

## **Committee: Cabinet**

**Date: 11<sup>th</sup> Oct 2021**

Wards: All

## **Subject: South London Waste Partnership Food and Garden Waste Processing Procurement**

Lead officer: John Bosley Assistant Director Public Space

Lead member: Cllr Natasha Irons

Contact officer: Charles Baker

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### **Recommendations:**

- A. Following the procurement process set out below, and subject to approvals through the relevant governance processes in LBs Croydon, Kingston, and Sutton, that Cabinet approve the South London Waste Partnerships (SLWP) recommendations for the RB Kingston (procuring authority on behalf of SLWP) to award Lot 1 to Bio Collectors, Lot 3.1 to Country Style, Lot 3.2 to Olleco, and Lots 5.1 and 5.2 to SUEZ
  - B. If approved the contracts would be for an initial period of 4 years and 7 months commencing on 1 September 2022, with possible extensions up to 31 March 2030 for a total contract value of £16m for the full term.
  - C. To delegate authority to the Director of Environment and Regeneration in consultation with the Cabinet Member to agree any future contract extension on behalf of LB Merton.
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## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. The purpose of this report is to recommend the award of four contracts for the handling, haulage and treatment of food and green garden wastes produced by residents in the four South London Waste Partnership boroughs: RB Kingston, and LBs Croydon, Merton and Sutton.
- 1.2. The South London Waste Partnership (SLWP) was formed in 2003 by the four London boroughs of Croydon, Kingston, Merton and Sutton. Their shared objective was to work together to provide improved and more cost-effective waste management services to the 4 boroughs and their residents.
- 1.3. In the 17 years since the Partnership was established, the boroughs have faced huge environmental and financial challenges. The SLWP has provided the boroughs with a platform to pool their resources and expertise when responding to these challenges, and has resulted in some particularly innovative solutions.
- 1.4. Since its inception, the South London Waste Partnership has consistently demonstrated that it can deliver high quality, environmentally and financially sustainable solutions to the boroughs; the waste treatment contract alone is forecast to save £200m. With the boroughs struggling to balance the books

in the face of unrelenting downward pressure on their finances, these sorts of savings have proven invaluable.

## **2 DETAILS**

- 2.1. The contracts used by the South London Waste Partnership to handle haul and treat food and green garden wastes expire at the end of August 2022. In relation to LBs Croydon, Merton and Sutton the incumbent contractor, Viridor, is not in a position to extend these contracts because planning permission for the receipt of these wastes at Beddington expires at the end of December 2022, and the company owns no suitable alternative site. In relation to RB Kingston, Viridor has confirmed that they do not wish to extend the contracts for the handling and treatment of these wastes at the Council's transfer station at Villiers Road.
- 2.2. Soft market testing indicated that there was limited commercial interest in these contracts in their current form. In particular there are limited commercial waste transfer stations in the Partnership area capable of receiving the type and quantities of food and green waste produced by residents. In order to increase competition the project team developed proposals for the refurbishment and recommissioning of the mothballed local authority waste transfer station at Factory Lane in Croydon. This transfer station has not been operational since 2008, and it is not in a condition currently to receive wastes. The cost of refurbishing the transfer station to make it fit for purpose was estimated using structural and electrical surveys and a desk-top modelling exercise.
- 2.3. In order to further increase competition, the project team structured the procurement in nine separate Lots: two lots relating to the collection and treatment of wastes received at Kingston's waste transfer station ('Villiers Road'); and seven lots relating to the receipt, handling, haulage and treatment of wastes produced by residents in Croydon, Merton and Sutton. This nine Lot structure had the effect of encouraging much wider market interest in the contracts on offer, including from specialist food treatment companies and farmers, as well as the anticipated major waste multinationals.
- 2.4. The seven Lots relating to Croydon, Merton, and Sutton were not each mutually exclusive. Instead the individual Lots proposed various different and overlapping ways of delivering the same services that the boroughs required. Consequently it was made clear in the Invitation to Tender that not all Lots could or would be awarded. The evaluation process would determine the most economically advantageous tender for each Lot, producing Winning Tenders, and the Council would subsequently determine which combination of these Winning Tenders would provide the optimal service coverage for the three Partnership boroughs. Consequently some tenders that were the Winning Tenders within their specific Lot were bound not to be awarded contracts.
- 2.5. The two Lots relating to RB Kingston (Lots 3.1 and 3.2) are independent of the other seven Lots, and this report recommends acceptance of the most economically advantageous tenders for each of the Kingston Lots.

- 2.6. In relation to the services required by Croydon, Merton, and Sutton, this report recommends the award of a contract to a specialist anaerobic digestion plant in Mitcham to receive up to 5,000 tonnes of food waste directly delivered by collection vehicles (Lot 1), with the remainder of the three boroughs' food and green garden wastes being delivered to a commercial waste transfer station (Lots 5.1 and 5.2).
- 2.7. If approved these contracts will provide the Partnership with a number of benefits, including the fuelling of some waste transport vehicles with biogas generated from food waste, haulage using vehicles accredited to FORS 'Silver' standard, and a corporate commitment to annual carbon management planning and greenhouse gas auditing.
- 2.8. CONTEXT
- 2.9. The food and green waste project is complex and high risk due to the shortage of local waste transfer station facilities capable of accepting food and green waste on behalf of Croydon Merton and Sutton. With limited local commercial transfer stations capable of serving the three boroughs, the Partnership faced poor competition at best, or an incomplete solution for the green and the food waste services. The worst case scenario being that the three boroughs would not receive a bid, and this risk carried an annual liability of £6m in additional food and green waste treatment costs.
- 2.10. Due to the risks identified for Merton Croydon and Sutton, a multiple lot tender was developed. The project team split the two waste streams and then designed 9 lots that would enable both the major operators in the area to bid as well as open-up this opportunity. This approach enabled the smaller AD operators to bid directly to collect and treat the food waste and allowed the farmers to bid directly for the collection and treatment of the green. This approach created a great deal of market interest and was very successful in creating competitive tension.
- 2.11. Two Lots were designed for the Royal Borough of Kingston, the first for the collection haulage and treatment of green waste from the Villiers Road Waste transfer station, and the second for the collection haulage and treatment of food waste from the same waste transfer station. A further seven lots designed for Merton Croydon and Sutton.
- 2.12. It is inevitable that, as a result of the structure of this Procurement Process not all Lots would be awarded.
- 2.13. The full list of Lots included in the Invitation to Tender is set out in the table below, together with a column showing how many tenders were received for each Lot.

LOTS	Description	Bids received
LOT 1	Direct delivery of food waste to a treatment facility – up to 5000 tonnes only	1
LOT 2.1	Collect green waste from Factory Lane transfer station and treat the waste at the contractor's nominated treatment facility(ies)	5
LOT 2.2	Collect food waste from Factory Lane transfer station and treat the waste at the contractor's nominated treatment facility(ies)	6

LOT 3.1	Collect green waste from Villiers Road transfer station and treat the waste at the contractor's nominated treatment facility(ies)	6
LOT3.2	Collect food waste from Villiers Road transfer station and treat the waste at the contractor's nominated treatment facility(ies)	5
LOT 4.1	Receive green waste at the contractor's nominated receipt point and haul it away for treatment at a local authority nominated facility	1
LOT4.2	Receive food waste at the contractor's nominated receipt point and haul it away for treatment at a local authority nominated treatment facility	1
LOT 5.1	Receive green waste at the contractor's nominated receipt point and haul it away for treatment at the contractor's nominated treatment facility(ies) 1	1
LOT 5.2	Receive food waste at the contractor's nominated receipt point and haul it away for treatment at the contractor's nominated treatment facility(ies)	1

- 2.14. The winning tenders for each LOT were as follows
- 2.15. Lot 1 Direct delivery of food waste to a treatment facility – up to 5000 tonnes only. A compliant bid for Lot 1 was received and evaluated and produced the 'Lot 1 Winning Tender' from Bidder A.
- 2.16. Lot 2.1 Collect green waste from Factory Lane transfer station and treat the waste at the contractor's nominated treatment facility (ies). A number of compliant bids were received for Lot 2.1. The bids were evaluated and produced the 'Lot 2.1 Winning Tender' from Bidder B.
- 2.17. Lot 2.2 Collect food waste from Factory Lane transfer station and treat the waste at the contractor's nominated treatment facility (ies). A number of compliant bids were received for Lot 2.2, the bids were evaluated and produced the 'Lot 2.2 Winning Tender' from Bidder C.
- 2.18. LOT 3.1 Collect green waste from Villiers Road transfer station and treat the waste at the contractor's nominated treatment facility (ies). A number of compliant bids were received for Lot 3.1. The bids were evaluated and produced the 'Lot 3.1 Winning Tender' from Bidder B.
- 2.19. LOT 3.2 Collect food waste from Villiers Road transfer station and treat the waste at the contractor's nominated treatment facility (ies). A number of compliant bids were received for Lot 3.2, the bids were evaluated and produced the 'Lot 3.2 Winning Tender' from Bidder C.
- 2.20. LOT 4.1 Receive green waste at the contractor's nominated receipt point and haul it away for treatment at a local authority nominated facility. A compliant bid for Lot 4.1 was received and evaluated and produced the 'Lot 4.1 Winning Tender' from Bidder D.
- 2.21. LOT 4.2 Receive food waste at the contractor's nominated receipt point and haul it away for treatment at a local authority nominated treatment facility. A compliant bid for Lot 4.2 was received and evaluated and produced the 'Lot 4.2 Winning Tender' from Bidder D.
- 2.22. LOT 5.1 Receive green waste at the contractor's nominated receipt point and haul it away for treatment at the contractor's nominated treatment facility

(ies). A compliant bid for Lot 5.1 was received and evaluated and produced the 'Lot 5.1 Winning Tender' from Bidder D.

2.23. LOT 5.2 Receive food waste at the contractor's nominated receipt point and haul it away for treatment at the contractor's nominated treatment facility (ies). A compliant bid for Lot 5.2 was received and evaluated and produced the 'Lot 5.2 Winning Tender' from Bidder D.

2.24. **The Lots to be awarded are recommended as follows:**

2.25. The SLWP considered the combination of lots from Winning Tenders and the recommendation is to award the following lots that together when combined provide the optimum overall service coverage for the partner boroughs.

2.26. As stated above, it is inevitable that, due to the structure of this Procurement Process not all Lots would be awarded.

LOT	Winning Tender	Recommendation
Lot 1 - Direct Delivery of Food	Bidder A	Bio Collectors
Lot 2.1 - Factory Lane Green Waste	Bidder B	No Award
Lot 2.2 - Factory Lane Food waste	Bidder C	No Award
Lot 3.1 - Villiers Road Green waste	Bidder B	Country Style
Lot 3.2 - Villiers Road Food Waste	Bidder C	Olleco
Lot 4.1 - Transfer and haul Green	Bidder D	No Award
Lot 4.2 - Transfer and haul Food	Bidder D	No Award
Lot 5.1 - Transfer, haul, treat Green	Bidder D	SUEZ
Lot 5.2 - Transfer, haul, treat Food	Bidder D	SUEZ

### 3 ALTERNATIVE OPTIONS

3.1. The separate collection and subsequent treatment of food and green garden wastes are essential features of modern, sustainable household waste management, making a significant contribution to the recycling rate in each of the Partnership boroughs. These wastes are transformed by treatment into new products, including biogas that displaces fossil fuels, compost, and soil conditioner for agriculture.

3.2. The following options were considered:

- 3.3. Option 1. Do nothing. This option would mean that as the current contract expired the food and green garden wastes collected would have to be disposed of through the Beddington Energy from Waste facility, at a greatly increased cost, and with a very substantial reduction in the boroughs' reported recycling rates. This is not a viable option and is not recommended.
- 3.4. Option 2. Bring the service in-house. The Factory Lane transfer station offered the boroughs a viable in-house waste transfer station solution. However, none of the Partnership boroughs have access to the large specialised articulated vehicle fleets required to transport these wastes in bulk, nor do they own facilities nor have the expertise subsequently to treat the wastes at either a composting or AD facility. A completely in-house service does not provide a complete solution and so therefore to bring all the services in-house is not a viable option and is not recommended.
- 3.5. Option 3. Make available an unlimited tonnage of food waste for treatment at a local anaerobic digestion facility. Given the considerable environmental and social value benefits associated with local treatment of food waste this would be an attractive option were it not for the constraints around access to the single local site that could offer this direct-deliver service, in addition to the impact of diverting all of the Partnership's fleet through this residential area leading up to this site. The Partnership's food waste collection vehicles cannot risk delays while waiting to weigh and tip their loads, the collection schedules would be seriously disrupted. The need for the rapid turnaround of collection vehicles imposes a limit on the maximum amount of food waste that can be handled through a tightly constrained site. However this option has been partly fulfilled by offering a limited tonnage of waste for treatment through Lot 1, with the environmental and social advantages set out above.
- 3.6. Option 4. Recommission Factory Lane waste transfer station in Croydon and award Lot 2. The reasons for not awarding this option are set-out in the report.
- 3.7. Option 5. Award contracts for hauling away and treating RB Kingston's food and green garden waste (Lot 3). Kingston's access to a centrally-located, local authority controlled waste transfer station has proven to be a considerable asset during this procurement. Two competitive and competent tenders from bidders B and C to haul and treat Kingston's food and garden waste respectively were evaluated as offering the most economically advantageous solutions for Kingston, with significant environmental benefits associated with the treatments proposed. The option of awarding contracts to these bidders is recommended.
- 3.8. Option 6. Award contracts for providing a waste transfer station to receive food and green garden waste from LBs Croydon, Merton, and Sutton, for subsequent treatment at facilities nominated by the Partnership (Lot 4). This option took advantage of the fact that, while the incumbent contractor could not offer waste receipt and transfer facilities beyond 2022, they were contractually obliged to offer a price for continuing treatment services. However the prices they proposed for treating food and green garden wastes were not competitive, and so despite the receipt of a compliant competitive bid from Bidder D to provide transfer services under Lot 4, this option cannot be recommended.

- 3.9. Option 7. Award contracts for providing a waste transfer station to receive food and green garden waste from LBs Croydon, Merton, and Sutton, for subsequent treatment at facilities nominated by the contractor (Lot 5). This option is recommended for the reasons set out in the report.
- 3.10. Option 8. Negotiate with tenderers. In the event, the most economically advantageous tenders for each Lot were clear, compliant, thorough, and no significant further clarifications were required. No variant bids were submitted. The prices offered are competitive and the project team does not consider that any advantage is likely to be gained by triggering the negotiation procedure with all 11 bidders. This option is not recommended.

#### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1. This procurement was covered by a statutory duty to consult the GLA/Mayor of London, as set out in the Greater London Authority Act 1999. The project team gave the requisite 108 days minimum notice to the GLA before the Contract Notice was published, and subsequently engaged in a useful dialogue with the GLA's lead officer. The GLA's Deputy Mayor for Environment and Energy wrote to Cllr Gander in December 2020 confirming that the Partnership's plans were in general conformity with the Mayor of London's Environment Strategy.
- 4.2. To achieve conformity with the Mayor's Environment Strategy the Partnership notified neighbouring boroughs of its intention to place a Contract Notice.
- 4.3. Residents in the Partnership area were previously consulted on food and green waste services during collection service redesigns and procurement exercises that were undertaken in each of the partner boroughs. As the project outcomes mirror the current kerbside collection service, there are no proposed changes that will directly impact the public, and the purpose of this procurement is to facilitate a seamless continuation of existing collection services in exactly the same form as now.

#### **5 TIMETABLE**

- 5.1. The timescale is set out in the table below, showing both the tasks that have been completed and those still to come:

Pre-tender market engagement	Completed Sept 2020
Specification agreed & tender documentation approved	Completed Nov 2020
Issue Invitation to Tender	18 November 2020
Tender return deadline	10 May 2021
Tender evaluation	Completed 27 May 2021
Cabinet	11 <sup>th</sup> Oct 2021
Contract award	October 2021 (TBC)
Contract Mobilisation	Oct 2021 - Aug 2022

#### **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 6.1. If approved the contracts would be for an initial period of 4 years and 7 months commencing on 1 September 2022, with possible extensions up to 31 March 2030 for a total contract value of £16m for the full term.
- 6.2. The council is operating in an increasingly challenging financial environment. Merton faced a number of financial challenges in the medium to longer term - even before the COVID-19 outbreak, which has further added to these challenges. The economic and financial consequences of the pandemic, growing demand for services, and limited government grant funding make it difficult to find adequate funds to meet the borough's needs.
- 6.3. Brexit also created uncertainty and financial challenges for the waste management industry. However, the food and green waste composting industries are now reasonably well developed in the UK and so these specific markets are less exposed to risks associated with Brexit than markets for non-organic recyclates, which are more heavily reliant on trade agreements and movement of materials around Europe.
- 6.4. The future of local government finance faces a significant level of uncertainty. The impact of the Fair Funding Review and a future review of business rates is currently unknown, and the lasting effects of COVID-19 on our residents, local businesses and the Council itself remain uncertain.
- 6.5. Despite these challenges the council has a drive and commitment to ensure it is doing the best for residents and communities and the aim of this project has been to seek the best financial solution for Merton Council and the Partnership by going out to tender with a range of options that maximised the opportunities for service providers to submit proposals.
- 6.6. The estimated annual value of the services being procured on behalf of all boroughs combined was just over £3m per annum in 20/21.
- 6.7. The annual cost of the service based on current cost inflated to 2022/23 estimates are set out in the table below. Please note that this excludes any increase in waste volumes.

MERTON	Green	Food	Total
Current cost *	£272,694	£314,814	£587,508
New contract cost	£262,681	£106,585	£369,267
Cost avoidance	-£10,013	-£208,228	-£218,241

\*All costs are based on estimated tonnes and the current contract charges inflated to 22/23 rates in order to compare 'like for like' .

- 6.8. The reduced costs are achieved through lower processing gate fees and the avoidance of Bulking and Haulage cost through direct delivery into the contractors facilities.
- 6.9. The reduced rates will enable Merton to manage the costs within existing budgets. However it should be noted that due to increasing volumes our disposal budgets across all waste streams are under pressure and as such the service is not in a position to offer this reduction up as a saving at this point in time.

## **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. The project team was advised by Browne Jacobson LLP and supported by the Partnership's legal lead officer.
- 7.2. This procurement has been operated pursuant to the Public Contracts Regulations 2015 (as amended) under a compliant procurement exercise on which detailed legal and specialist procurement assurance has been sought as appropriate.
- 7.3. The Council has the power and authority to enter into the contracts pursuant to (amongst other provisions) the General Power of Competence provided by the Localism Act 2011.
- 7.4. Under section 358 of the Great London Authority Act 1999, a waste authority must give a minimum of 56 days' notice to the Mayor of London before it amends an existing waste contract or enters into a new one.
- 7.5. The partner Boroughs have substantially agreed an inter-authority agreement which regulates their respective rights and obligations pursuant to the contract.

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

- 8.1. The Equalities Manager has been consulted and is sighted on this procurement. The Equalities Impact Assessment Form B has been completed and agreed with the Equalities Manager. The advice he gave the project team was incorporated into the specification and evaluation criteria.
- 8.2. The quality of each bidders' health and safety policies and risk assessments was given a significant weighting within the tender evaluation scheme, focusing on issues such as safety accreditation, risk assessments, safety training, and the bidders' history of and response to enforcement action by the HSE. The recommended bidders all provided responses that were evaluated as "good" with only a few minor omissions that can easily be remedied through the contract management process.
- 8.3. As part of the Standard Selection Questionnaire (SSQ) all bidders had to provide satisfactory details of their response to and planning for pandemics on the scale of COVID 19. All bidders passed this part of the SSQ.

## **9 CRIME AND DISORDER IMPLICATIONS**

- 9.1. None for the purposes of this report

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

- 10.1. The risk assessment of the current stage of the procurement is set out in the table below:

RISK	RISK RATING	MITIGATION
Risk of challenge	Low	The tendering exercise is compliant with PCR 2015 and the Council's Contract Regulations
Mobilisation	Low	These are essential

		<p>front line services, and without the right receipt points ready to receive green and food waste the collection services will be severely Impacted. The recommended option is an existing Commercial facility with minimal upgrades required in order to receive contract waste and so this risk is deemed low.</p>

10.2.

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

- Appendix 1 Tender evaluation

**12 BACKGROUND PAPERS**

- 12.1. Inter Authority Agreement (IAA Food and Green waste)
- 12.2. Procurement specification and tender documents