



SPECIAL COUNCIL – 26TH FEBRUARY 2013

**SUBJECT: PROSIECT GWYRDD – APPOINTMENT OF PREFERRED BIDDER,
FINAL BUSINESS CASE & JOINT WORKING AGREEMENT (2)**

REPORT BY: CHIEF EXECUTIVE

Appendices A, B, C and E and background papers referred to within the supporting Joint Committee Report (titled: Preferred Bidder, FBC & JWA2 – Approved) contains information which is exempt from publication under paragraphs 14 (information relating to financial or business affairs) and 21 (public interest test) and/or 16 (legally privileged information) of Schedule 12 A part 4 of the Local government Act 1972.

It is viewed in the public interest to treat the documents referred to above as exempt from publication. Put simply, the rationale for this is that in order for the Authorities to be able to effectively evaluate tenders received it requires bidders to provide details of the commercial make up of their bid, which they may not do if they thought such information would be made publically available. The adverse impact on contractual negotiations due to such disclosure would result in a less effective use of public money. Disclosure of legally privileged information could materially prejudice the Authority's ability to defend its legal interests. Therefore on balance, it is submitted that the public interest in maintaining exemption outweighs the public interest disclosure. That said redacted versions of key documents would be made available.

1. PURPOSE OF REPORT

1.1 To outline the outcome of the Prosiect Gwyrdd procurement process and to seek approval from Council with regards to the recommendations set out in section nine (9) of this report, namely:-

- Appoint Viridor as the Preferred Bidder.
- Approve the Final Business Case (FBC).
- Approve the Joint Working Agreement (2) (JWA2).

2. BACKGROUND

2.1 The Prosiect Gwyrdd procurement has been a lengthy (circa six (6) years), complex process, which is now nearing completion.

2.2 Throughout the process (involving five (5) Authorities) there have been agreed governance arrangements involving a Project Board (Officers), Joint Committee (relevant Cabinet Members) and a Joint Scrutiny Panel (relevant Scrutiny Members). However, there are certain decisions that must be taken by each of the individual Partners Full Councils. Therefore this report together with the attached common report and associated documents are being considered by each of the 5 Partners Full Councils currently scheduled between the period of 26th February to 6th March 2013.

3. LINKS TO STRATEGY

- 3.1 The Prosiect Gwyrdd procurement is a key element of the Authority's strategy for reducing its reliance on landfill. In addition there are substantial financial benefits arising from the procurement that will contribute to the Authority's long-term financial strategy.

4. THE REPORT

- 4.1 The common report attached (titled: Preferred Bidder, FBC & JWA2 – Approved) together with the associated documents is being presented to each of the 5 Partners Full Councils.
- 4.2 The common report is divided into a number of sections, which cover: -
- Evaluation of the Final Tenders.
 - The Final Business Case.
 - The Joint Working Agreement.
- 4.3 The Project Board (made up of Senior Responsible Officers from each Partner Authority) considered the report on Wednesday 30th January 2013 and, being satisfied with the procurement process, recommended approval of the report to the Joint Committee (relevant Cabinet Members from each Partner Authority). The Joint Committee met on 7th February 2013 and agreed to recommend the report, associated documents and recommendations to each of the 5 Partners Full Councils.

5. EQUALITIES IMPLICATIONS

- 5.1 The Authority's waste collection and disposal service is offered to all residents irrespective of race, gender or physical ability. In addition special arrangements are in place for assistance to be offered to residents that are disabled or elderly.
- 5.2 The Prosiect Gwyrdd procurement consequently has no adverse equality implications.

6. PERSONNEL IMPLICATIONS

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

7. FINANCIAL IMPLICATIONS

- 7.1 The financial implications are covered within the attached common report (particularly but not exclusively table A (page 3), figure A (page 4), and paragraphs 76-82 (pages 21 to 24)).
- 7.2 In particular, the Net Present Value (NPV) of the solution offered by Viridor, including costs directly incurred by this Authority is £43 million, which represents a reduction of £46 million compared to the original Outline Business Case Upper Affordability Threshold of £89 million, which was approved by Council in 2009.
- 7.3 In the first contract year (2016/17), the solution offered by Viridor will result in savings of circa. £2 million compared to the costs of landfill. The £2 million saving identified will comprise of £1.5 million in cashable savings per annum that can be incorporated into the Authority's Medium Term Financial Plan. The remaining £500,000 of savings relates to cost avoidance.
- 7.4 The projected cost to this Authority of the Viridor solution, including directly incurred costs (such as haulage) is £86 million to the expiry of the contract in 2040/41, which represents a saving of £97 million for this Authority compared with the projected costs of continuing to landfill residual waste.

8. CONCLUSIONS

- 8.1 The Prosiect Gwyrdd procurement process has been a highly competitive and robustly dialogued and negotiated process.
- 8.2 The process has resulted in an affordable, environmentally and financially sustainable solution that represents excellent value for money for all 5 partners with a relatively low deliverability risk.

9. RECOMMENDATIONS

9.1 It is recommended that: -

- (i) Viridor is appointed as the preferred Bidder;
- (ii) authority is delegated to the Senior Responsible Officer of the project Board (in consultation with the Project Board) for finalisation of the procurement to successful contractual close (including any refinement of documentation as referred to in the report));
- (iii) the FBC is approved, including the improved affordability position for this Council in terms of both:-
 - (a) the Net Present Value (NPV) of the Viridor solution, including costs directly incurred by this Council, of £43 million which represents a reduction of £46 million compared to the original OBC Upper Affordability Threshold of £89 million approved by this Council in 2009.
 - (b) The projected cost to this Council of the Viridor solution including directly incurred costs, of £86 million to the expiry of the contract in 2040/41 which represents a saving of £97 million for this Council compared with the projected costs of continuing to landfill residual waste.
- (iv) subject to Cardiff Council agreeing, Cardiff Council acts as Host Authority (as defined in the joint Working Agreement 2 (JWA2));
- (v) the JWA2 is approved (on the understanding that it is subject to any refinement and finalisation as per recommendation (vi));
- (vi) authority is delegated to Caerphilly CBC's Senior Responsible Officer (SRO) on the Project Board to finalise and conclude the JWA2 agreement (including any refinements pursuant to recommendation (ii) on behalf of the respective Authorities;)
- (vii) subject to WG approving the FBC and confirming subsequent funding, conclusion of the JWA2 and Cardiff Council agreeing to act as Host Authority, that a relevant authorised officer of Cardiff Council on behalf of the partnership signs the project Agreement with Viridor;
- (viii) subject to i-vii above, that following consultation with the s151 Officers from each Partner Authority the s151 Officer from Cardiff Council signs the certificate pursuant to the Local Government (Contracts) Act 1997 on behalf of the other partner authorities.

10. REASONS FOR THE RECOMMENDATIONS

- 10.1 To ensure that the Prosiect Gwyrdd procurement moves to conclusion in accordance with relevant procurement legislation and previously agreed governance arrangements.

10.2 To provide the best value for money and environmentally sustainable solution for the Authority's residual waste disposal.

11. STATUTORY POWER

11.1 Local Government Act 1972. This is a Council function.

12. CONSULTATION

12.1 The report reflects the views of the listed consultees.

Author: Mark Williams, Head of Community and Leisure Services
Consultees: Councillor D. Poole, County Councillor - Pengam
Councillor K. Reynolds, County Councillor - Aberbargoed
Anthony O'Sullivan, Chief Executive
Dan Perkins, Head of Legal Services
Nicole Scammel, Head of Corporate Finance
Liz Lucas, Head of Procurement
Ian Evans, Contracts Manager

SECTIONS, APPENDICES AND BACKGROUND PAPERS FOR PUBLICATION

- Section 1 - Preferred Bidder, FBC & JWA2 - Approved Report
- Section 2 - Appendix B - FBC (main body except for those parts listed in Appendix F and FBC appendices A, D & E)
- Section 3 - Appendix C - JWA2

Appendices A, B, C and E and background papers referred to within the supporting Joint Committee Report (titled: Preferred Bidder, FBC & JWA2 – Approved) contains information which is exempt from publication under paragraphs 14 (information relating to financial or business affairs) and 21 (public interest test) and/or 16 (legally privileged information) of Schedule 12 A part 4 of the Local government Act 1972.

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APPENDICES AND BACKGROUND PAPERS EXEMPT FROM DISCLOSURE

- Appendix A – Report on: Evaluation Of Final Tenders
- Appendix B – The FBC (those parts of the main body listed in Appendix E and FBC appendices B, C, F, G, H, I)
- Appendix C – Exempt Legal Implications
- Appendix E – Summary of exempt information