

Committee/Meeting: Cabinet	Date: 6 th October 2010	Classification: Unrestricted	Report No:
Report of: Corporate Director Communities, Localities and Culture Originating officer(s) Jamie Blake, Service Head Public Realm and Fiona Heyland, Head of Waste Strategy, Policy and Procurement		Title: Future Contracting Approach for Waste and Public Realm Services Wards Affected: All	

Lead Member	Environment
Community Plan Theme	A Great Place to Live
Strategic Priority	Improving the environment and tackling climate change

1. **SUMMARY**

- 1.1 In March 2009 Cabinet agreed that the Authority commences a project to secure affordable and sustainable waste treatment and disposal solutions for the Council's Municipal Waste in the longer term. Cabinet also agreed that this process should run concurrently with development of a new Waste Strategy for Tower Hamlets
- 1.2 Following the Cabinet meeting the Waste Strategy and Waste Procurement Project Board (Project Board) was set up and the Waste Strategy and Waste Procurements Projects commenced.
- 1.3 Since the inception of the Project Board a number of events have had an impact on the Waste Strategy and Waste Procurement projects that have expanded the scope of these projects and the role of the Project Board. The individual yet interlinked projects clearly form an important strategic programme of work linked to the delivery of savings, future cost avoidance and service improvements.
- 1.4 Work on the key elements of the Programme is progressing and it is now evident that the future contracting approach to re-package Waste and other Public Realm services has the potential to transform the way in which future services are delivered in LBTH

2. **DECISIONS REQUIRED**

Cabinet is recommended to:-

- 2.1 Approve the proposed contracting approach for short to medium term waste disposal arrangements, including the possible extension of the Veolia Contract
- 2.2 Authorise the Corporate Director Communities Localities and Culture, following agreement with the Lead Member for Environment, to
 - 2.2.1 finalise contract negotiations with Veolia, including extending the Waste Disposal Contract for a period up to the extension term allowed in the contract and combining other waste collection and recycling activities within the Municipal Waste Cleansing Contract as appropriate.
 - 2.2.2 negotiate to vary the waste management cleansing contract with Veolia
 - 2.2.3 negotiate where legally possible to extend any of the other Public Realm services contracts detailed at paragraph 6.11 which will require an extension so an integrated contract can be procured
 - 2.2.4 in consultation with the Assistant Chief Executive (Legal Services), authorise and enter into any necessary deeds of variation of agreements in respect of these contracts
 - 2.2.5 commence any necessary procurement process in the event negotiations are not successful
- 2.3 Approve in principle the future contracting approach for Public Realm services and works contracts

3. **REASONS FOR THE DECISIONS**

- 3.1 In the short to medium term the best contracting option for waste disposal arrangements is to extend the current contract with Veolia to provide merchant capacity until such time as a long term waste treatment and disposal contract can be procured. The contract we currently have allows for a period of extension which would be sufficient to complete the feasibility study of long term options. We have been working with Veolia to improve the diversion of waste from landfill and achieve LATS compliance. Sustainability has therefore already improved. This approach will also mean that we do not incur procurement costs.
- 3.2 A feasibility study of the options for Public Realm contracts has indicated that there would be efficiencies to be gained by reducing duplication in back office functions.

4. **ALTERNATIVE OPTIONS**

- 4.1 The alternative to the proposed contracting approach for the short to medium term waste disposal arrangement is to undertake a Restricted Procurement

Process for a new short term Merchant Capacity contract when the current contract ends on 31 December 2013.

- 4.2 The main risk of undertaking such a tender process is that we may not get an equivalent or better price than we expect to achieve from the preferred approach. However if the negotiations with the current contractor do not lead to satisfactory terms for an extension of the Waste Disposal Contract there will be sufficient time to undertake such a process.
- 4.3 The alternative to the proposed contracting approach for Public Realm services and works contracts is to continue to let the contracts separately. This will not provide the opportunity to deliver cost savings related to operational synergy and economies of scale, such as the consolidation of the Contractors administrative functions and IT systems, the Contractors management and supervisory structures and their corporate overheads.

5. BACKGROUND

Waste Disposal Contract

- 5.1 Tower Hamlets has historically suffered from low recycling performance and relied on landfill for the disposal of residual Municipal Waste. However since January 2008 many improvements have been made to waste services which have delivered a significant increase in recycling performance and the ability to divert some residual waste from landfill to more sustainable forms of residual waste treatment.
- 5.2 In both 2008/9 and 2009/10, Tower Hamlets achieved the year 1 and year 2 LAA recycling targets (19% and 26% respectively) and in 2010 recycling performance is set to top the year 3 LAA target of 32%. However, there is still a significant amount of residual Municipal Waste that must be disposed of and the cost of landfill disposal has increased significantly in recent years.
- 5.3 In order that more sustainable waste services can be secured for the long term, feasibility studies of a number of options are currently being undertaken but will take some time to finalise. As such, improvements to waste treatment and disposal services in the short to medium term are required in order to mitigate the financial risk of increased landfill tax and allowances for landfilling biodegradable waste (LATS).
- 5.4 On 1st January 2008 the Council entered into a new waste disposal contract. The contract runs for an initial period of 6 years, but the contract allows for a period of extension of up to 8 years.

Public Realm Contracts

- 5.5 Historically contracts for individual Public Realm services had been procured in isolation and with varying lengths of term leading to a situation where a number of different contractors are providing Public Realm services for the Council. The re-packaging of a number of Public Realm Service and Works Contracts has the potential to transform the inter-relationship between front

line services including street cleansing and grounds maintenance activities, street cleansing and highways maintenance services and refuse and recycling collection services. The new contracting approach will aim to deliver more seamless operational work schedules across the range of services

- 5.6 In 2009 the Waste Strategy and Waste Procurement Project Board (Project Board) was set up and to oversee the development of a new strategic approach for waste management and other Public Realm services.

6. BODY OF REPORT

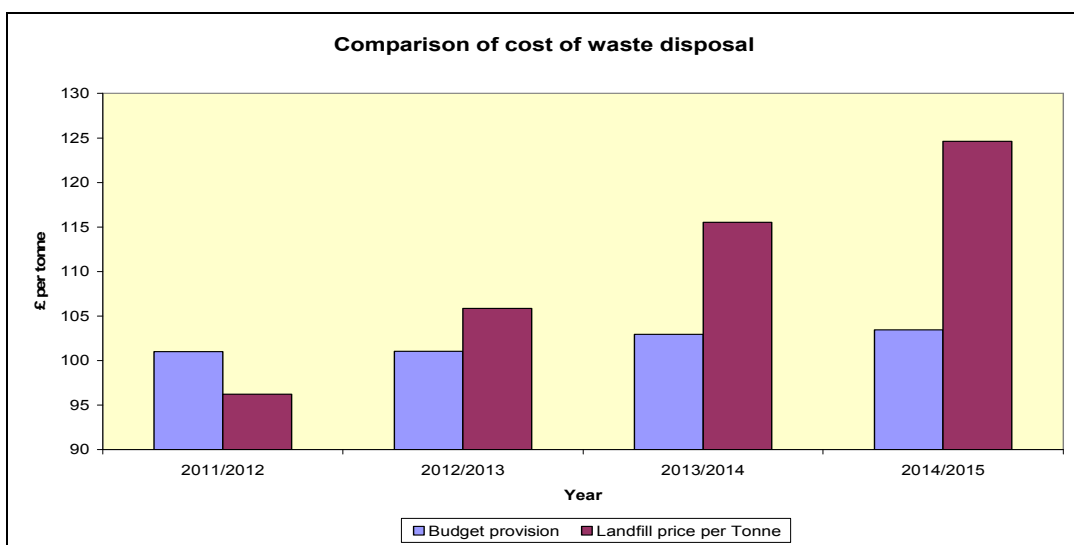
SHORT TO MEDIUM TERM WASTE DISPOSAL SERVICES

- 6.1 In September 2007 Cabinet approved that the Council should enter into an interim waste disposal contract with Veolia, based predominantly on landfilling residual waste, whilst the Council explored a range of alternative long term options to manage waste more sustainably. The contract commenced on 1st January 2008 and runs for an initial period of 6 years, thus will be due to expire on 31st December 2013.

The short to medium term waste disposal activities and costs

- 6.2 Members will recall that the March 2009 Cabinet identified the affordability gap between the budget provision for waste disposal and the future cost of landfilling waste due to the £8 per tonne per annum escalator on the landfill tax and the requirement to purchase LATS. Figure 1 below is replicated from the Waste Strategy Cabinet report.

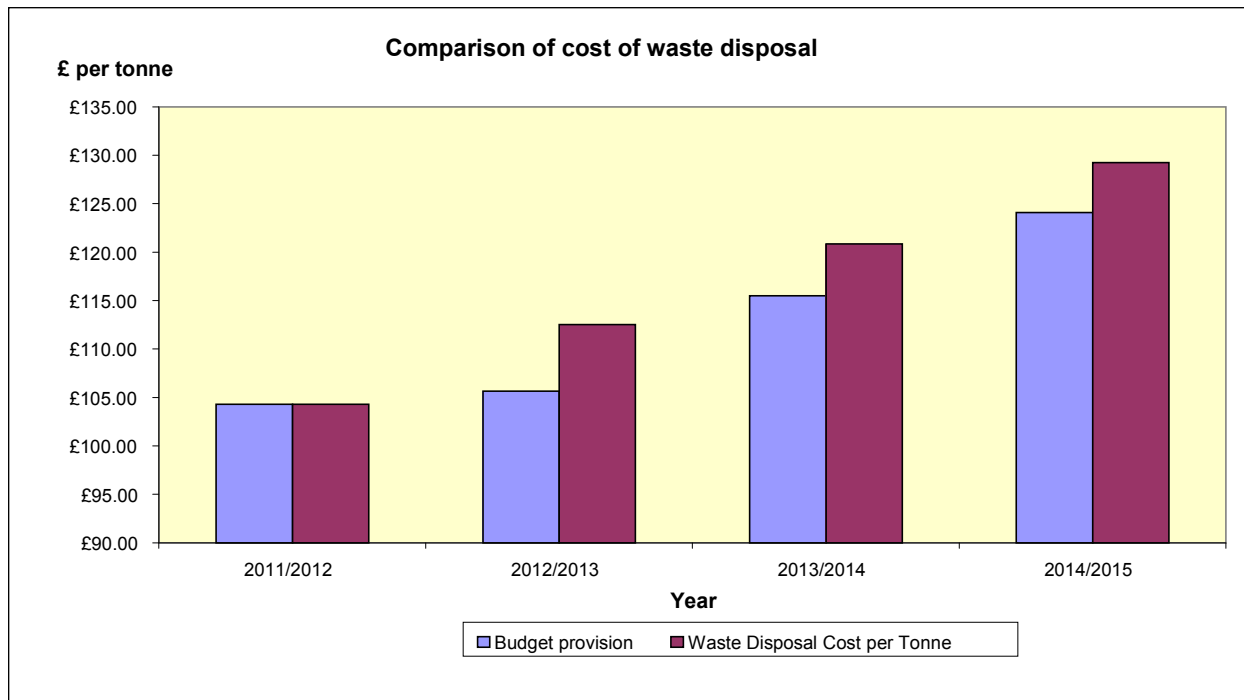
Figure 1



Note: All residual waste disposed of to landfill.
 The landfill cost per tonne in Figure 1 reported to Cabinet in March 2009 did not include the cost estimated of LATS

- 6.3 To begin to reduce the amount of biodegradable waste being disposed of to landfill and improve the LATS position the Council in 2009 commenced the process of diverting waste from landfill through the current Veolia contract, by utilising spare capacity at Shanks East London's Mechanical Biological Treatment (MBT) plant. This waste diversion, which will amount to one third of the Municipal Waste Stream, is continuing in 2010/11 to further contribute to the recycling performance and address the Council's LATS shortfall in this financial year.
- 6.4 With the initial term of the waste disposal contract due to come to an end in 2013, an appraisal of the options to secure short to medium term waste disposal services has been undertaken by the Project Board and reported to Competition Board in February 2010. The review of options concluded that the preferred approach was to look to extend the Veolia Waste Disposal Contract to provide merchant capacity for an interim period. The Veolia waste disposal contract includes an option to extend for a period up to 8 years.
- 6.5 The negotiations with Veolia to extend the current waste disposal contract commenced on 27th May and the benefits of this approach are discussed in the next section of the report.
- 6.6 By negotiating an extension to the Veolia Waste Disposal Contract, the contribution to the Council's recycling performance can be maintained through the MBT process and the Council can explore with Veolia the opportunity to divert further waste away from landfill as new facilities in and around London become operational. The Council's baseline cost position has changed since reporting to Cabinet in 2009 and the latest cost projections through to 2014/15, based on the current rate of waste diversion, are set out in the figure 2 below:

Figure 2



Note: The budget provision and cost per tonne for waste disposal shown in Figure 2 above have been adjusted to take into account the following changes since waste treatment costs were estimated for the March 2009 Cabinet Report

- The inclusion of growth allocated for 2011/12 budget provision
- The total tonnage of Municipal Waste estimated year on year
- The inclusion within the Landfill price of the estimated cost of LATS purchase
- Proportion of residual waste diverted to Shanks MBT

The gap identified between the budget provision per tonne of waste treated and the cost per tonne for waste disposal has been identified for growth through the MTFP budget process

6.7 It is anticipated that the negotiations with Veolia will be concluded by the end of October. At this time Veolia's proposal will be benchmarked against market prices for alternative merchant capacity options to determine if Veolia's offer demonstrates value for money and a contract extension should be agreed or if the Council should go out to the market for an alternative short term merchant capacity contract. A report will be made to the Waste Strategy and Procurement Project Board and Competition Board setting out a proposed way forward.

RE-PACKAGING OF PUBLIC REALM SERVICE CONTRACTS

6.8 Having undertaken the review of options for waste disposal services, the Waste Project Board identified an opportunity to review the future contracting approach for the wider Public Realm

6.9 Currently within Public Realm there are a number of service and works contracts that have historically been procured and managed separately. To

date there has been little opportunity to review the contracting approach to re-package the services because of disparate expiry dates.

- 6.10 A review has now been undertaken which has highlighted the potential for operational synergies and economies of scale across a number of contracts in Public Realm, all of which are expected to deliver savings.
- 6.11 The following services can be incorporated into an integrated Public Realm contract from the latter part of 2012 through to spring 2013 and procured through a tender process:
- Municipal Waste Management (Cleansing)
 - Integrated Recycling Contract, Lots 1, 3 and 4 (excluding food waste processing)
 - Landscape Maintenance Services - Parks & Open Spaces
 - Landscape Maintenance Operations – Water Areas and Wapping
 - Parks Security Services
 - Arboriculture Works
 - Weed Control
 - Gully Cleansing
 - Street Lighting Maintenance
 - Footway Maintenance
 - Carriageway Maintenance
- 6.12 The services will be packaged as Lots, grouping services that have operational synergy (for example Municipal Waste Management Cleansing with Gully Cleansing and Recycling, Landscape Maintenance with Weed Control and Arboriculture). Offering Lots will allow service providers the opportunity to bid for a proportion of or the whole range of services.
- 6.13 Offering the services in Lots will also ensure that the Council has the ability to consider the value for money and operational benefits of a single contractor versus multi-contractor approach.
- 6.14 In order to line up all the contracts for the same start date some short term contract extensions will need to be undertaken in relation to the Integrated Recycling Contract and the Parks contracts.
- 6.15 There are a number of significant outsourcing projects that may be progressed arising from the current budget cycle. It may be appropriate to add additional Public Realm type contracts to the list as the budget setting process progresses.
- 6.16 In order to move this project forward, consultants were engaged to undertake Soft Market Testing to gain a better understanding of the market place for the delivery of the Public Realm Services to aid the development of the most appropriate contract package strategy; understand examples of where similar ranges of services have been grouped together and how that has improved service delivery and/or costs; and identify the potential level of

competition for the range of contract(s) that will be on offer. At the same time internal resources have been secured to commence client side intelligence gathering, benchmarking activities and the development of options to deliver identified savings and the preparation of new specifications.

- 6.17 The final structure of the Contract package (such as potentially offering services in Lots) and business model to be utilised for the Contract will be determined using the information gathered through the soft market testing and intelligence gathering exercises.
- 6.18 A detailed timetable is being drawn up for the procurement process and update reports will be presented to Members at key stages through the project. This will include the opportunity to review the structure and scope of the Service Specification(s).

7. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 7.1 This report sets out the programme of work being undertaken by the Waste Strategy and Waste Procurement Project Board, in relation to the future contracting approach for waste and other Public Realm services. Section 2 of the report sets out recommendations for Cabinet consideration regarding the proposed contracting arrangements specifically relating to Waste Disposal and Public Realm Services.

Waste Disposal

- 7.2 Paragraphs 6.2 through to paragraphs 6.7 detail issues in relation to Waste Disposal, and outline the current negotiations with the Council's existing contractor Veolia to extend the current Waste Disposal contract through to 2017, whilst options are pursued to acquire a site and develop an In Borough Waste Facility. Any extension to the contract must be on the basis of securing value for money for the Council in terms of service delivery and cost implications, specifically in relation to further diversion from Landfill and avoidance of LATS costs. If negotiations with Veolia are not successful and do not provide value for money for the Council it will be necessary to commence a procurement exercise with other service providers, the outcome of this procurement cannot be determined at this stage. The procurement process would be undertaken internally and therefore no cost implications would arise.
- 7.3 As shown in figure 2 paragraph 6.6 the Councils baseline cost position has changed from that previously reported to Cabinet, resulting in a budget shortfall from 2012/13 onwards. This shortfall is as a result of anticipated growth in Municipal Waste, the increasing cost of Landfill Tax and the necessity to purchase further LATS allowances. This will need to be addressed as part of MTFP considerations from 2012/13 onwards and will be reported to Cabinet as part of the budget setting process for 2011/12-2013/14.

Public Realm Service Contracts

- 7.4 Details of proposals to re-package a range of Public Realm Service contracts are outlined in paragraphs 6.11 to 6.13, it is anticipated that an integrated Public Realm contract could commence from the latter part of 2012 through to spring 2013 and would provided operational synergies, economies of scale and budget savings, these savings would be built into the MTFP from the financial year 2013/14.

8. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

- 8.1 Cabinet is asked to approve the contracting approach both in the short to medium term for waste services and the long term for other Public Realm services. Specifically Cabinet is asked to authorise the Corporate Director Communities Localities and Culture to vary existing contracts to allow future procurement of a range of services to be effected as efficiently and cost effectively as possible
- 8.2 The Council is a waste disposal authority within the meaning of Part 2 of the Environmental Protection Act 1990 and as such has the duty to dispose of controlled waste collected in its area and to comply with the targets for reduction of waste to landfill established under the Waste and Emissions Trading Act 2003. It is thus within the Council's powers to pursue arrangements for spare capacity and to explore treatment and disposal solutions as proposed.
- 8.3 Packaging the range of services into a larger contract as proposed for the Public Realm Contract is consistent with the Council's obligation as a best value authority under the Local Government Act 1999 to secure continuous improvement in the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. The procurement method for this contract will be developed over the next few months and reported to the Competition Board.

9. ONE TOWER HAMLETS CONSIDERATIONS

- 9.1 Waste management and other Public Realm services have been subject to Equalities Impact Assessment through the Directorate EqIA assessment programme.

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 10.1 The proposed contracting approach for short to medium term waste disposal arrangements and the future contracting approach for other Public Realm services will contribute to the Community Plan Priority of improving the environment and tackling climate change by reducing the reliance on landfill and delivering more efficient service.

11. RISK MANAGEMENT IMPLICATIONS

11.1 The proposed contracting approaches are, in the wider sense, all about cost avoidance and limiting as far as possible the future costs of waste management and other Public Realm services.

12. CRIME AND DISORDER REDUCTION IMPLICATIONS

12.1 The future contracting approach for waste and other Public Realm services has no direct link to crime and disorder reduction. However, there are indirect links through the procurement and delivery of the borough wide cleansing services which help to mitigate the effects of environmental crime

13. EFFICIENCY STATEMENT

13.1 The proposed contracting approaches are in line with the Strategic Plan Priority 1.2 and the commitment to work efficiently and effectively by ensuring value for money across the Council and by providing effective and joined up corporate services.

14. APPENDICES

Appendix A – Table of Current Waste and Public Realm Contracts

**Local Government Act, 1972 Section 100D (As amended)
List of “Background Papers” used in the preparation of this report**

Brief description of “background papers”	Name and telephone number of holder and address where open to inspection.
Equalities Impact Assessment	Fiona Heyland, (020) 7364 6838 3rd Floor, 2 Clove Crescent East India Dock London, E14 2BE