

# Approval to directly award the Contract 54326 ; The Supply, Installation, Dismantling and removal of Christmas Trees 2022/23 via a waiver of Contract Procedure Rules 8.1 and 8.2

Date: 22<sup>nd</sup> September 2022

Report of: Natural Environment Manager

Report to: Chief Officer Parks and Countryside

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

## Brief summary

1. For several years the supply of the City's Christmas Trees was procured through a competitive tender exercise by Parks and Countryside's Forestry section on behalf of City Lights and several internal and external services. On delivery, these trees were installed by the Forestry Section in time for Christmas Lights to hang the lights and then, dismantled and disposed of by the Forestry Section after Christmas Lights had taken the lights down after the festive season.
2. Over the last few years, the capacity of the Forestry Section to undertake the role of installation, dismantling and disposal of the Christmas trees has been brought in to question due to the increase in the number and severity of winter storms. The Forestry Section operate a 24/7 emergency on call/call out system to attend to tree emergencies. This duty takes precedence over all others and, last year in particular, the sections resources were fully stretched as they attended to tree emergencies during back-to-back 'named storms' during January and February. This led to major delays in dismantling and disposing of Christmas trees.
3. The 5-year Supply of Christmas tree contract with the supplier Elveden Farm Limited ended in December 2021. Due to the aforementioned pressures on resources going forward it has been decided to make changes to the service delivery model and in doing so conduct a short-term pilot scheme and test the ability of Elveden Farm Limited to supply, install and take down and dispose of the City's Christmas trees over the coming 2022 festive season.
4. This report requires authorisation to waive contract procedure rules 8.1 and 8.2, to award a contract directly to Elveden Farm Limited to supply, install and take down and dispose of the City's Christmas trees 2022/23. The contract will commence 28<sup>th</sup> October 2022 (installation of the City Square tree) and ending 6<sup>th</sup> March 2023.

## Recommendations

- a) Chief Officer Parks & Countryside is requested to approve the waiver of contract procedure rules 8.1 and 8.2 (intermediate value procurement) to enable the direct award of the contract to Elveden Farm Limited to Supply, Install, Dismantle and remove the City's Christmas Trees 2022/23 for the sum of £34,840.00.
- b) The contract will commence 28<sup>th</sup> October 2022 (installation of the City Square tree) and ending 6<sup>th</sup> March 2023.

## What is this report about?

1. This report recommends approval from the Chief Officer Parks & Countryside to waive Contract Procedure Rules 8.1 and 8.2 which requires competition to be sought and at least three written tenders to be invited for procurements valued at or over £25k but at or below £100k. Authorisation is required to award a contract directly to Elveden Farm Limited to supply, install and dismantle and dispose of the City's Christmas trees 2022/23.
2. Parks and Countryside's Forestry section on behalf of City Lights and several internal and external services has historically provided all elements of the managed service following supply of the Christmas trees by an external provider. However, pressure caused by inclement weather over the winter period on resources within the Forestry section means the service will struggle to viably continue to deliver the installation, dismantling and disposing of Christmas trees going forward. Therefore, a new service delivery model for an external provider to deliver these services is being 'piloted'. This will relieve operational pressures in the Forestry Section, ensure the supply of the Christmas Trees, avoid delays and disruption to the service as experienced in 2021/22.
3. Significant scoping has already taken place on the proposals. In order to develop the pilot, the service has worked closely with Elveden Farm Limited who previously delivered the supply elements of this contract and a quotation was sought for the provision of a fully managed service. Through the previous contract relationships and delivery, the provider has established a good understanding of the Council requirements and the critical success factors.
4. The City Square tree will be supplied and delivered direct to site and the provider will ensure it is installed with regards to relevant safety compliance and in coordination with all required agencies – the Forestry Operations Manager will coordinate with Elveden, City Lights and Highways & Transportation. All other trees will be supplied and delivered to The Arium on Thorner Lane, from where Elveden Farm Limited's team will collect them and take them to the individual sites for installation.
5. Elveden Farm Limited will dismantle and take away all trees by 6<sup>th</sup> March 2023.
6. The proposal is a change to a service model which has not been delivered before by an external provider. It is unclear how this will work in practice hence the desire to work closely with a known provider to run this as a temporary pilot for one season 2023. This is a trial to test how effectively the full outsourcing of the Christmas tree contract will work. If, following the delivery of this contract, the delivery model is deemed to be one the Council wishes to continue with the successes will be measured and fed into the development of the future specification. The contract will then be procured by undertaking a full competitive tender exercise and a longer-term contract will be put in place going forward.

## What impact will this proposal have?

Wards affected:

Have ward members been consulted?

Yes

No

## **How does this proposal impact the three pillars of the Best City Ambition?**

Health and Wellbeing       Inclusive Growth       Zero Carbon

7. The proposal will make a contribution to the following Best Council Plan priorities:
8. Growing the cultural sector through promoting events and celebrations which can be widely experienced.
9. Support overall health and wellbeing for LCC residents and visitors by improving the environment and experience in and around the City during the Festive period.

## **What consultation and engagement has taken place?**

10. It is not considered that the content of this report or the recommendations made will have a significant impact on any particular ward or community, and as such the only consultation to date has been with the Chief Officer Parks and Countryside.

## **What are the resource implications?**

11. The cost of delivery the contract is £34,840.
12. This will involve internal resources working alongside Elveden Farm Limited. The contract will be managed by officers from the Forestry section, Parks and Countryside.

## **What are the key risks and how are they being managed?**

13. If the recommendation to award as described within this report is not approved, then the Council will risk being in a position where no formal contractual arrangements are in place. It is important that a reliable provider that guarantees pricing and maintains service standards is put in place. The risk of not having appropriate arrangements has both an internal resource and financial impact.
14. If the supply of the Christmas Trees and the service to install are not undertaken within the required timescales, this will lead to significant disruption and delays in the lights switch on and other festive events within and around the City. Consequently, this will have an impact on the public experience and wellbeing.
15. In order to manage this, consideration has taken place to identify the most appropriate solution for the successful and cost-effective delivery for the Council and the proposal is deemed the best value solution.

## **What are the legal implications?**

16. This is a Significant Operational Decision which is not subject to Call-In but will be published on the register of decisions. There are no grounds for keeping the contents of this report confidential under the Access to Information Rules.
17. Awarding this contract directly to Elveden Farm Limited could leave the Council open to a potential claim from other providers, to whom this contract could be of interest, that Leeds City Council has not been wholly transparent as the opportunity is not being advertised and at least three written tenders invited. In terms of transparency, it should be noted that case law suggest that the Council must always consider whether contracts of this value should be subject to a degree of advertising.

18. It is up to the Council to decide what degree of advertising would be appropriate taking into consideration the subject-matter of the contract, estimated values and the specifics of the sector concerned (size and structure of the market, commercial practices, etc.).
19. The Chief Officer of Parks and Countryside has considered the above and due to the uncertainties of the service delivery model required, the value of the contract and short-term nature of the pilot it is felt it would not be of interest to other suppliers if an opportunity was published on Contracts Finder for one season. However, once awarded an Award Notice will be published on Contracts Finder as required by Regulation 112 of the Public Contracts Regulations 2015.
20. There is a risk of an ombudsman investigation arising from a complaint that the Council has not followed reasonable procedures, resulting in a loss of opportunity. The complainant would have to establish maladministration. It is not considered that such an investigation would necessarily result in a finding of maladministration; however, such investigations are by their nature more subjective than legal proceedings. However, it is considered that this risk is low.
21. Although there is no over-riding legal obstacle preventing the waiver of CPRs 8.1 and 8.2 using the authority set out in CPR 1.3, by awarding direct contracts to the named contractor without seeking competition, the contents of this report should be noted. In making the final decision, the Chief Officer of Parks and Countryside should be satisfied that this proposal represents best value for money to the Council.

## **Options, timescales and measuring success**

### **What other options were considered?**

22. A competitive tender exercise was considered but due to the change in delivery model, uncertainties with regards to the services requirements and performance measures it was felt a pilot to trial the services was required before a longer-term arrangement was introduced.

### **How will success be measured?**

23. Success will be measured through how smoothly the contract is delivered from an operational perspective e.g. turnaround times, safety, aesthetics and quality trees being installed.
24. The expected outcome is to improve the visitor experience, enhance the festive aesthetic and attract a larger footfall of visitors in and around the City during the festive period.

### **What is the timetable and who will be responsible for implementation?**

25. The contract will commence 28<sup>th</sup> October 2022 (installation of the City Square tree) and ending 6<sup>th</sup> March 2023. Engagement with the provider is to commence July 2022 in order to begin to mobilise the contract.
26. The Natural Environment Manager, Forestry Section will oversee the contract delivery.

## **Appendices**

- None

## **Background papers**

- None