



## CABINET – 4TH JUNE 2014

**SUBJECT: INTERIM WASTE DISPOSAL CONTRACT**

**REPORT BY: ACTING DEPUTY CHIEF EXECUTIVE**

---

### 1. PURPOSE OF REPORT

- 1.1 To advise Cabinet of the options to negotiate an interim waste disposal contract on a partnership basis leading up to the Project Gwyrdd full service commencement date and to seek Cabinet approval to progress contract negotiation and award.

### 2. LINKS TO STRATEGY

- 2.1 Diversion of waste from landfill is an integral part of the Waste Strategy and Operations service objectives within the Community & Leisure Services divisional service plan. In addition, a more sustainable method of residual waste treatment makes a significant contribution to the “greener” agenda outlined in the Single Integrated Plan.
- 2.2 The savings that will result from the Project Gwyrdd contract after full service commencement have been included in the Authority’s medium term financial plan (MTFP). Any additional savings that can be achieved by an interim contract arrangement would further benefit the MTFP.

### 3. THE REPORT

- 3.1 The Project Gwyrdd Contract has been awarded to Viridor Ltd with a full service commencement date of 1st April 2016. At full service commencement the agreed contract gate fee will apply and the Partner Authorities will receive the requisite level of Welsh Government gate fee subsidy.
- 3.2 However, the build of the facility is well underway with completion anticipated later this year.
- 3.3 Once completed, the contractor will need to test and commission the plant and will require varying levels of waste inputs to achieve this (referred to as the commissioning phase).
- 3.4 The opportunity therefore exists for Cardiff Council as the lead Authority for the partnership to negotiate with Viridor Ltd for an “interim” contract for the partnership leading up to the full service commencement date. It is likely that such a contract will include both interim and “hot” commissioning phases and each phase is likely to attract a different gate fee. It should however be noted that this is a separate contract to the 25 year Project Gwyrdd contract and the Authority as with all the partners will be required to enter into a separate Inter Authority Agreement (IAA).

- 3.5 The Authority's existing residual disposal contractual arrangements (with Biffa and Newport City Council) are flexible enough to accommodate quantity changes or complete cessation of service and in this regard the Authority has the ability to deliver varying quantities of waste to the Project Gwyrdd plant as it is commissioned
- 3.6 Cardiff Council as the lead Authority is undertaking the procurement process on behalf of the partnership in accordance with European Union (EU) Procurement Directives, UK Public Contract Regulations and Cardiff Council Contract Standing Orders and Procurement Rules. Cardiff Council are utilising the EU negotiated procedure without a call for completion ("negotiated procedure"). This is a specific provision under the EU procurement rules, which allows a contracting Authority to effectively conduct a sole source negotiation. There are preconditions for utilising such a procedure and the project team acting on behalf of the partnership have endeavoured to ensure those preconditions have been fully satisfied in order to undertake the negotiated procedure and to aid the mitigation of any potential risk of challenge to the process from a third party. It should be noted that the process of satisfying the preconditions included consultation with legal representatives from Cardiff Council legal services and Prosiect Gwyrdd legal advisors Pinsent Masons LLP.

#### **4. EQUALITIES IMPLICATIONS**

- 4.1 There are no equalities implications associated with this report.

#### **5. FINANCIAL IMPLICATIONS**

- 5.1 Since 1st April 2014, landfill tax has increased to £80 per tonne. Consequently, when the relevant gate fees are added, the Authority's residual disposal costs are in excess of £100 per tonne. Consequently, any reduction in this cost per tonne has the potential to achieve a saving which can be considered in a revised MTPF.
- 5.2 It is estimated that an interim/commissioning arrangement where residual waste is delivered to the Viridor plant could achieve significant savings for the Authority although this will be dependent on the quantity of waste required for commissioning the plant over the period 2014-2016.

#### **6. PERSONNEL IMPLICATIONS**

- 6.1 There are no personnel implications associated with this report.

#### **7. CONSULTATIONS**

- 7.1 The report reflects the views of the listed consultees.

#### **8. RECOMMENDATIONS**

- 8.1 Cabinet approves the principle of the interim/commissioning contract outlined above.
- 8.2 Cabinet agrees that Cardiff Council acts as the lead Authority in finalising the negotiations and procuring the interim/commissioning contract.
- 8.3 Delegated authority is given to the Head of Community & Leisure Services in consultation with the Cabinet members for Community & Leisure Services and Finance to enter into the inter Authority agreement with Cardiff Council on successful resolution of the negotiation and procurement process.

## **9. REASONS FOR THE RECOMMENDATIONS**

- 9.1 To ensure effective commissioning of the plant while potentially achieving financial savings for the Authority.

## **10. STATUTORY POWER**

- 10.1 Local Government Acts, Environmental Protection Act 1990.

Author: Mark S. Williams, Head of Community & Leisure Services  
E-mail: willims@caerphilly.gov.uk Tele: 01495 235070

Consultees: Sandra Aspinall, Acting Deputy Chief Executive  
Nicole Scammell, Acting Director of Corporate Services  
Ian Evans, Contracts Manager  
Gail Williams, Principal Solicitor  
Councillor D. Poole, Cabinet Member for Community & Leisure Services  
Councillor Keith Reynolds, Deputy Leader & Cabinet Member for Corporate Services.

### Background Papers:

- (1) Report to Council 26/2/13 – Prosiect Gwyrdd – Appointment of Preferred Bidder, Final Business Case & Joint Working Agreement 2
- (2) Report to Cabinet 19/12/13 – Prosiect Gwyrdd – Financial Close