

<b>Urgent Decisions Committee Meeting</b>	
<b>Meeting Date</b>	12 August 2022
<b>Report Title</b>	Waste and Street Cleansing Contract extension
<b>EMT Lead</b>	Lisa Fillery, Director of Resources  Emma Wiggins, Director of Regeneration and Neighbourhoods
<b>Head of Service</b>	Martyn Cassell, Head of Environment and Leisure
<b>Lead Officer</b>	Martyn Cassell, Head of Environment and Leisure
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. Agree that provisions for the additional waste and street cleansing contract extension costs will be included in the revised 23/24 Medium Term Financial Plan as set out in Appendix I.</li> <li>2. Give delegated authority to the Director of Resources in consultation with the Chair of the Policy and Resources Committee to revise the assumptions in the MTFP further should this be necessary to secure the contract extension</li> </ol>

## **1 Purpose of Report and Executive Summary**

- 1.1 The Environment Committee have been updated on the progress of the future Waste and Street Cleansing contract and asked to agree a short term contract extension to allow for the longer mobilisation period.
- 1.2 This Committee is asked to approve the amendment of the MTFP to allow for the agreement of the contract extension.

## **2 Background**

- 2.1 The current Mid Kent Waste Contract is due to end in October 2023 after a 10-year period. The Mid Kent partner authorities (Ashford, Maidstone and Swale Borough Councils) have been working with an external waste consultant for the last two years to review the current contract and consider future options.
- 2.2 Following agreement of the priorities and principles by Cabinet in June 2021, the tender went live in November 2021 with the publication of an OJEU notice. The tender was published to include 'Competitive Dialogue', a process which has various stages of submission from bidders, followed by formal sessions of negotiation/clarification for all parties involved.

- 2.3 The tender process has now completed three stages 1) 'Selection Questionnaire' where bidders show their interest in being part of the tender process 2) 'Invitation to Submit Detailed Solutions' and 3) 'Invitation to Submit Refined Submission'. This has led to two sets of competitive dialogue with bidders.
- 2.4 All bidders in the process have highlighted the low availability and longer than normal lead in times for all vehicles (including domestic and commercial vehicles). This has increased considerably in recent months with some vehicle types taking over 12 months and there is no evidence this will improve in the medium term. Therefore, the previously agreed mobilisation period between expected contract award (December 2022/January 2023) and contract start (October 2023) is now too short.
- 2.5 The current contractor has been asked whether they would agree to a short term contract extension that would enable the required mobilisation time. The intended extension would run to 23 March 2024. This would allow the winning bidder to start the next contract with new vehicles and with vehicles that suit their proposed collection methodology.
- 2.6 Officers from all three Councils have debated the best time to roll out the new service. They feel it is sensible to avoid the busy seasons of Summer and Christmas and therefore the best options remain October and March.
- 2.7 The current contract only allows for a short term extension based on national procurement rules that limit extensions to 10% of the overall contract value, therefore extending it for a year until October 2024 has been discounted. March 2024 should give suitable lead in time for the vehicles and avoid the busy times of the year.
- 2.8 The current contractor has agreed to an extension and submitted some terms, including pricing. The exempt appendix contains information relating to the financial and business affairs of particular persons. The public interest in the council being able to conclude this contract extension in a commercially confidential manner outweighs the general public interest in disclosure. The information is therefore exempt under paragraphs 3 and 10 of Schedule 12A to the Local Government Act 1972.

### **3 Proposals**

- 3.1 Agree that provisions for the additional waste and street cleansing contract extension costs will be included in the revised 23/24 Medium Term Financial Plan as set out in Appendix I.
- 3.2 Give delegated authority to the Director of Resources in consultation with the Chair of the Policy and Resources Committee to revise the assumptions in the MTFP further should this be necessary to secure the contract extension

## **4 Alternative Options Considered and Rejected**

- 4.1 Continue with the tender as planned and mobilise the new contract in October 2023. This is not recommended as all bidders have raised the vehicle availability issue. Opting for this would mean the winning contractor would have to get as many vehicles as possible by the start date and use unsuitable vehicles to deliver the rest of the service. The commercial hire market is very competitive at the moment due to the lead in time issues and therefore this is not seen as a viable solution. Our Partners (Ashford and Maidstone Borough Councils) have also expressed an intention to extend the contract, so it would complicate the Partnership element of the contract.
- 4.2 Re-use the existing fleet. There are multiple possible outcomes of this option depending on the current tender process. However, we cannot predetermine the tender outcome so have had to present both scenarios for fairness. If the current contractor is successful in the new contract, they could be asked to continue with the existing fleet. This is essentially the same outcome as we are recommending in the extension. If they were unsuccessful, we could purchase the existing vehicle fleet from the existing contractor and allow the winning contractor to start from 22 October 2023. In advance of this report, we therefore asked the current contractor about buying the fleet. Due to the issues of vehicle availability over the country, they have declined this offer in order to support other contracts. Furthermore, this will not have been ideal as the new contract may require different types of vehicles.
- 4.3 Take the decision to operate the service ourselves e.g. as a Local Authority Trading Company. This is ultimately an option that needs delinking from this decision. Even if this decision was taken, we do not own the current fleet of vehicles and the authority is in no greater position to be able to get the vehicles in time.

## **5 Consultation Undertaken or Proposed**

- 5.1 As this has been undertaken using emergency procedures, no further consultation has been undertaken.
- 5.2 We have been working through the proposals with our Partner authorities in the Mid Kent Waste Partnership. They have also liaised with Members and are following a similar process for decision.

## 6 Implications

Issue	Implications
Corporate Plan	A new waste collection and cleansing service offers the opportunity to consider the priority 'Investing in our environment and responding positively to global challenges', with particular reference to 2.5 'Work towards a cleaner borough where recycling remains a focus and ensure that the council acts as an exemplar environmental steward, making space for nature wherever possible.'
Financial, Resource and Property	<p>The intended contract extension between 22 October and 23 March 2024 and projected costs are included in the exempt appendix.</p> <p>The extension applies to the 2023-2024 financial year and the MTFP is already under review for that period, but approval is needed to finalise the extension. A further decision is required due to the fact that the current Medium Term Financial Plan will need amending ahead of the final budget decision for the 23-24 MTFP.</p>
Legal, Statutory and Procurement	<p>Delivering this service is a requirement under the Environmental Protection Act 1990. Failure to accept the recommendations without agreeing suitable alternatives may place the Council in breach of the Environmental Protection Act 1990.</p> <p>The contract extension will be managed under the Public Contracts Regulations 2015 and the Council's Contract Standing Orders.</p> <p>The public interest in the council being able to conclude this contract extension in a commercially confidential manner outweighs the general public interest in disclosure. The information is therefore exempt under paragraphs 3 and 10 of Schedule 12A to the Local Government Act 1972.</p>
Crime and Disorder	Providing a clean environment which is free from litter and graffiti is known to contribute to how 'safe' an area feels to residents.
Environment and Climate/Ecological Emergency	<p>The waste and street cleansing contract is the most significant contributor to the Council's carbon footprint and therefore any reductions in this are critical to achieving the Climate and Ecological Emergency Action Plan targets. This process will allow reductions in carbon emissions to be considered and built into any new specifications.</p> <p>Collection methods and materials, along with innovation to boost recycling figures will all have a positive impact on the environment ensuring the Council contributes to the Circular Economy process.</p>

Health and Wellbeing	<p>Providing a high-quality refuse, recycling and street cleansing service will support public health objectives through regular waste collections and the delivery of an attractive environment.</p> <p>If we were unable to provide suitable collections and street cleansing, then there could be wider public health implications.</p>
Safeguarding of Children, Young People and Vulnerable Adults	Not applicable to this report.
Risk Management and Health and Safety	<p>The preferred course to minimise risk is to continue with contracted services as a collective as the Mid-Kent Joint Waste Partnership.</p> <p>Health and Safety is a key consideration as part of the tender process and forms part of the evaluation process of bid, requiring bidders to meet all of the relevant health and safety legislation.</p>
Equality and Diversity	The existing standards to ensure services are accessible to all residents will remain in place, regardless of the actual service provider. These include assisted collections for residents that require that support. As such and with little change, a full Equalities Impact Assessment is not required.
Privacy and Data Protection	Not applicable to this report.

## 7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Waste and Street Cleansing Contract Extension Exempt Appendix

## 8 Background Papers

Cabinet report 9 June 2021 can be found [here](#).