

## **Joint Waste Management Contract with Derbyshire County Council - £25m Capital Contribution**

### **SUMMARY**

- 1.1 Previous reports to Cabinet on the waste management contract's £25m capital contribution by the Council, have been approved on 21 April 2009 and 28 October 2008. Derbyshire County Council is also contributing £25m to the contract.
- 1.2 This report seeks approval for changes in the timing of the Council's £25m investment to the Waste Project.

### **RECOMMENDATION**

- 2.1 To delegate authority to the Corporate Director of Resources, in consultation with the Leader of the Council, to approve the most prudent time to release the Council's £25m capital contribution to the special purpose vehicle, SPV, set up to deliver Waste Disposal services through the joint procurement with Derbyshire County Council.

### **SUPPORTING INFORMATION**

- 3.1 The most recent Cabinet report on 14 July 2009 gave an update on how negotiations were progressing with United Utilities and Interserve. Contract negotiations are now reaching final stages and we are confident at arriving at a financial close position in the next few weeks.
- 3.2 All five Banks that are considering lending funds to United Utilities have started their credit committee process and we are anticipating final decisions by 30 September 2009. Formal credit committee approval for financial support to this Project has been received by United Utilities from the BayernLB Bank on the 10 September and the Bank of Ireland on the 11 September. We are also expecting credit committee approvals from the other three Banks within the following timescales: Unicredit – 15 September, Lloyds and WestLB by the 25 September 2009.
- 3.3 Good progress is being made with the Inter-Authority Agreement between the City and County Council and the conditions and roles and responsibilities have been agreed in principle.

- 3.4 The main issue at present is the apportionment of financial risk between the Banks, UII and the Councils. Council Officers have been very firm in the negotiations.
- 3.5 In the Cabinet report on 28 October 2008 it was stated that “the Councils would mitigate risk by not investing until the plant was fully operational”. The Cabinet minute states:

*The Council Cabinet considered a report on Joint Waste Procurement – Derby City Council and Derbyshire County Council.*

**Option Considered**

*The Council could refuse to advance the investment in either format, or under one format. The cost of the project overall would increase but the risk would be less in the event of a difficulty with operations of the project.*

**Decision**

- 1. To approve in principle an investment in the special purpose vehicle, SPV, set up to deliver Waste Disposal services through the joint procurement with the County Council.*
- 2. To delegate authority to approve or reject the final terms to the Corporate Director of Resources.*

**Reasons**

*The proposal from one bidder was to reduce their unitary charge if we agree to invest into the project. The reduction in unitary charge would have a considerably greater value to the Council than the amount invested.*

During our recent negotiations, UII has proposed that there should now be a two stage certification of completion for the plant:

- Stage 1 – all buildings complete and waste being diverted from landfill in compliance with the Councils’ specification.
- Stage 2 – when the turbine is actually generating electricity in compliance with the Works Delivery Plan.

If the construction and commissioning phases progresses in line with the works delivery plan and is likely to be complete by July 2012, then both Stages will be certified simultaneously. However, if Stage 2 is delayed, due to any problems with the turbine operation, then under this proposal, the Council would invest a significant proportion of its investment of up to £22.25m after completion of Stage 1.

The retained amount, that would cover the cost of purchase and installation of the turbine, would then be invested following the completion of Stage 2 which is likely to be £2.75m.

Both instalments would be split equally between the City and County Councils and would still be within the affordability ‘envelope’ that has been agreed by both Councils. Officers at both Councils are satisfied with this revised proposal.

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<b>List of appendices:</b>	None
	Appendix 1 – Implications

<b>IMPLICATIONS</b>
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**Financial**

- 1.1 The £25m capital contribution which is to be funded through prudential borrowing may now be split into two stages as detailed in paragraph 3.5 of the main report. This will reduce the unitary charge to the Council, as PWLB borrowing is expected to be cheaper than commercial banks' loan offers. Derbyshire County Council will also be making a £25m capital contribution to the capital cost of the Waste Disposal plant.
- 1.2 Originally, both Councils' capital contribution was planned six months after the Waste Plant's completion and commissioning, confirmed by an independent certifier. However, it is now expected that both Councils' capital contribution will be made immediately after the construction and commissioning of the plant, confirmed by an independent certifier. Making payment in this way will generate an estimated saving of approximately £1.88m in the Net Present Value of the Project over 25 years.
- 1.3 Paragraph 3.5 above explains how the capital contribution would be split, depending on the plant's completion of Stages 1 and 2. If Stage 2 is delayed, due to any problems with the turbine operation, then under this proposal, the Council would invest a significant proportion of its investment of up to £22.25m after completion of Stage 1. The retained amount, that would cover the cost of purchase and installation of the turbine, would then be invested following the completion of Stage 2 which is likely to be £2.75m.

**Legal**

- 2.1 The ability of the Council to make a capital contribution is permitted under the Local Authorities (Capital Finance and Accounting)(England) Regulations 2003 [Section 25(1)] as amended by S1 573 2007 and S111 (3) of the 1972 Local Government Act. Formal advice from Eversheds, the Council's legal advisers, has been obtained supporting this determination.

**Personnel**

- 3.1 None.

**Equalities Impact**

- 4.1 None.

**Corporate objectives and priorities for change**

- 5.1 The Waste project will help to reduce waste going to landfill and will help Derby achieve its objective for a better environment. The reduced cost as a result of the investment will also contribute to the Council's better value for money priority.