

## **Committee: Cabinet**

**Date: 4<sup>th</sup> July**

Wards: ALL

## **Subject: South London Waste Partnership – Procurement of Waste Collection and Related Environment Services**

Lead officer: Chris Lee, Director of Environment and Regeneration

Lead member: Councillor Ross Garrod, Cabinet Member for Street Cleanliness and Parking and Councillor Nick Draper, Cabinet Member for Community and Culture

Contact officer: Cormac Stokes, Head of Street Scene and Waste

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### **Recommendations:**

- A. That Cabinet recognises the Administration's desire, in the context of Merton's continually decreasing funding from Central Government, to maintain and enhance the borough's public realm, open spaces and parks; noting the results of the wheeled bin pilot in Lavender Fields ward and the Administration's desire to introduce wheeled bins to ensure cleaner streets and the need for any solution to be affordable
- B. Following the endorsement from the Joint Waste Committee (7 June 2016) it is recommended that Cabinet approves the appointment of Veolia ES (UK) Ltd as Preferred Bidder for LOT 1 services including waste collection, street cleaning, commercial waste collection, winter maintenance and vehicle procurement and fleet maintenance in relation to the procurement exercise undertaken by the South London Waste Partnership (SLWP) for Waste Collection and Related Services. This is for a period of 8 years with the option to extend for two further periods of 8 years, a maximum total of 24 years.
- C. Approve the appointment of The Landscape Group Ltd as Preferred Bidder for LOT 2 services (including Parks, Grounds maintenance, Cemeteries, Verges and Tree maintenance) . This is for a period of 8 years with the option to extend for two further periods of 8 years, a maximum total of 24 years.
- D. Approve the appointment of Amey LG Ltd. as Reserve Bidder for LOT 1 services and Veolia ES (UK) Ltd as Reserve Bidder for LOT 2 services.
- E. Following fine tuning discussions with the Preferred Bidders and there being no material changes to the proposed solution beyond the scope of the proposed solution set out in this report, delegate authority to the Director of Environment and Regeneration in consultation with Cabinet Members to authorise the London Borough of Croydon to award the contract for both Lots, on behalf of the four boroughs of Sutton, Merton, Kingston and Croydon (the SLWP).
- F. Based on the principles of the Inter Authority Agreement (IAA), delegate authority to the Director of Environment and Regeneration in consultation with Cabinet Members to agree the IAA and the arrangements relating to the management of the contracts.

- G. To note the statutory requirement under section 123 of the Local Government Act 1972 requiring the Council to advertise its intention to grant leases of areas of Public Open Space for those depots and staff facilities within parks and open spaces required to facilitate the operation of the contract(s).
- H. Note the work in hand to establish fit for purpose contract management and Clienting functions and delegates this to the Director of E&R to finalise
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## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. In November 2014 Cabinet agreed to jointly procure through London Borough of Croydon a range of environmental services as part of the South London Waste Partnership, using the competitive dialogue procurement route.
- 1.2. This report provides a summary of the outcome of the procurement exercise and seeks approval to the selection of Preferred Bidder and Reserve Bidder for both Lot 1 (waste collection, street cleaning, winter maintenance, vehicle procurement and fleet maintenance) and Lot 2 (parks, arboriculture, cemeteries and grass verges and tree maintenance services) each as set out in the table below (section 2.2).
- 1.3. The report details the implications of the Preferred Bidder's proposals on Merton's current existing in house services, the work progressing on establishing effective governance arrangements for the new contracts and outlines the timetable for the remainder of the procurement exercise through fine tuning and contract award in Dec 2016.
- 1.4. It is envisaged that the contract will start on 1st April 2017 for LOT 1 services and 1 Feb 2017 for LOT 2 services.

## **2 DETAILS**

- 2.1. The South London Waste Partnership was formed in 2003 and has a proven record of providing improved and more cost-effective waste management services through the procurement of complex waste disposal treatment, recycling and Household Reuse and Recycling Centre contracts. The success of the Partnership was recognised in 2013 when it received the International Public Private Sector Partnerships award for its Residual Waste Disposal Project, where an innovative contracting structure saved over £200m against existing budgets and was praised for its 'optimum risk transfer'.
- 2.2. As part of the drive for even greater efficiency, SLWP Management Group and Officers explored opportunities for the future delivery of a range of high quality environmental services. An options analysis was undertaken to assess the merits of procuring services in partnership, rather than continuing with existing arrangements or procuring services alone. The four boroughs made an assessment of delivery, procurement options and modelled savings based on joint procurement by all boroughs. The financial modelling suggested potential savings in the region of 10% through such a joint procurement. It is important to note that procuring in partnership does

not necessarily require that all partners need or receive the same service. It was on this basis that the business case for the joint procurement of these services was approved by Cabinet in November 2014.

<b>Lot 1 (All boroughs)</b>	<b>Lot 2 (Sutton &amp; Merton only with options for other boroughs to join later)</b>
Waste collection	Parks and grounds maintenance
Street cleaning	Cemeteries
Commercial waste	Highway verge maintenance
Winter Maintenance	Tree maintenance (excluding inspections)
Vehicle maintenance and procurement	Sports and play facilities management

2.3. Considering the scale, scope and complexity of the services being procured and feedback from two separate market engagement exercises, a procurement strategy was developed that recommended Competitive Dialogue (CD) as the most appropriate procurement route.

2.4. The CD process involves pre-qualifying bidders and then de-selecting bidders through iterative stages, which are shown in the flow diagram at Appendix 1. The key determinants of the decision to use Competitive Dialogue were:

- The complexity of the requirement and the need to explore various options and service developments with bidders;
- The costs of the Partnership's services which is estimated to be in the region of £50m per annum, and the requirement for skilled dialogue to take place with bidders, particularly given the scale of spend and that making significant savings is a core requirement of the project.
- At the Market Engagement events prospective bidders confirmed they favoured this approach.

2.5. One of the key benefits of using Competitive Dialogue is that it allows both the authorities and bidders to enhance and adapt the scope of the requirements throughout the commissioning process, including the final specification. This route has highlighted further efficiencies, in demonstrating the benefits of incorporating the administration function for

- both the Waste and Cemeteries services, along with the sports bookings function for Parks, within the scope of the contract.
- 2.6. In addition, it has been possible for Merton and Sutton to review the timescale and contract start date and in consultation with the bidders, to bring forward the contract start date for Lot 2 services from 1st April 2017 to 1st February 2017, to ensure that the contractor is in place prior to the start of the peak demands of the horticultural season.
- 2.7. The following objectives, agreed prior to the commencement of the procurement were:
- to target optimum savings on the costs of service provision through lower service costs and increasing recycle income;
  - to deliver residents a high performing service, achieving high levels of customer satisfaction;
  - to provide improved environmental and carbon outcomes in the way we deliver environmental services; and
  - to ensure the community remain engaged and involved in the management, maintenance and oversight of parks, cemeteries and open spaces in Merton and Sutton.
- 2.8. **Evaluation Criteria**
- 2.8.1 The evaluation criteria were agreed at the beginning of the procurement process. A detailed report on the procurement process and key milestones was shared with the Sustainable Communities, Overview and Scrutiny in February 2016. Full details of the tender evaluation is contained within Appendix A.
- 2.8.2 The individual weightings for the four distinct quality categories for the final tender stage are as follows.
- (i) Technical Evaluation: LOT 1 (35%) LOT 2 (40%)
- This evaluates bidders approach to service delivery, their technical solution, their approach to the contract specification and the robustness of their resource plan.
- (ii) Financial: LOT 1 (25%) LOT 2 (20%)
- This evaluates the bidders approach to the contract payment mechanism approach to financing solution and the robustness of their pricing. In addition it covers the bidders response to take in the requirement for transparency and auditing of the contract. The overall bid price is evaluated separately (see para 2.8.3).
- (iii) Legal and Commercial: LOT 1 (35%) LOT 2 (35%)
- This evaluates the bidder's response and approach to the contract as a whole. Bidders proposed organisational structure for managing and delivering the services is evaluated within this section. A key area for consideration is the approach to staff and issues relating to the Transfer of

Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) (TUPE) and pensions.

(iv) Bid Coherence: Both LOT1 and LOT 2 (5%)

This element examines the bids in their completeness to ensure there is consistency across all the above elements.

- 2.8.3 The price of the bids was evaluated as a Net Present Value (NPV) of the annual contract payments. This is calculated in accordance with the Payment Mechanism from the contract commencement to the anticipated first Contract breakpoint (Year 8). The flow diagram Appendix 2 (Decision Tree) sets out the evaluation decision to determine the ranking of each of the bids received at the final tender stage with regards to ensuring the most economically advantageous tender is identified.

2.9. **Evaluation Process**

- 2.9.1 The procurement process covered three stage of dialogue with bidders in each Lot; Outline Solutions Stage (ISOS), Detailed Solutions Stage (ISDS) and Final Tender Stage (ISFT). Please see Appendix 1 which describes the process in greater detail.
- 2.9.2 Following the PQQ evaluation 5 bidders were invited to submit outlined solutions (ISOS) for LOT 1 services and 6 bidders were invited for LOT 2.
- 2.9.3 At the end of the ISOS stage all submissions were assessed to be of good quality. The bidders' 'New Service' proposals were all considered to meet the boroughs' requirements and offered savings against the current budget.
- 2.9.4 Going forward as part of the next round of Dialogue, 4 bidders from each LOT were invited to take part in the next stage. Invitations to Submit Detailed Solutions began in September 2015.
- 2.9.5 Following the evaluation of all bids received as part of ISDS the number of bidders was reduced, with 3 bidders for LOT 1 being invited to tender for final solutions (ISFT) along with 2 bidders for LOT 2. Final submissions were received on the 1<sup>st</sup> April 2016.
- 2.9.6 Bidders have been advised of the need for technical submissions to include a Waste Flow Model, a Resource Model and a Service Delivery Plan setting out how each element of the service would be performed. These are deliverables that provide the operational evidence base upon which the financial information will ultimately be based.
- 2.9.7 At the end of each stage of the procurement the SLWP has retained the option to deselect bidders based on an overall evaluation of their proposed bid.

2.10. **Evaluation Outcome**

- 2.10.1 Final tenders from the three remaining bidders at the final stage for Lot 1 (AMEY, Biffa and Veolia ES (UK) Limited) and for Lot 2 (The Landscape Group and Veolia ES (UK) Limited) were received on 1 April 2016. The

tenders for both Lots were reviewed and assessed by officers and the SLWP advisers in accordance with the evaluation criteria.

- 2.10.2 On 7 June 2016 the Joint Waste Committee (JWC) considered a report setting out the results of the evaluation of final tenders, including the prices offered by each bidder and their bid quality scores. Members of the JWC endorse the outcome of the procurement.
- 2.10.3 As a result Veolia ES (UK) Ltd was evaluated to have submitted the most economically advantageous tender (having the highest quality score and the lowest price for Lot 1, resulting in the recommendation to appoint them as Preferred Bidder and Amey LG Ltd. as Reserve Bidder.
- 2.10.4 The Landscape Group were evaluated as having submitted the most economically advantageous tender having assessed tenders in accordance with the Price Evaluation Method (decision tree diagram) set out at Appendix 2 resulting in the recommendation to appoint them as Preferred Bidder and Veolia ES (UK) Ltd. as Reserve Bidder.

### **3 FACTORS FOR CONSIDERATION**

- 3.1. The procurement process has been driven with four objectives as set out at 2.7
  - a) Value for money / cost effectiveness in light of the financial challenge
  - b) High quality services that maintain good levels of resident satisfaction
  - c) Environmental sustainability.
  - d) Ensuring the community remain engaged and involved in management / maintenance and oversight of parks , cemeteries and open spaces etc..
- 3.2. With these objectives in mind the Competitive Dialogue process has allowed the opportunity to seek optimal solutions and to harness the experience and economies of scale of bidders in delivering the right solution for the 4 boroughs
- 3.3. Competitive dialogue allows flexibility in agreeing the service specification throughout the process. This enabled the partner boroughs to engage with bidders regarding the solution they considered to meet the objectives of the procurement. The outcome of these discussions and subsequent submissions results in optimal solutions being put forward which will deliver service changes for Merton which are set out below.
- 3.4. **Waste Collection Services**
- 3.4.1 All proposed service redesigns and financial models in waste collection have been modelled on the assumption that the proposed changes will be implemented in Merton in October 2018,maintaining the current service from April 2017. Final details will be confirmed during fine tuning.

- 3.4.2 From 2015 there is a legal issue with collecting materials in a commingled form. (Mertons current methodology for collecting recycling material) The European Union Directive 2008/98/EC on waste, the Revised Waste Framework, has specified that by January 2015 there is a requirement to collect glass, paper, metal and plastics separately, unless it can be shown that the current collection method is the most Technologically, Environmentally and Economically Practicable (TEEP)
- 3.4.3 It has been clarified in EU guidance notes that 'Technically practicable' means that the separate collection may be implemented through a system which has been technically developed and proven to function in practice. 'Environmentally practicable' should be understood such that the added value of ecological benefits justifies possible negative environmental effects of the separate collection (e.g. additional emissions from transport). 'Economically practicable' refers to a separate collection which does not cause excessive costs in comparison with the treatment of a non-separated waste stream, considering the added value of recovery and recycling and the principle of proportionality.
- 3.4.4 As part of the procurement exercise each bidder was required to undertake a TEEP analysis in order to ensure that their technical solution was compliant with the new legislation. During Final Tender stage of dialogue all bidders confirmed that the best proposed collection methodology which meets the most Technically, Environmentally and Economically practicable method is a twin stream collection which segregates the paper and card from the glass and plastics.
- 3.4.5 During the life of the contract Veolia will introduce a harmonised waste collection service across the Partnership boroughs. The recommendations would mean the continuation of weekly food waste and recycling collections; paper and card being collected one week and glass, tins and plastic the next. The remaining non-recyclable rubbish would be collected on alternate weeks encouraging behaviour change promoting recycling and food waste and making the solution affordable to Merton. This recommendation would also see the introduction of wheeled bins.
- 3.4.6 There are a number of expected advantages associated with the use of wheelie bins which were confirmed following the recent wheelie bin pilot in Lavender Fields.
- There were significant improvements in standards of cleanliness of the roads within the trial area through less wind blown litter and reduced risk of animal attack and spillage from sacks;
  - There were positive environmental impacts through increased recycling resulting from increased container capacity for recyclables;
  - Improved street scene appearance: neater curtilage with single bin rather than multiple black sacks;
  - Improved recycle quality resulting from protection from adverse weather
  - Improved working conditions for collection operatives (less heavy lifting, manual handling and limited hazards from sharp objects in black sacks).

3.4.7 In addition to the monitoring of cleanliness and impacts on waste diversion, the service commissioned an independent survey of residents living within the trial area. The detailed findings are set out in Appendix 3. However, the key highlights include:

- 89% of residents were happy with the wheeled bins
- 95% found them easier to use than the current sack and box collection;
- 81% of residents felt that the streets were cleaner as a result of proper containerisation of the waste.

3.4.8 Veolia is proposing a change in the waste collection operational times, The proposed times of collection will be between 6:00am – 16:00 Monday to Friday. This deviates away from the current operating times of Monday to Friday 6am – 2pm. In addition Saturday collections will be introduced with Saturday collections starting from 7am through to 17:00, to minimise the disruption to residents.

3.4.9 Recycling and the value of the material will be maximised by introducing a twin stream collection, with paper and card collected separately from the remaining dry mixed recyclates – glass, plastics, cans (DMR). With the contractor guaranteeing the council revenue from the sale of these two waste streams. To ensure the quality of the material is maximised a wheelie bin collection service will be implemented for the paper and card with the DMR being collected using either the current 55 litre box system or a reusable bag.

3.4.10 The collection of all waste streams from communal properties in Merton will be on an output basis where the bins will be emptied before they become full on a minimum weekly bases. The frequency of communal bins will be tailored per site following an initial monitoring period and survey of containers at communal properties to ensure there is appropriate provision of food and recycling bins. This flexible approach is a service enhancement for those in flatted properties currently receiving fixed scheduled collection. This will enable the contractor to manage the demand for collections in these properties better and contribute to achieving the Service Performance Indicators.

3.4.11 Veolia will work in partnership with the third sector organisation to provide the Bulky Waste collection service to maximise the full potential of the re use markets for items collected at the kerbside. Merton will continue to subsidise this service until at least October 2018 so that it remains free of charge to residents until this time.

3.4.12 Garden waste will remain a fortnightly chargeable service, with the contractor responsible for the administration of the service and agree in conjunction with the Council the annual subscription rate. .

3.4.13 The table below illustrates the frequency of collection and the container

				Number of Collections Per week
<b>Week 1</b>	Food (Caddie)	Residual (240ltr Wheelie	DMR* (reusable bag /55ltr	3



		bin)	Box)	
<b>Week 2</b>	Food		Paper & Card (240ltr wheelie Bin)	2
<b>Week 3</b>	Food	Residual	DMR	3
<b>Week 4</b>	Food		Paper Card	2

DMR\* Dry Mixed Recyclables – Glass, Plastic, Cans etc.

3.4.14 It is recognised that the approach to waste collection cannot necessarily be a “one size fits all” approach and that different container types and sizes may be most appropriate depending on household types and sizes. Appendix 4 illustrates the type of households which might not be suitable for a wheelie bin service. However, in order for collection processes to be as lean and efficient as possible standardisation will be required to a large extent and any variation from the standard process would require justifiable reasons. Acceptable criteria to vary from the “norm” will be agreed in advance of any service being rolled out. In terms of a wheeled bin service it is important that the bin is of an appropriate height to be lifted by standard bin lifting equipment at the rear of the collection vehicle without the need for any repetitive re-adjustments to the bin lifting equipment.

3.4.15 Merton’s commercial waste service will be operated by Veolia who propose to integrate its existing commercial waste portfolio with that of the partnership boroughs. Whilst there will be no change to the pricing mechanism for existing customers for 2017/18, Veolia will have the flexibility to adjust customer prices in consultation with the SLWP Authorised Officer.

### 3.5. **Street Cleaning services**

3.5.1 The benefits of a wheeled bin service set out above include the effective containerisation of waste: less wind blown litter and reduced spillage. This enables an alternative approach to resourcing street cleaning provides a higher quality and more efficient service.

3.5.2 Veolia propose to implement a Neighbourhood approach to deliver the street cleaning operations which will allow the needs of the local area to be understood and addressed directly by accountable area Environmental Managers. This allows the staff to be fully integrated as part of the local community in which they are responsible for.

3.5.3 The proposal is to establish 3 Neighbourhoods aligned to ward boundaries to facilitate this integration and provide local Members with clear visibility of the resources and points of contact for their ward.

3.5.4 The street cleaning services will be provided seven days a week, 365 days a year. The core activity will be undertaken during the day shift, operating from 06:00 to 14:00 Monday to Friday. This will be supplemented by an evening shift operating from 14:00 to 22:00. The Saturday shifts will operate over seven hours, working from 06:00 to 13:30 and the evening shift from 13:00 until 20:30. The Sunday shifts will operate over six hours, working from 06:00 to 12:30 and the evening shift from 12:30 until 18:30.

3.5.5 The Neighbourhood based resource will be supported by mechanical sweepers operating throughout the borough. The mechanical sweepers will work across Neighbourhood areas to ensure their routes are effectively optimised.

3.5.6 In addition to this there will be several cross borough teams providing the following services on a reactive basis.

- Graffiti/ Fly post removal
- Emptying of litter bins and collection of street sweepers sacks
- Gully Cleaning
- Weed removal
- Litter bin repair and maintenance team
- Emergency response team when required.

This approach effectively places the resources at the point where most required and enables greater cross boundary efficiencies, delivering further savings as a result of the procurement.

3.5.7 An alternating manual sweep and litter pick schedule has been modelled for the residential areas. This ensures areas receive a thorough clean at the frequencies required to maintain the agreed standard of cleanliness

3.5.8 The contractor will be required to ensure that on the completion of any cleaning activity i.e. manual sweeping , litter picking and mechanical sweeping the relevant area of land has been cleaned to a Grade 'A' standard as reported in line with the guidelines set as part of Ni 195 , the National Indicators for local Authorities. Photos of this standard are shown at Appendix 5. In addition to this the frequency of cleaning needs to ensure that town and district centres and residential roads meet a Grade 'B' standard as a minimum. This is in line within the measures used in Ni 195. Please refer to Appendix 5 which highlights the different level of litter as measured in the Service Performance Framework.

### 3.6. **Greenspaces**

3.6.1 The nature of the service procured in Lot 2 meant that the specification was more prescriptive in its requirements of bidders. The specification has been developed and refined throughout the dialogue process, with emphasis being placed on outcomes rather than inputs insofar as possible. Both bidders within this lot sought to consolidate the existing delivery model that relies substantially upon mobile teams, providing flexibility within the service.

3.6.2 The Preferred Bidder will continue to provide dedicated teams at some of the borough's key parks: Wimbledon Park; John Innes Park; and Cannizaro Park, but will be able to respond through the mobilisation of roving teams to demands, reflecting the seasonal nature of the service.

3.6.3 Tree inspections and management of outdoor events in parks will remain the responsibility of the Council.

3.6.4 The Preferred Bidder has proposed a revised charging schedule for a range of paid-for services within the Greenspaces management portfolio. The Council will, however, retain control over all of its fees and charges for facility hires and other services, including sports pitches, ball courts and burials.

3.6.5 The scope of the services to be delivered within Lot 2 includes:

Horticulture	Parks and highways grass cutting Hedge maintenance Herbaceous, shrub & rose beds Annual bedding, bulbs, planters & troughs Meadows Allotments War memorials & memorial gardens
Sports pitches	Pitch management, repairs & renovations Pitch bookings
Play & leisure facilities	Children’s playgrounds management, servicing, repairs and inspection Management and inspection of outdoor gyms, ball courts and , skate parks .
Cleaning and general maintenance	Litter, waste and leaf collection Toilet and pavilion cleaning Parks furniture and signage maintenance and cleaning Removal of fly tips Maintenance of waterways and water features, gullies and drains Emergency response service
Outdoor events	Event support including litter clearance and stewarding Grounds reinstatement
Arboriculture	Tree planting, pruning and maintenance 24 hour emergency tree works cover
Cemeteries	Burials and exhumations Grounds maintenance Administration
Nature conservation	Management of woodlands, hedgerows, and meadows . Working with community volunteers and conservation groups

3.6.6 Relevant services currently delivered by the Council on behalf of the Merton & Sutton Joint Cemetery Board and the Mitcham Common Conservators have been included within the contract with the approval of these two external bodies.

- 3.6.7 Some key services and functions currently delivered by the Greenspaces team, specifically the borough's tree inspections and tree works commissioning, management of outdoor events and annual capital investment programme, will be retained by the Council.
- 3.6.8 The introduction of new field-based technology and annualised working hours for Merton grounds maintenance staff are an integral part of the Preferred Bidder's proposals for achieving greater operational efficiencies within the contract.
- 3.7. **Customer experience**
- 3.7.1 Customers will continue to make contact with the council through the existing channels to make enquiries, report problems and subscribe/pay for services. The preferred bidder(s) solution will update the Council's CRM system, enabling the provision of real time information and transactions to be made.
- 3.7.2 **Clienting / Contract management**
- 3.7.3 Work is in hand to develop clienting / contract management arrangements. The SLWP will carry out some contract management functions, specifically those necessary at pan-borough level including payment arrangements. Day to day contract monitoring, liaison and enforcement will take place at a borough level. These functions will in the main be carried out by a limited number of newly created Client Officer posts which will be established and filled before the contract commences. These, and the SLWP client function, will be funded from savings delivered from this procurement.
- 3.8. **Communications Strategy**
- 3.8.1 The Partnership has created an overarching Communications plan which has been directly contributed to by the Head of Communications in each of the partner boroughs.
- 3.8.2 The key objectives of the SLWP Environmental Services Procurement (Preferred Bidder) Communications Plan are to: Provide residents, elected Members, council staff and other stakeholders with clear, factual and timely information about the SLWP Environmental Services contracts; fill the seven-month 'information void' that would otherwise exist between the identity of the recommended Preferred Bidders entering the public domain on 27 May 2016 and contracts being signed in December 2016; help mitigate the risk of commercially sensitive information entering the public domain whilst the Preferred Bidder recommendations are being endorsed by the Joint Waste Committee and ratified by the four boroughs.
- 3.8.3 During Fine Tuning (August – November 2016) the Partnership's Communications Advisor will work with the Preferred Bidders to develop joint Communications and Engagement Strategies and Plans that take effect once contracts are signed.
- 3.8.4 Given the different implications of the contract award for each borough, Merton will need to compile a service specific communications plan which

incorporates the strategic drivers and acknowledges the local impact on residents and staff.

### 3.9. **Partnership Governance and clienting arrangements**

3.9.1 The boroughs have worked closely on a range of joint procurement activities since 2003. In order to deliver successful and sustainable procurements the partner boroughs of the SLWP continue to manage their commitments through a series of inter-Authority Agreements (IAA).

3.9.2 When approving the business case and procurement strategy for this project, Cabinet considered and agreed the requirements for a revised IAA to cover the procurement phase of the project and was made aware of a future need for a supplemental IAA to cover the service or contract management phase of the project. This IAA will cover the period from Contract Award to ensure continuity during the phasing of service commencement and service changes through the term of the contract and will cover both Lot 1 and Lot 2 services.

3.9.3 This “service phase” IAA is being drafted by the South London Legal Partnership in consultation with borough officers and the SLWP Legal Advisors. The main principles remain consistent with existing agreements. The main elements of the proposed agreement will include:

- (i) No savings achieved during the life of the contract shall lead to increased costs for any of the other partnership boroughs;
- (ii) No changes to the scope of the contract shall add to any borough’s costs without that borough’s agreement;
- (iii) The split of costs and income by borough has been agreed with bidders and will be the basis for the individual borough charges. These will be the starting point for negotiations in how any changes to payments should be apportioned through the life of the contract;
- (iv) the governance and contract management structure for the contracts, including timescales for review.

3.9.4 The contract will be managed by the SLWP in conjunction with each of the boroughs, with a centralised client function sitting in the SLWP team and a borough-led client team in each borough, in accordance with the reporting requirements developed through dialogue with bidders and agreed with the Preferred Bidder during fine tuning. The key objective will be to ensure a consistent approach to contract management across the partnership area whilst appreciating the diverse requirements of individual boroughs.

3.9.5 For both LOTS 1 & 2 the respective contracts will be measured against a Service Performance Framework with a robust set of ‘performance indicators which have been accepted by all bidders and will be contractualised by all bidders at fine tuning stage as outlined in Appendix B and C Service Performance Framework.

### 3.10. **SUMMARY**

- 3.10.1 The preferred bidder proposals for both Lot 1 and 2 effectively meet the agreed objectives of the procurement project as set out in section 2.
- 3.10.2 For both LOTS the respective contractors will be bound by the agreed Service Charter as illustrated in Appendix 6 and 7.
- 3.10.3 The proposals represent the optimum solution in terms of service performance quality and financial savings and with respect to Lot 2 services are very strong in terms of stakeholder engagement.
- 3.10.4 Veolia's proposals will result in the introduction of wheeled bins for residual waste and for Pare and Card. The main benefit of this approach will be the effective containerisation of waste and associated street cleansing benefits, as demonstrated by the wheeled bin pilot in Lavender Fields ward. Furthermore it is anticipated that the solution will lead to increased participation in both food waste and recycling collection services, driving up the borough's recycling rates and reducing our reliance on costly waste disposal/treatment options.
- 3.10.5 Veolia's proposals include guaranteed levels of income with respect to commercial waste, and through the sale of recyclates. The twin stream approach to recycling enables both the contractor and the councils to secure maximum value from these materials.
- 3.10.6 All operations across the four boroughs will be operated out of three main waste depots, rather than four, effectively rationalising and making best use of depot facilities. There is not expected to be a change to depot use in Merton with Garth Road being a preferred depot for Lot 1 along with Hillcross Road for Lot 2.
- 3.10.7 The eventual harmonisation of services across the partnership area provides procurement efficiencies for the contract and delivers greater resilience across the region.
- 3.10.8 The main focus across all services will be to deliver high quality outputs: contractor performance will be judged not on the resources being employed but the outcomes being enjoyed by service users.

#### **4 ALTERNATIVE OPTIONS**

- 4.1. The only alternative option available to the Council is to not appoint preferred bidders and withdraw from the procurement process. This would potentially expose the Council to claims from partner boroughs if the procurement was unable to proceed and potentially from bidders. The Council would also still face the need to make budget savings already built into the MTFS.
- 4.2. The Council has faced a significant reduction to its Government funding since 2010 and to address this, the Council has consistently identified savings through its Medium Term Financial Strategy.
- 4.3. Despite this, further savings are required to address the funding gap, the Council initiated a service transformation programme to drive through the transformation of council services and deliver savings.

4.4. Although Merton has a number of potential routes in which they can provide these services in the future it was concluded that a joint procurement of a single, integrated contract using competitive dialogue was the preferred option. This is for the following reasons:

- Joint procurement would allow for aggregation of valuable materials, producing a high volume tonnage into recycle markets.
- Procurement efficiencies derived from procuring a range of services across four boroughs
- SLWP commissioned commercial expertise, derived from significant previous commercial negotiation with the providers within these markets
- A single contract across a range of services allows the partnership to benefit from the economies of scale
- Contractors are able to achieve savings across staff, depot, vehicles, routing and new software.

While efficiencies may be achievable by individual authority procurements a number of these might not be realisable if an individual authority procured alone. This was confirmed in feedback from the market testing ,where it was reported that a higher priority was given to the bidding to the sub regional approach than that for individual boroughs.

## **5 CONSULTATION UNDERTAKEN OR PROPOSED**

### **5.1. Members**

5.1.1 Members of the JWC have been consulted regularly and at the natural points in the procurement process, when proposals and potential interim prices made available. Workshops with Lead Members across all partnership Boroughs have been undertaken with a focus on developing the specification principles, the Service Charters and evaluation framework.

5.1.2 Further member consultation has been undertaken within the individual boroughs at key points in the procurement process.

5.1.3 This has allowed the opportunity to track the progress of negotiations and shape services through the course of the dialogue process, and to agree the approach to public and staff consultation as applicable to each borough.

5.1.4 In February 2016 a report was presented to Sustainable Communities Overview and Scrutiny Panel providing an update and opportunity to scrutinise the process to date which at that time was just about to enter into the Invitation to submit Final Tender stage. Members noted the report and the intention to report back for Pre-decision Scrutiny in June.

### **5.2. Staff**

5.2.1 Monthly engagement and progress updates have been provided to all impacted staff. This has been achieved through alternate monthly Newsletters, supported with alternate monthly staff engagement sessions with the Director of Environment and Heads of Service.

- 5.2.2 Trade Unions have been separately updated on progress through the monthly Departmental Consultative Committee meetings.
- 5.2.3 It is currently anticipated that approximately 309 directly managed staff are involved in delivering the services in scope of the procurement. These staff will be transferred to the new contractors on the date of commencement of each contract under the TUPE Regulations. A TUPE transfer plan will be refined by the Preferred Bidders during the fine tuning stage for agreement by the Partnership and individual boroughs. Resources to support the plan have been identified and secured through the Merton Improvement Board. Staff and Trade Unions will be fully consulted throughout this process.
- 5.2.4 In addition to the finalisation of the list of staff likely to transfer to the new contractor under TUPE, work has commenced on reviewing the required internal structure to manage these contracts as well as services retained within the council and out of scope of the new contract. Affected staff will be consulted on proposals as part of the Council's Managing Change process and procedures.
- 5.3. Friends of Parks
- 5.3.1 There have been two separate meetings with key open spaces stakeholders, principally the parks friends groups, during the procurement process: one in March 2015 to announce and outline the project; and a second in January 2016 to update local groups on progress. The Director of Environment & Regeneration and Cabinet Member has also written to a wide range of parks users and friends groups in order to update them on relevant matters most recently at the end of May to advise them of the preferred bidder recommendation . Further meetings are currently planned with stakeholders groups, firstly, following the appointment of the Preferred Bidder and, later, during the contract mobilisation phase and in advance of the contract commencement. It is hoped that a meeting with the preferred bidder will be arranged before Contract Award.

## 6 TIMETABLE

- 6.1. Subject to each partner borough executive's approval of the recommendations within this report, the contract will commence on 1 April 2017 for Lot 1 and 1 February 2017 for Lot 2. A mobilisation plan has been submitted by the Preferred Bidder in accordance with the submission requirements and will be subject to further discussion and agreement with Partnership officers during contract fine tuning.
- 6.2. The indicative timetable leading to contract commencement is as follows

WORK STREAM	DATE
Boroughs approval for Preferred Bidder and Reserve Bidder	June – 3 August 2016
Preferred Bidder Fine tuning	August – November 2016
Advertising intention to lease properties	August/September 2016



Contract Award (includes 10 working days standstill period following notification of contract award)	December 2016
Mobilisation period (includes TUPE transfer of relevant staff)	LOT 1 - January – March 2017 LOT 2 - January 2017
Contract commencement	Lot 1 – April 2017 Lot 2 – February 2017

## 7 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 7.1 The cost to the SLWP of this procurement is forecast to be £1,640,000, of which Merton's share is £410,000. In addition to the Partnerships cost Merton incurred the cost of additional project management support along with HR resource at a cost of c£216k over the three years. Transformation Challenge Award funding of £1,330,500 was successfully bid for and received from the Department for Communities and Local Government, of which Merton's share is £332,625, resulting in a net cost for Merton of c£293k.
- 7.2 For the purposes of comparison it has been assumed that existing budgets will be inflated by 1.5% annually and benchmarked against the Preferred Bidders 2.5% inflation cap within the contract.
- 7.3 Preliminary work undertaken by Waste Services indicates that the award of the contract to the Preferred Bidder for Lot 1 could potentially result in revenue savings of up to £1.3m in year 1. In year 2 following the implementation of the new harmonised service the revenue savings could potentially increase to up to £2.2m per annum. Please note that these savings currently excludes the cost of Capital for new Vehicles and containers.
- 7.4 The award of the contract to the Preferred Bidder for Lot 2 could potentially result in revenue savings of up to £650k in year 1 decreasing to c£540k in Year 2.
- 7.5 It is important to stress that these savings figures are indicative and will be subject to change throughout the fine tuning stage of the process.
- 7.6 In addition, work has now advanced within the Finance section to further analyse the Preferred Bidder's tender in finer detail in order to fully understand the scope of their tender and comparison with individual budget expenditure and income lines . Further comparison with existing budgets at detailed level will clarify more thoroughly the savings figure before any Contract Award in December .
- 7.7 This work will also involve analysing the potential impact on internal overheads, remaining Fleet Services budgets, Capital borrowing, and the impact on other sections within the Authority, which may impact on the final savings figure.

## CAPITAL

- 7.8 The Preferred Bidder for Lot 1 has indicated that it would be financially preferable and beneficial to the public purse if the Councils funded the capital cost of new Refuse collection vehicles and containers. For Merton this amounts to c£5.8m over 8 years. The majority of the capital cost £4.190m (72%) is for new refuse vehicles followed by the cost of new containers £1.512m (26%) This financing cost would be met by Merton Council.
- 7.9 The Table below shows the impact on revenue of borrowing the estimated capital required for the contract. These costs will need to be offset against any savings identified by the contract.:

**Calculation of Debt Charges to Revenue - Internal Borrowing**

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s
MRP @ 7 years - Vehicles	0	599	599	599	599	599	599	599
Reduction in Vehicle Replacement Programme *	0	0	(150)	(150)	(150)	(150)	(150)	(150)
MRP @ 15 Years - Containers	0	101	101	101	101	101	101	101
Internal Interest in Model @ 1.25%	71	71	63	54	45	36	28	19
<b>Total</b>	<b>71</b>	<b>771</b>	<b>612</b>	<b>603</b>	<b>594</b>	<b>586</b>	<b>577</b>	<b>568</b>

- 7.10 The assets will be owned by the Authority. They will be purchased by the contractor who will also be liable to maintain the assets. In the event of termination all assets will revert back to the authority
- 7.11 At the end of the 8 years the assets will be reviewed. If the contract is extended the contractor will need to justify any future capital requirement for new / additional assets. In the case of an extension any residual value left on the asset will be used to offset any replacement cost. Whilst 8 years is the expected useful life of refuse trucks it is expected that the containers will have a longer useful life.
- 7.12 At this stage officers are recommending a preferred bidder based on a technical solution. If agreed a 6 month period of fine tuning prior to awarding any contract. It is currently envisaged that the estimated capital requirement for this scheme will be progressed by a separate report to Council.
- 7.13 The costs associated with the integration of Merton's ICT systems referred will need to be fully funded by the council. This will need to be quantified and classified as to whether it is capital or revenue expenditure.

**8 LEGAL AND STATUTORY IMPLICATIONS**

- 8.1. The London Borough of Croydon has acted as legal lead for the procurement and in this role has taken advice from Gowling WLG (previously known as Wragge & Co) throughout the process. The SLWP has chosen to conduct a competitive dialogue procedure in accordance with the provisions of the Public Contracts Regulations 2015 (SI 102/2015) (the "Regulations"), for the procurement of these services.

- 8.2. The partner boroughs are parties to an Inter Authority Agreement (IAA) to govern the relationship and obligations in respect of the procurement of Lots 1 and 2 services. The partner boroughs shall enter into a further IAA to govern the contract management of these services.
- 8.3. No legal issues are anticipated because legal advice has been taken throughout the process. This has comprised advice on the Regulations, the procurement and dialogue process, the tender documents and the contract documents.
- 8.4. Once approval has been given to appoint the Preferred Bidders and Reserve Bidders all bidders will be notified of that decision.
- 8.5. Legal advice will continue to be sought throughout the fine tuning period and prior to entering into the contracts to ensure continued compliance with the Regulations.
- 8.6. Once the fine tuning period has ended and the final form of contracts have been agreed, all bidders will be notified of the decision to enter into the contracts and a 10 day stand still period will apply before the contracts are entered into..
- 8.7. Staff currently working in Merton on both Lot 1 and Lot 2 services are directly employed by the borough and will be transferred (under TUPE) to the new service providers for Lot 1 or Lot 2 as relevant. Staff who transfer under TUPE will leave the Local Government Pension Scheme administered by the Council and become deferred members of the Scheme. This transfer of staff will need to be made according to the TUPE regulations and staff representatives will need to be fully informed and consulted.
- 8.8. It should also be noted that there would need to be due consultation with staff (and potentially with staff representatives) in respect of staff who will be managing the contracts and those who work in retained service (see paragraph 5.2.4 above.)
- 8.9. Asset Management/Property
- 8.9.1 There are a number of areas where the service currently operates from which the Preferred Bidder may wish continue to use to provide the service. Some of these have been identified as Public Open Space. Under section 123 of the Local Government Act 1972 the Council has a duty to advertise its intention to grant a lease and to consider any objections.
- 8.9.2 An advertisement must be placed in a local newspaper circulating in the area in which the property is situate for two consecutive weeks allowing a period for objections to be made. These must then be considered by the Council.
- 8.9.3 Provided no valid objections have been received the council can then grant a lease of the area to the Preferred Bidder. The lease will be on standard lease terms (at a market rental). If after considering the objections the council considers they should be upheld the council will be prevented from granting leases for the public open space areas.

8.9.4

## **9 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 9.1. An Equality Impact Assessment will need to be completed for these universal services, assessing the impact of these changes on all stakeholders. All households access these services and the staff in scope, third sector organisations and managing agents will be affected by the change.
- 9.2. Changes to the waste collection service have the potential to impact on all households especially those who rely on the assisted collection service, and it will be important to ensure these residents are provided with an uninterrupted service throughout the period of change. The proposals will require households to have additional containers which may impact those with limited space. However, by offering a flexible approach in the provision of containers, the Council and the contractor will seek to mitigate the impact.
- 9.3. In mitigating the impact of the proposed changes the Council and contractor will ensure that all residents and stakeholders receive information about the service through a variety of channels as part of the communications plan.
- 9.4. Staff may be affected by the Preferred Bidder proposal to change services if this results in a change in their terms and conditions. These include changes to shift patterns, working hours, pay, location and duties. The contractors will be required under TUPE to carry out a full consultation with relevant staff.

## **10 CRIME AND DISORDER IMPLICATIONS**

- 10.1. None specific to this report

## **11 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

- 11.1. In order for the boroughs to realise the potential benefits associated with this joint procurement a firm commitment from all 4 boroughs is required prior to any contract award. Each of the partners is seeking that approval to appoint the Preferred Bidder through their appropriate decision making processes. It is anticipated that this approval will be finalised in July/ August 2016 subject to any required 'Call In' process and Alcatel.
- 11.2. A risk register for the procurement exercise has been well established and monitored by Management Group Officers on a monthly basis and reported to the Strategic Steering Group. This risk register capture the risks in 6 categories, strategic, commercial, financial, legal, technical and engagement activities.

## **12 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

- Appendix 1 - Competitive Dialogue Process
- Appendix 2 - Decision Tree
- Appendix 3 – MEL Resident Survey
- Appendix 4 – House Hold Types (suitability)
- Appendix 5 – Street Cleaning Measurements
- Appendix 6 - Service Charter (LOT 1)
- Appendix 7 - Service Charter (LOT 2)

#### **Confidential Appendices**

- Appendix A - Evaluation report
- Appendix B - Service Performance Framework (LOT 1)
- Appendix C - Service Performance Framework (LOT 2)

### **13 BACKGROUND PAPERS**

- 13.1. Held by Cormac Stokes, Head of Street Scene and Waste

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