unsustainable for the future. As part of the consultation a new model was chosen where these parks will have a minimum Monday to Friday park keeper working from 7.30am until 4.30pm. Park Keepers will now be expected to have a minimum Level 2 horticultural qualification, will improve staff retention and ensure high standards are met.
- 5.4 All staff working on the new contract will be paid London Living Wage or higher.

- 5.5 An annual Community Benefit Plan will be produced to ensure economic, social and environmental benefits are delivered across the borough as part of the new contract. This includes increasing employment opportunities for local residents by offering two apprenticeships placements each year, work placements and advertising jobs locally.
- 5.6 A new Management Information System (MIS) will operate to provide management, monitoring and reporting of all the services in real-time. This includes handheld devices for site based and mobile staff and will allow live reporting on progress and productivity. The MIS will be fully integrated into the Council's IT systems, improving efficiency, removing the duplication of data and will allow residents and customers to check on the status of works in their park and report issues easily.
- 5.7 Additional services/ features of the new contract include:
- Provision of a Community and Training Manager, at no cost to the Council; this role will deliver enhanced community engagement, volunteering and training opportunities both within the contract and in the wider community including delivering 12 horticulture-based training sessions for residents each year.
 - 40 weeks a year of work placements and four two-week work experience opportunities.
 - Maintenance of parklets and creation of pollinator beds, green roofs, and sustainable planting schemes across the borough.
 - A comprehensive health and safety inspection regime including playground inspections and memorial inspections in line with industry best practice, reducing overall risk to the Council.
 - Introduction of an online booking system for sports facilities in parks.
 - An increase in staffing provision from the current 66 posts to 70 posts (including part-time, seasonal, and apprentice posts).
- 5.8 Due to the complexity and size of this contract a range of different options were considered before an agreed procurement strategy was finalised and approved by Leadership Team on 15 January 2020 as part of KD05540/19/K/AB.
- 5.9 There was no provision in the current contract to extend beyond the 31 March 2021 therefore the options were to proceed with procurement or do nothing.
- 5.10 The option to proceed using the Competitive Procedure with Negotiation (CPN) was the agreed approach. The CPN procurement process started on 27 April 2020 with a contract notice being published in the Official Journal of the European Union ("OJEU") advising its intention to procure a contract for the Parks and Landscape Services.

- 5.11 The CPN procedure comprises the following stages:
- Selection Questionnaire (“SQ”) stage,
 - Invitation to Submit Initial Tender (“ISIT”) stage;
 - Invitation to Participate in Negotiation (“ITPN”);
 - Invitation to Submit Final Tender (“ISFT”) stage.
- 5.12 Three participants completed and passed the SQ stage in May 2020 and the ISIT stage was progressed.
- 5.13 The ISIT stage continued with the two remaining bidders. The bidders submitted their ISIT submissions on 7 August 2020. Each submission was evaluated by the Parks Procurement Evaluation Panel which consisted of officers from parks, finance, and climate change plus support from Eunomia Research and Consulting Ltd (“Eunomia”). Officers from legal, property and IT provided specialist advice relating to their service areas to assist with the process.
- 5.14 The Parks Procurement Project Board agreed not to award the contract at the ISIT stage and instead invited all three bidders through to the ITPN stage. The ITPN stage commenced on 21 August 2020. The ITPN stage involved two separate negotiation meetings with each bidder over a period of two weeks. These were held virtually using MS Teams, as meeting in person was not possible due to Covid-19.
- 5.15 The ISFT stage commenced on 28 September 2020, with final bids submitted and received by 12 October 2020. The bids were evaluated by the Parks Procurement Evaluation Panel with moderation meetings held in late October.
- 5.16 Both the ISIT and ISFT submissions were evaluated using the following framework

Quality Component (60%)	Management and Culture	[30]
	Sustainability and Community Development	[95]
	Operations	[75]
	Deliverability	[40]
	Service Delivery Method	[305]
	Service Delivery Method for Provisional Services	[35]
	Service Delivery method for Health and Safety	[20]
Total		600
Financial Component (40%)	Robustness of the financial model	20
	Evaluation Price	380
Total		400

5.17 Having concluded the evaluation of the submitted bids on 28 October 2020, the Parks Procurement Evaluation Panel agreed the outcome of the ISFT stage and approved the ranking and results which are included in Part B of this report.

6. CONSULTATION AND COMMUNITY ENGAGEMENT

6.1 A public consultation took place from mid-February 2020 until 28 June 2020 asking residents and park users for their views and priorities for the new contract. The consultation included a paper and online survey and five workshops were hosted across the borough; three were open to all, one was for Friends Groups and one for Councillors. The public workshops were held at Kensington Leisure Centre, Kensington Town Hall, and St Luke's Church Hall.

6.2 162 responses were received to the survey and 65 people attended the workshops.

6.3 The results of the consultation were published on the Council's website and have been emailed to all who provided their contact details during the consultation.

6.4 The headlines from the consultation include:

- Satisfaction with current provision: The highest levels of satisfaction with the current service were with the grass cutting in parks and the maintenance of the planted areas. There was slightly less satisfaction with litter picking and bin emptying and hedge cutting. The highest level of dissatisfaction were with litter picking and bin emptying and the cleaning of toilets and changing rooms.
- Long grass areas: Three quarters of respondents were in favour of the grass strips at the lawn and hedge borders being allowed to grow longer in their local parks.
- Priorities: The most important aspect of the new contract for respondents were wildlife/biodiversity closely followed by cleansing and waste management and then recycling and green credentials. The least important were sports facilities and volunteer programmes and events.

6.5 The consultation results directly influenced the contract specification and were also shared with bidders so that they could improve their bids and ensure they meet the standards expected by residents and park users.

7. LEGAL IMPLICATIONS

7.1 The Director of Legal Services confirms that the proposed contract has been procured in compliance with the Public Contracts Regulations 2015 and the Council's own Contract Regulations.

7.2 The terms and conditions of the proposed contract and associated leases have been reviewed by Legal Services and approved.

- 7.3 Local authorities have powers conferred by the Local Government Act 1972, subject to applicable legal constraints, to dispose of land in any manner they wish, including, amongst other things, granting a lease as contemplated in this report.
- 7.4 However, where property is vested in a local authority's General Fund, a disposal must be for the best consideration reasonably obtainable, as set out in section 123 of the Local Government Act 1972 (except in the case of short tenancies), unless the disposal falls within the exemptions set out in the Local Government Act 1972: General Disposal Consent 2003 or unless the Secretary of State expressly consents to the disposal. When a lease is granted for a term of less than seven years it is a short tenancy for the purposes of section 123 Local Government Act 1972.
- 7.5 Where a lease is granted without security of tenure under the relevant provisions of Part II of the Landlord and Tenant Act 1954 that lease will end on the expiry date of the lease without any rights for the lessee to renew the lease. However, if a lease is granted with security of tenure the lease will not automatically determine at the end of the term and the lessee may hold over under the terms of the lease when the term ends. The landlord may only bring the lease to an end if limited statutory grounds apply.

Whether the leases concerned are to be granted with or without security of tenure is confirmed in the confidential Part B Appendix to this report

- 7.6 The Equality Act 2010 ("referred to below as the "EqA 2010") created a single general public sector equality duty ("referred to below as "PSED") under section 149 of that Act. The PSED applies to public authorities exercising public functions. The PSED requires public authorities to have "due regard" to:
- The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the section 149(1)(a) EqA 2010.
 - The need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (section 149(1)(b) EqA 2010)

The duty on public authorities to have "due regard" to the PSED in section 149(1) of the EqA 2010 is more than simply a requirement to have general regard. Proper consideration must be given to the PSED and its requirements.

The PSED is referred to at paragraph 10 of this report.

- 7.7 Otherwise the legal implications are as set out in this report and in the confidential Part B Appendix

8. FINANCIAL, PROPERTY, IT AND ANY OTHER RESOURCES IMPLICATIONS

8.1 Finance Comments and the financial evaluation summary are set out in Part B

8.2 **Property:** Depots are a fundamental resource for the successful delivery of parks and landscape service. There are ten depots in use to deliver this contract, Holland Park Nursery, Little Wormwood Scrubs depot, Emslie Horniman's Pleasance depot, Kensington Memorial Park depot, Avondale Park staff facilities, Westfield Park depot, St Luke's Garden staff facilities, Cremorne Gardens depot, Gunnersbury Cemetery office and depot, and Hanwell Cemetery staff facilities.

8.3 All of the depot sites are located within parks and open spaces and are not suitable to be repurposed for alternative use without heavy investment. There would be a significant additional cost and operational implications if the current depot portfolio could not be used. Depot sites are used for staff welfare, storage of plant and materials, and if these could not be used it would also significantly increase vehicle movements and emissions. Therefore, using the current depots for the delivery of the Council's Parks and Landscape Services Contract confirms "best consideration" has been achieved.

8.4 The Heads of Terms for the leases are included in Part B Appendix of this report

9. HUMAN RESOURCES IMPLICATIONS

9.1 From the new contract start date, all contractor staff will be paid at least the London Living Wage (LLW).

9.2 There are no TUPE implications as the preferred bidder is the incumbent contractor.

10. EQUALITIES IMPLICATIONS

10.1 The Parks are accessible to all residents and visitors and covers the whole borough. The new contract retains all the existing services and provides increased opportunity for community engagement and volunteering and provides increased employment opportunities specifically targeting people from a priority group, such as those from BAME communities, those with mental health issues or those with disabilities, for new vacancies.

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Mandatory clearance requirements for all Key and Executive Decision reports

Cleared by Corporate Finance (officer's initials)

[LV]

Cleared by Director of Law (officer's initials)

[AJ]

Cleared by Communications (officer's initials)

[BB]